MACPAC

The Role of Section 1915(b) Waivers in Medicaid Managed Care

Medicaid and CHIP Payment and Access Commission

Benjamin Finder

Overview

- Medicaid managed care authorities
  - Section 1915(b) waivers
  - Alternatives: Section 1115 waivers and state plan authority
- Requirements for managed care
- Comparison of authorities
- Key policy considerations

1915(b) Freedom-of-Choice Waivers

- Generally used to restrict enrollees' freedom of choice (Section 1902(a)(23))
  - to mandate enrollment in a restricted network
  - enroll traditionally exempt individuals in managed care
  - limit choice to a single managed care plan
- Can be implemented in conjunction with 1915(c) waivers

1915(b) Application and Operation

- States complete a preprinted application
  - States must demonstrate that the proposed waiver will not increase federal spending ("cost effectiveness test")
- Once an application is submitted, the Secretary has 90 days to make an approval decision ("90 day clock")
- Generally in effect for two years; five years if dually eligible individuals are included
- Oversight and monitoring responsibilities and requirements have historically been outlined in the approval document

Alternative Medicaid Managed Care Authorities

- Section 1115 waivers
  - Section 1115 was the only authority under which states could implement managed care until Section 1915(b) (OBRA81)
  - Broad authority to waive Medicaid statute
  - Vary in scope
- Section 1932 state plan amendment (SPA)
  - The Balanced Budget Act of 1997 created a state plan option for managed care
  - States are permitted to enroll certain beneficiaries in managed care

Requirements for Managed Care

The Medicaid Managed Care Rule (2016)

- Managed care standards and requirements apply regardless of the authority under which the program is operated
- Regulation provides CMS and states an enforcement mechanism
- Key changes address access to care, beneficiary protections, quality of care standards, rate setting, and contract approval requirements

Comparing Medicaid Managed Care Authorities

	1915(b)	1115	State plan
Beneficiaries enrolled	Any beneficiary	Varies, depending on waiver	Certain populations are exempt from mandatory enrollment
Managed care standards and requirements	Managed care standards and requirements, including oversight, are similar under managed care regulation		
Application process	Use of CMS preprinted form recommended	CMS template	Use of CMS preprinted form recommended
Federal budget requirements	Cost effectiveness required	Budget neutrality required	Fiscal impact (budget neutrality or cost effectiveness not required)
Timeframe for approval	90-day clock	No required timeframe for approval	90-day clock
Approval period and renewals	Two years (up to five if dually eligible individuals are included)	Up to five years	Indefinite approval, renewal not required

Key Policy Considerations

- Could authority available under Section 1915(b) be permitted under Section 1915(c) or state plan authority?
- Could states be allowed to enroll traditionally exempt populations in managed care under state plan authority?
- Could changes be made to 1915(b) authority to reduce administrative burden and simplify authority for states?

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