Medicaid Marketplace
Premium Assistance

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State Health Reform Assistance Network
Charting the Road to Coverage

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1-2pm ET
Presenters

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The following presentation provides an overview of Medicaid Marketplace Premium Assistance and outlines the authorization vehicles through which a state may establish this program. Additionally, it details the federal requirements for and operational implications of implementation with respect to: eligibility for the program, benefits and network adequacy, premiums and cost-sharing, shopping and enrollment, cost effectiveness, appeals and interagency cooperation.

As of publication of this presentation, the Centers for Medicare and Medicaid Services has approved two states’ – Arkansas and Iowa – Medicaid Marketplace Premium Assistance programs, authorized through 1115 waivers, which enable these states to purchase coverage for some or all new adults through qualified health plans (QHPs) on the Marketplace. A number of additional states have expressed interest in this approach.
Agenda

- Medicaid Marketplace Premium Assistance Overview
- Federal Requirements and Operational Implications
- Looking Ahead
Medicaid Marketplace
Premium Assistance Overview
Premium Assistance on the Marketplace

- Purchases QHP coverage for Medicaid eligible individuals
- Ensures beneficiary does not incur costs for premiums or cost-sharing beyond Medicaid limits
- Ensures provision of missing Medicaid benefits (e.g., NEMT and EPSDT)

Premium Assistance on the Marketplace is NOT Medicaid managed care. Part 438 rules do not apply.
Reasons States Have Pursued Marketplace Premium Assistance

- Enables continuity of coverage and care as individuals’ and families’ income fluctuates
- Enables comparable access to providers for state residents, regardless of income
- May encourage Marketplace competition
  - Increased size of the individual market may attract more plans
  - Increased competition may drive down Marketplace premiums
- Increases alignment of regulation and oversight across government and private markets
- Enhances stability of risk pool through increasing potential enrollees
- Provides opportunity to test hypothesized improvements to quality and outcomes
Challenges States May Face with Marketplace Premium Assistance

- Administratively complex for states to operationalize
- Different considerations for states with Medicaid managed care
- Must be cost effective
- Must meet budget neutrality (if in 1115 waiver)

**Cost Effectiveness Requirement**
The cost of providing coverage through premium assistance (including QHP premiums, cost-sharing above Medicaid permissible limits, coverage of additional services and administrative expenditures) must be comparable to the cost of providing direct coverage under the State Plan.

**Budget Neutrality in a Waiver**
States must determine that a Demonstration will not cost the federal government more than what would have been spent absent the Demonstration.

CMS Guidance for Marketplace Premium Assistance Waiver

An 1115 Waiver is required to make Marketplace Premium Assistance mandatory. HHS will only consider proposals for mandatory premium assistance demonstrations that:

- Provide beneficiaries with a choice of at least two QHPs
- Wrap any cost sharing and benefits inconsistent with Medicaid rules
- Protect rights of medically frail and tribal populations
- Demonstrate cost effectiveness & budget neutrality

Cost Effectiveness in a Waiver

HHS will consider alternative cost effectiveness tests that consider, among other factors:

- Savings from reduced churn between Medicaid and the Marketplace
- Economic benefits of increased competition on the Marketplace
- Improved access
- Improved patient outcomes
- Benefits of family coverage under one product

Budget Neutrality: GAO Reports

It is standard practice for CMS to require states to meet budget neutrality in Demonstration proposals; however, budget neutrality is not defined in statute or regulation, which allows for significant CMS discretion.

The Government Accountability Office (GAO) has often critiqued CMS’ assessment of budget neutrality in GAO reports, including recently regarding the Arkansas Private Option Demonstration.

GAO Findings on Budget Neutrality in the Arkansas Private Option Demonstration

- The GAO concluded HHS did not ensure budget neutrality because, among other things it assumed that the hypothetical “without waiver costs” were based on the higher payment amounts the state assumed it would have to make to providers if it expanded under traditional Medicaid, without supporting data.

- According to GAO this resulted in a spending limit that was $778 million higher than it would have been if HHS had used unadjusted historical data.

