Future of Financing of 1115 Waivers

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Medicaid Program Basics

- Medicaid is a voluntary program, jointly funded by federal and state governments .
- All 50 States and DC have opted to participate in this program to fund healthcare services to Medicaid-eligible individuals.
- Federal / State funding portions derived by Federal Medical Assistance Percentage (FMAP) - a formula that takes into account the average per capita income for each State relative to the national average.
  - Texas federal amount set at 59.87%. (*COVID PHE + 6.2%, if accept funding bump no disenrollment)
- States can design their Medicaid programs within federal prescriptive categories of mandatory and optional services to specific groups of individuals – some mandatory (like children and indigent patients below the poverty line) and some optional groups.

- Or -

- The State can design a Medicaid program that operates outside the federal guidelines, by implementing a Waiver (such as a Section 1115 Waiver), which authorizes CMS to waive some federal requirements to promote the objectives of the Medicaid program



Fee-for Service v. Managed Care

- Historically, **Fee-for-Service (FFS)** was the common approach taken by state Medicaid programs.
  - Day to day program operations administered by state Medicaid agency
  - Providers contract directly with the state
  - Health care services are paid for as individual units of service; every type of service has a pre-defined rate.
- Many states are embracing a **Managed Care** model of health care delivery.
  - State contracts with private health plans to administer and provide health care coverage to beneficiaries.
  - Health plans contract with networks of providers.
  - State pays health plans a per member per month/capitation payment.



Section 1115 Waivers:



Waiver Demonstrations

- States are permitted to use the substantial flexibility provided by Section 1115 of the Social Security Act (42 U.S.C. § 1315) to create demonstration programs to test policy innovations likely to further the objectives of the Medicaid program.
  - All Section 1115 waivers must: (1) provide experimental, pilot, or demonstrational value; (2) promote the Medicaid objectives; and (3) be budget neutral.
  - States typically submit a proposal to CMS and may spend many months negotiating with CMS. Approval is within CMS discretion and CMS is not required to act within any specified time frame.
  - Special Terms and Conditions provide governing terms of program.
- States have used 1115 waivers to create additional supplemental payment programs that reimburse for uncompensated care and incentivize delivery system reform.
- Programs typically operate based on waiver demonstration years (DYs).

Waiver Terms, Duration and Renewals

- States submit an 1115 waiver application to CMS:
  - If a waiver is approved, CMS issues an award letter to the state, along with attachments listing the specific sections of the Social Security Act (SSA) and applicable regulations that are being waived or modified.
  - Approved waivers also detail the types of expenditures allowed as well as the standard terms and conditions of approval, including a budget neutrality agreement.
  - Waivers are typically approved for specific time period.
  - A waiver must be renewed for operations to continue.
- Significant variation in the length of time it takes to get final approval of a waiver and/or waiver extension.
  - There also is variation across states in the role of state legislatures in the waiver approval process with many states requiring authorizing legislation for waivers and others having little or no involvement of the state legislature.

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