



**Center for Medicaid and CHIP Services**

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February 15, 2012

Mr. Brett Davis  
Medicaid Director  
Wisconsin Department of Health Services  
1 West Wilson Street  
P.O. Box 309  
Madison, Wisconsin 53701-0309

Dear Mr. Davis:

Thank you for your February 9, 2012, letter regarding the status of Wisconsin's request to amend its existing section 1115 Demonstrations as well as several of the State's State Plan Amendments (SPAs), which were submitted to the Centers for Medicare & Medicaid Services (CMS) for review in November 2011. Your letter provided clarity with respect to the State's current intentions on several of the proposals that are under review.

You rightly noted in your letter that there are several proposals that we indicated in our December 9, 2011, letter to Secretary Smith that we are prepared to approve. Agreement has been reached on the following proposals as applied to non-disabled, non-pregnant adults with income above 133 percent of the Federal poverty level (FPL):

- Application of the 9.5 percent affordability test with respect to employer sponsored insurance that meets minimum benefit standards;
- A 12-month restrictive re-enrollment period for adults who fail to make a premium payment; and
- A sliding scale premium ranging from 3 percent of household income for adults at 133 percent of the FPL up to 6.3 percent of household income for adults with income at 200 percent of the FPL. Coverage for children will be maintained even if the child's parent does not make the adult-related premium payment.

We also agree with your understanding that we are prepared to approve the State's request to end coverage for beneficiaries who the State has determined are ineligible 10 days after they have received an adverse action notice (rather than extending coverage through the end of the month as is the State's current practice), subject to any applicable appeal rights.

We appreciate that you would like to move ahead quickly to make this agreement in principle official through amendments to the State's existing 1115 Demonstrations, and we concur that

agreement has been reached on many of the details laid out in your letter. However, in our review to date, we have identified the following items that we believe have yet to be resolved:

- The minimum benefit standards requirement associated with the application of the 9.5 percent affordability test. Although there have been several clarifying discussions held on this topic, no agreement has been reached on what, if any, test will be applied to assure minimum value.
- The look-back period associated with the application of the 9.5 percent affordability test. Although there have been some discussion about this, specifically on the time period in which the State would assess an individual's access to affordable coverage, the intent of the look-back period is still unclear. We would like to further discuss this request.
- The premium exemptions. We are pleased to see the exemptions list that you included in your letter and would like to discuss with you whether the State has given consideration to any other groups.
- The grace period for non-payment of the monthly premium before disenrollment from the program. We would like further clarification on this item as it was our understanding that the State would continue to apply a 60-day grace period before effectuating disenrollment. Please confirm the State's intention with respect to the application of a 60-day grace period.
- The combination of monthly premiums and the non-refundable annual application fee as applied to childless adults with income above 133 percent of the FPL. While we understand that the non-refundable annual application fee is a current program feature under Wisconsin's Childless Adult section 1115 Demonstration, there have been no staff-level discussions about this fee, its relationship to the State's proposed monthly premiums, or whether we would approve such a combination. It is a matter of particular concern in light of the 12-month restrictive re-enrollment period.

For these reasons, we wanted to advise you that while we have agreement on many of the matters outlined in your letter, we will not be able to provide official approval of these proposals by February 15, 2012. However, we believe that the following steps will allow us to achieve timely and expeditious resolution on all matters:

- Finalize our common understanding and decisions on policy as outlined in this letter. We are prepared to meet within the next week with hopes of concluding our discussions on these points.
- Exchange and agree on draft Special Terms and Conditions (STCs) and corresponding authorities for the BadgerCare and BadgerCare Plus for Childless Adults Demonstrations.
- Finalize agreement on the BadgerCare Demonstration's budget neutrality reconciliation process. We appreciate your February 2, 2012, budget neutrality reconciliation data submission. As you know, the currently effective Demonstration STCs, which Wisconsin accepted on December 31, 2010, required the State to submit a draft plan to reconcile

expenditure data by January 31, 2011, and that it complete the budget neutrality reconciliation process by September 30, 2011. The STCs also require that this process be completed before the State can amend the Demonstration. CMS is reviewing the recent information that you provided to us. Our respective staffs are currently discussing this submission, and we are committed to working with you to ensure that the data is accurate and complete in order to finalize the budget neutrality reconciliation process as quickly as possible. In addition, we will work with you to update budget neutrality for the BadgerCare Plus Demonstration to reflect the requested modifications for childless adults.

- Conclude matters with respect to the withdrawal of SPAs 11-012 (related to premiums) and 11-013 (related to cost sharing). In order to move forward with the approval of the sliding scale premium proposal for the non-pregnant, non-disabled adults above 133 percent of the FPL, the State must withdraw both of these SPAs. The requested policies under SPA 11-012 conflict with the State's sliding scale premium proposal because they would impose a flat, not a sliding scale, premium. The requested policies under SPA 11-013, would impose cost sharing that, in conjunction with the sliding scale premium, could result in a burden on beneficiaries in excess of the 5 percent cap under 1916A of the Act. Therefore, in order to move forward as expeditiously as possible with the State's sliding scale premium proposal, we request that the State withdraw SPAs 11-012 and 11-013 and submit a new SPA removing the sliding scale premium population from the 4.18-F pages.

In order to provide your staff the opportunity to make the necessary changes to SPAs 11-012 and 11-013, as well as to consider the potential maintenance of effort consequences related to SPA 11-014 (related to the elimination of presumptive eligibility for children), CMS is issuing Requests for Additional Information (RAIs) with respect to those SPAs. Should the State elect to withdraw the SPAs, responses to the RAIs will not be necessary. As noted above, in order to move forward with the State's new sliding scale premium proposal, the State would need to both withdraw the SPAs and submit a new 1916A SPA.

With respect to policies that the State has proposed to apply to populations beyond the population affected by the budget deficit certification, we note that the State has withdrawn its request to revise the definition of "household gross income" to include the income of all adults living in the household for at least 60 days (with an exception for grandparents), as well as the application of premiums and cost sharing to children. In addition, your letter confirms recent discussions with my staff indicating the State's intention to withdraw its presumptive eligibility request from its proposed Demonstration. In these discussions, the State also indicated its intent to withdraw its request for a waiver of retroactive eligibility. Please confirm the State's intent with respect to this waiver. Your letter also indicated that the State would add federally recognized Wisconsin Indian tribal identification to the list of acceptable forms of proof of residency under the State's waiver request; however, the State's original November 10<sup>th</sup> submission did not include such a list. We have requested the list on several occasions, including the addition of the tribal identification which you mentioned at our November 17, 2011 meeting; we again request the list.

Thank you again for your letter as well as your staff's time in discussing the various proposals that you have submitted to CMS for review. We agree that much progress has been made and

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that with some additional discussions the outstanding items can be resolved in an expeditious manner.

Sincerely,

A handwritten signature in black ink that reads "Cindy Mann". The signature is written in a cursive style with a large initial "C" and a long horizontal stroke extending to the right.

Cindy Mann  
Director

cc: Victoria Wachino, CMCS  
Verlon Johnson, ARA, Chicago Regional Office