

**Major Changes in MaineCare Expected**

**DHHS Submits MaineCare 1115 Waiver to CMS**

As expected, Maine DHHS, on August 1, 2017, submitted its MaineCare Section 1115 Waiver application to the Centers for Medicare and Medicaid Services (CMS) for approval. Some changes were made from the original draft waiver. (See below) The newly submitted application is available at: <http://www.maine.gov/dhhs/oms/rules/MaineCare_1115_application_080217_to%20submit.pdf>

**What Happens Next?**

CMS, the federal agency that oversees the Medicaid program, now has 15 days to determine if Maine’s Waiver application is complete. If the application is deemed complete, then a 30-day federal comment period will begin. Maine Equal Justice Partners (MEJP) will notify people when the 30-day comment period begins.

During the comment period, it is important to submit substantive comments to make an evidentiary record for appeal. Comments that clearly describe the anticipated impact of these changes on MaineCare members and their access to care will be most helpful. MEJP will send out more detailed information describing what we believe will be the most effective comments in a subsequent e-mail.

CMS will review the comments and must wait at least 45 days after initiating the public comment period, before it can make a decision on whether to grant or deny any or the entire waiver request. If CMS approves any provision of the waiver request, affected parties may appeal that decision to the federal district court. Maine DHHS will then have to implement the changes approved by CMS through rulemaking.

**What Does Maine’s Waiver Seek to Change?**

(See attached chart)

* **Work Requirements**: So called “able-bodied” (non-exempt) adults between the ages of 19-64 will have to engage in work (minimum of 20 hours per week) or other approved activities. Failure to engage in these activities will result in termination of MaineCare after 3 months of eligibility. (Eligibility can be regained either by waiting for 33 months or by engaging in approved work or other activities.)

 **Exemptions** from the work or other engagement activities are provided for several categories, including: people with disabilities, including those who are NOT receiving disability benefits , but who cannot work 20 hours or more per week, pregnant women, parents with children under age 6, people living in residential facilities, including substance use treatment facilities, people providing care-giving services for an incapacitated adult. (Interestingly, caring for an incapacitated child over the age of 6 is not an exemption.)

* **Premiums**: Imposes premiums on “able-bodied” adults between the ages of 19-64. (This includes parents, children ages 19 & 20, adults seeking family planning services, and former foster care children.) Premiums range from $10 to $40 per month depending on income.

 **Exemptions** that apply to the work requirements also apply to the premium payment requirement.

* **Co-Payments for Use of the Emergency Department:** DHHS seeks to collect a $10 co-payment from MaineCare recipients who use the hospital Emergency Department (ED) for any one of dozens of diagnoses listed by DHHS. For example, use of the ED for what is later diagnosed as an acute upper respiratory infection or severe persistent asthma will result in the imposition of a $10 copayment. Thus, even if a prudent person would go to the ED or even if the person’s PCP advises the person to go to the ED, if the diagnosis turns out to be what DHHS determines is a non-emergent condition, then DHHS would assess a co-payment.
* **Asset Limits**: Parents, children, pregnant women, adults seeking family planning services, and former foster care children will be subject to a $5000 asset test limit. Certain assets are exempt such as: the home, furniture, tools of the trade, a vehicle, etc.
* **Limit on Retroactive Eligibility**: Current law allows MaineCare applicants to seek coverage for the 3 month period prior to the month of application. The applicant must show that they met all the requirements for MaineCare during the prior period. For example, if someone has a heart attack toward the end of the month, and then applies for MaineCare the following month and seeks coverage for the heart attack, based upon now meeting the requirements for MaineCare disability, then that bill may be covered. Under the Waiver, eligibility could only date back to the 1st day of the month of application, except for those seeking coverage in a nursing facility.
* **Penalty for Purchase of Certain Annuities**: Current federal law exempts certain purchases of annuities from what is called a “transfer of asset penalty.” Maine DHHS now seeks penalize those purchasing certain annuities.

**How Does This Waiver Differ From the one DHHS Proposed in May, 2017?**

There are a few changes. Here is a partial list of those changes:

* There will be no charges for broken medical appointments
* Nursing home applicants may get retroactive coverage- others cannot
* Hospital ED co-payments now based upon diagnosis rather than whether there was an in-patient admission. Co-payments are lowered to $10 from $20
* Premiums now start at 50% of poverty instead of at zero income. Premiums are also set as fixed amounts depending on household income. Non-payment of premiums will now result in a 90-day penalty period, rather than a permanent bar until payment was made.

**See Chart Below**

**Impact of Proposed Section 1115 Waiver on Various Groups**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | Parents | Children (19-20 year old) | Former Foster Care Children (18-26 years old) | Elderly/Disabled | Breast or Cervical Cancer/ HIV/AIDS | Family Planning Eligibility Group | Pregnant |
| 3 Month Limit on MaineCare eligibility (add’l months if work/community engagement met | yes | yes | yes | Exempt if getting disability benefits or unable to work 20 hours a week or more | no | yes | no |
| Asset Test | yes | yes | yes | (Already subject to asset test) |  no | yes | yes |
| Elimination of Retroactive Eligibility for non-long term care applications.(no coverage for months before month of application) | yes | yes | yes | yes | yes | yes | yes |
| Premiums(non-payment bars coverage for 90-days or until repaid, whichever comes first.).  | yes | yes | yes | no | YES (HIV/AIDS currently pay premiums) | yes | yes |
| Co-Payments for Use of the ED for non-emergent diagnoses, (even if directed to ED by PCP.) | yes | yes | yes | yes | yes | yes | yes |
| Elimination of Hospital Presumptive Eligibility | yes | yes | yes | Not Permitted under current law | Not Permitted under current law | yes | yes |
| Transfer Penalty for Annuities |  |  |  | yes |  |  |  |

Key: YES = applies to that group