HHS & Arkansas Responses to Report

- **HHS response:**
  - Arkansas used the most reasonable and documented cost assumptions considering the “dramatic and unique” increase in adult Medicaid enrollment.
  - GAO’s calculations only used a subset of data that HHS uses to determine appropriate estimates and did not account for major program changes.

- **Arkansas response:**
  - Governor’s spokesperson: "This was a report developed without contact with anyone on the ground in Arkansas. That $778 million is very abstract...If you're going to build the infrastructure to serve 200,000 more people, you're going to have increased costs. ... Not all costs are continuing costs."
  - Department of Human Services spokesperson: "Historically, clients across the country have had difficulties getting access to physicians willing to take Medicaid because of the low payment rates. It’s unreasonable to assume we could add hundreds of thousands of clients to the traditional program and not have had to raise rates."

Approved and Pending Marketplace Premium Assistance Programs

- **Received Approval (2)**: Arkansas, Iowa
- **Waiver Pending with CMS (1)**: None
- **Governor Proposed (1)**: Utah
- **Legislation Proposed (1)**: None

States with approval or pending approval:
- Arkansas
- Iowa
- Utah
- None listed for governors' or legislatures' proposals.

Map showing states' statuses:
- Grey: States without approved or pending programs.
- Yellow: Approved programs.
- Blue: Waiver pending with CMS.
- Green: Governor proposed.
- Purple: Legislation proposed.

Federal Requirements and Operational Implications
Marketplace Premium Assistance Issue Areas

- Eligibility & Target Population
- Benefits & Network Adequacy
- Premiums & Cost-Sharing
- Shopping & Enrollment
- Interagency Cooperation
Eligibility Requirements:

- No program requirements beyond standard Medicaid/CHIP eligibility rules
- Comparability applies (program must be applied to all Medicaid/CHIP beneficiaries, absent a waiver)

Target Population for Mandatory Programs:

- Will only consider mandatory program proposals limited to individuals whose Medicaid benefits are closely aligned with those available on the Marketplace

Eligibility & Target Population: Examples

ARKANSAS:

All newly eligible adults:
- Childless adults aged 19-64: 0-138% FPL
- Parents aged 19-64: > 17% FPL

Medically frail individuals are excluded

IOWA:

Newly eligible adults aged 19-64:
>100-138% FPL

Medically frail individuals are excluded
# Benefits & Network Adequacy

## Benefits & Network Adequacy: Legal Requirements and HHS Guidance

### Align Benefits
- Premium assistance enrollees remain Medicaid beneficiaries entitled to all Medicaid benefits
- Benefits not covered under QHP must be wrapped
  - Non-emergency medical transportation (NEMT)
  - For 19 and 20 year old new adults, EPSDT benefits (e.g., vision, dental)

### Network Adequacy
- QHPs’ network adequacy is a condition of certification regulated by state insurance departments
- For premium assistance, the state must ensure that Medicaid/CHIP enrollees also have access to required Medicaid/CHIP providers:
  - FQHCs/RHCs at Prospective Payment System (PPS) rates
  - I/T/U providers
  - Family planning providers, including out-of-network

### Align Pharmacy
- State must align Medicaid and QHP prior authorization and formulary requirements. Medicaid beneficiaries are entitled to barbiturates and benzodiazepines, which may not be covered in the QHP

### Rebates
- The availability of rebates depends on the mechanism the state uses to align cost-sharing with Medicaid standards. If the state pays the pharmacy directly as a secondary payer, the rebate will apply. If the state pays the plan to reduce the cost sharing for the prescription drug, the rebate would not apply.

Benefits & Network Adequacy: Examples

**ARKANSAS:**

Did not request any benefit waivers for 2014

Wrap benefits (EPSDT and non-emergency transportation) provided by FFS Medicaid

Limited to QHP formulary

Prior authorization within 72 instead of 24 hours, but prescribed pharmaceutical provided in the interim in the event of an emergency

**IOWA:**

Received a one-year waiver of NEMT

Wrapped EPSDT benefits provided by FFS Medicaid

Limited to QHP formulary

Prior authorization within 72 instead of 24 hours, but prescribed pharmaceutical provided in the interim in the event of an emergency
Premium & Cost-Sharing Assistance

Premiums & Cost-Sharing: Key Legal Requirements and HHS Guidance

- All Medicaid premium and cost-sharing requirements apply to enrollees in Medicaid Marketplace Premium Assistance programs

- Cost-sharing in high-value Silver qualified health plans (94% actuarial value) may be aligned with Medicaid cost-sharing rules if Medicaid covers the plan’s deductible
  - Arkansas (approved) and New Hampshire (pending) use this approach

See Appendix for full Medicaid premium and cost-sharing requirements

## Shopping and Enrollment

### Legal Requirements and HHS Guidance

#### Plan Selection
- If in mandatory program, enrollees must have a choice of at least two QHPs
- Plan enrollment currently cannot take place through the Federally-facilitated Marketplace

#### Enrollment Periods
- If in mandatory program, enrollment must be permitted at any time (may not be limited to Marketplace open enrollment and special enrollment periods)
- State must provide coverage between date of application and enrollment in QHP

#### Retroactive Coverage
- Enrollees are eligible for three months retroactive Medicaid coverage from the date of application

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Interagency Cooperation

Legal Requirements and Operational Considerations

Federal Requirements

- Medicaid is the “single state agency” and remains fully accountable for ensuring compliance with and oversight of Medicaid requirements.
- If Medicaid agency delegates any responsibility to a state insurance agency, an Intergovernmental Cooperation Act Waiver is required.* A Memorandum of Understanding (MOU) may be required.

Operational Considerations

- Potential MOUs between and among:
  - Medicaid agency
  - Insurance agency
  - Exchange (if applicable)
  - QHPs

*If the state’s Department of Insurance is the Exchange, waiver is not required.
Arkansas’s Marketplace Premium Assistance Program
Submitting Questions

To submit a question:
1. Click in the Q&A box on the left side of your screen
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Thank You!

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Appendix
Social Security Act Section 1905(a) authorizes states to use premium assistance to purchase private coverage in the individual market with Medicaid funds

Jan. 22, 2013
HHS releases proposed rule in 78 Fed Reg 4624 regarding using Medicaid & CHIP funds for Marketplace premium assistance

Mar. 29
HHS releases FAQ “Medicaid and the Affordable Care Act: Premium Assistance” outlining Marketplace premium assistance waiver guidance

July 15
HHS releases Final Rule in 78 Fed Reg 42184, integrating Final Rule into 42 CFR 435.1015

Sept. 27
CMS approves Arkansas Private Option Waiver

Dec. 10, 2013
CMS approves Iowa Marketplace Choice Plan Waiver

Right click and select “Open Hyperlink” to access materials online
Authorization for Marketplace Premium Assistance: SSA 1905(a)

SSA § 1905(a): Definition of Medical Assistance

Authorizes states to use Medicaid dollars for “other insurance premiums for medical or any other type of remedial care or the cost thereof”

42 CFR 435.1015

- Authorizes FFP for “payment of the costs of insurance premiums on behalf of an eligible individual for a health plan offered in the individual market”
- Requires states to provide Medicaid benefits not covered through the individual health plan
- Requires states to ensure Medicaid beneficiaries do not incur cost sharing charges in excess of Medicaid limits
- Requires program to be cost-effective relative to what the state would have spent, including administrative expenditures, to provide comparable coverage through Medicaid
- Requires program to be voluntary (absent a waiver)

Authorization for Marketplace Premium Assistance: Waiver

Waiver Option

A waiver is required if the state wants to:

- Establish a mandatory premium assistance program
- Modify benefits or cost-sharing, but:
  - States must provide benchmark coverage to the new adult group to be eligible for the enhanced federal match
  - Special statutory limits on waiving cost-sharing requirements exist
- Extend the coverage model to a subset of Medicaid eligible individuals (comparability)
- Use an alternative cost effectiveness test

# Medicaid Premium & Cost-Sharing Rules

<table>
<thead>
<tr>
<th></th>
<th>&lt; 100% FPL</th>
<th>100% - 149% FPL</th>
<th>≥ 150% FPL</th>
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</thead>
<tbody>
<tr>
<td><strong>Maximum Allowable Medicaid Premiums and Cost-Sharing</strong></td>
<td></td>
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<tr>
<td>Aggregate Cost-Sharing Cap</td>
<td>5% household income</td>
<td>5% household income</td>
<td>5% household income</td>
</tr>
<tr>
<td>Premiums</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Permitted, subject to aggregate cap</td>
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<tr>
<td><strong>Maximum Service-Related Co-pays/Co-Insurance</strong></td>
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<tr>
<td>Outpatient services</td>
<td>$4</td>
<td>10% of cost the agency pays</td>
<td>20% of cost the agency pays</td>
</tr>
<tr>
<td>Non-emergency ER</td>
<td>$8</td>
<td>$8</td>
<td>No limit</td>
</tr>
<tr>
<td>Rx Drugs</td>
<td>Preferred: $4 Non-Preferred: $8</td>
<td>Preferred: $4 Non-Preferred: $8</td>
<td>Preferred: $4 Non-Preferred: 20% of cost the agency pays</td>
</tr>
<tr>
<td>Institutional</td>
<td>$75 per stay</td>
<td>10% of total cost the agency pays for the entire stay</td>
<td>20% of total cost the agency pays for the entire stay</td>
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</tbody>
</table>

- Specific services are exempt from cost-sharing, including emergency services, family planning and pregnancy-related services.
- Specific populations are exempt from cost-sharing requirements (e.g., pregnant women, spend-down beneficiaries, and individuals receiving hospice). However, exempt individuals may be charged cost-sharing for non-preferred drugs and non-emergency use of the emergency room.
- Services may not be denied for individuals who fail to make co-payments if their income <100% FPL; services may be denied for those with incomes >100% FPL.
- If non-preferred drugs are medically necessary, preferred drug cost sharing applies.
- Aggregate cost-sharing (inclusive of premiums) imposed on family with income <150% FPL may not exceed 5% of family income on a monthly or quarterly basis.
- States are required to track an individual’s cost sharing contributions in order to determine when the 5% aggregate maximum is reached, if reasonable risk that beneficiary could reach the aggregate cap.

**Sources:** SSA § 1916 and 1916A
1115 Waiver Submission & Decision Timeline

- **60 days before submission:** Begin Tribal Consultation Process
- **30 days before submission:** Begin Public Notice Process, including 2 public hearings
- **Submission of waiver to CMS**
- **Within 15 days of submission:** CMS must send notice acknowledging receipt
- **30 days from CMS notice:** Federal public comment process
- **45 days+ from CMS notice:** CMS may approve the waiver

- **Draft waiver**
- **Federal negotiations**
# Approved State Marketplace Premium Assistance Programs

<table>
<thead>
<tr>
<th>State</th>
<th>Populations Covered</th>
<th>Benefit Variations</th>
<th>Premiums</th>
<th>Cost-Sharing</th>
<th>Healthy Behavior Incentives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arkansas</td>
<td>Newly eligible adults with incomes 0-138% FPL</td>
<td>No coverage of non-emergency use of the ER</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
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<td></td>
<td>Medically frail excluded</td>
<td></td>
<td></td>
<td>• Individuals with incomes 100-138% FPL only</td>
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<td></td>
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<td></td>
<td></td>
<td>• Applied to wide range of services</td>
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<td>Iowa</td>
<td>Newly eligible adults with incomes 100-138% FPL who do not have access to cost effective ESI</td>
<td>Non-emergency medical transportation waived for one year</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td></td>
<td>Medically frail excluded</td>
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<td></td>
<td>• Individuals with income 0-138% FPL</td>
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<td></td>
<td>• May reduce premium obligations</td>
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<td></td>
<td>• May be terminated for failure to pay for 90 days and do not request hardship waiver</td>
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<td></td>
<td>• Up to $10/month</td>
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<td>• Limited to $8 co-payment for non-emergency use of the ER</td>
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<td>• Payment not a condition of eligibility</td>
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<td>50-100% FPL:</td>
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<td>• Up to $5/month</td>
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<td>• Payment not a condition of eligibility</td>
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