



# The Child Advocate's Guide to the Bevin Administration's 1115 Medicaid Waiver Proposal

The Bevin Administration is asking the federal government—specifically, the Centers for Medicare and Medicaid Services, or CMS—to modify Kentucky's Medicaid program. If CMS approves the request, known as an 1115 Waiver, the new Medicaid program would be called Kentucky HEALTH.

## Two Pathways to Coverage

### **Employer-sponsored Insurance:**

The 1115 Medicaid Waiver proposal encourages individuals to sign up for health insurance through their employer if they are eligible. The transition to employer-sponsored coverage is optional in their first year of Medicaid enrollment and required in their second year of enrollment if the member has been employed for over one year. Kentucky will cover all costs of the employer-sponsored plans, except the required Medicaid premium (\$1-\$15 per month).

### **Kentucky HEALTH Plans:**

If individuals are not eligible for employer-sponsored coverage, they can sign up for Kentucky HEALTH coverage. This coverage includes a high deductible health plan with two health care spending accounts. One account covers deductible expenses, and the other can be used to purchase enhanced benefits.

The state will pay the plan deductible, and the Managed Care Organizations will cover all additional health care costs. Kentucky HEALTH would require premium payments on a sliding scale (\$1-\$15 per month), though individuals at or below 100% of the Federal Poverty Level (FPL) may elect to not make their required premium payments and instead continue to be charged copayments for services. The 1115 Medicaid Waiver proposal makes dental and vision care as earned benefits instead of services covered under the standard benefit package for adults who received coverage through Medicaid expansion, including many parents.

Adults—except those who are pregnant, medically frail, or the primary caregiver of a dependent child or adult—are required to participate in work, education, training, or community service activities to receive coverage. They must enroll during an open enrollment period each year and can lose coverage or be locked out of coverage if they fail to pay their premiums or report changes that may affect their eligibility.

## Impact on Children, Pregnant Women, and Parents

### Children:

- Children currently eligible for Medicaid or the Kentucky Children's Health Insurance Program (KCHIP) will remain eligible under the proposed program. They cannot lose coverage or be locked out of coverage if their parents fail to meet certain enrollment requirements.
- Children's coverage does not require copays, premiums or deductibles.
- Children are not subject to an open enrollment period, meaning they can re-enroll anytime if dropped from coverage. They can also receive retroactive coverage, which will backdate the coverage start date to cover already received medical services.
- Children will continue to receive the same benefit package as they currently receive under Medicaid and KCHIP, including behavioral health, dental, and vision coverage and full EPSDT (Early and Periodic Screening, Diagnostic and Treatment) benefits.
- Youth who aged out of the foster care system are exempt from the 1115 Medicaid Waiver proposal entirely. They can maintain Medicaid coverage until their 26<sup>th</sup> birthday without changes to their benefits or added requirements for coverage.

### Pregnant Women:

- Pregnant women currently eligible for Medicaid will remain eligible under Kentucky HEALTH. They cannot lose coverage or be locked out of receiving coverage for failure to meet certain enrollment requirements.
- Pregnant women do not have to pay copays, premiums or deductibles.
- Pregnant women are not subject to an open enrollment period, meaning they can re-enroll anytime if dropped from coverage. They can also receive retroactive coverage, which will backdate the coverage start date to cover already received medical services.
- Pregnant women will continue to receive the same benefit package as they currently receive under Medicaid, including dental and vision coverage.
- Pregnant women do NOT have to meet work or community service requirements.

### Parents and Other Adults:

- Adults who have access to employer-sponsored insurance can choose to enroll in their employer's plan during the first year of Medicaid coverage. In the second year, they are required to enroll in the employer-sponsored plan with subsidy assistance from the state.
- Many adults will not receive dental or vision benefits in a standard benefit package and instead have to earn dental or vision services.
- Adults must pay monthly premiums, ranging from \$1-\$15 per month. Individuals at or below 100% FPL may elect to not make their required premium payments and instead continue to be charged copayments for services.
- Adults above the poverty level who fail to pay premiums for 60 days or fail to report changes that may affect eligibility within 10 days will lose coverage and be locked out from reenrollment for six months. They can re-enter early if they catch up on some of their premium costs and if they take a financial or health literacy course. Adults below the poverty

level who fail to pay premiums will be required to make copayments. They will not lose coverage or be locked out, but their My Rewards Account will be suspended.

- Parents or other adults who are the primary caregiver of a dependent child or adult, or who are medically frail, are exempt from work and community service requirements.
- Adults will NOT receive retroactive coverage, meaning when they enroll in coverage, the coverage start date will NOT be backdated to cover already received medical services.

## Kentucky Youth Advocates Position Statement Regarding the Bevin Administration's 1115 Medicaid Waiver Proposal

“Is it good for kids?” That is the question we at Kentucky Youth Advocates always ask of our decision-makers, and we have carefully considered that question in response to the Bevin Administration's 1115 Waiver proposal to modify Kentucky's Medicaid program. In reviewing the proposal, known as Kentucky HEALTH, we see some positives but also have concerns.

To briefly provide context, Medicaid has historically covered low-income, vulnerable populations, including children, pregnant women, people with disabilities, youth in foster care, and very limited populations of parents. Medicaid expansion for low-income adults—including many parents—up to 138% of the federal poverty level was included in the Affordable Care Act, the federal health care system reform law which was signed into law in 2010. This provision became optional for states due to a federal Supreme Court ruling in 2012. In 2014, Kentucky expanded Medicaid through the Governor's authority. Kentucky Youth Advocates supports Medicaid expansion in Kentucky because of the positive impact affordable health coverage has on low-income parents such as increased access to preventive health care. We also know that children are more likely to have health insurance when their parents have health insurance, and health insurance is a vital component of access to health care.

The proposed 1115 Medicaid Waiver protects children and pregnant women from the potential direct negative impacts of premiums and reduced benefit packages, but many parents will be significantly impacted by this proposal causing barriers for them to maintain coverage. Because parent health is critical to the well-being of children, Kentucky Youth Advocates wants to ensure parents and children on Medicaid maintain affordable health insurance and can access the health care they need.

The Bevin Administration released the initial waiver proposal in June 2016 and submitted its final waiver proposal to the Centers for Medicare and Medicaid Services (CMS) on August 24, 2016. We submitted a number of recommendations during both public comment periods, and the final waiver proposal incorporated our recommendations. After negotiations with CMS, the Bevin Administration released proposed modifications to their Kentucky HEALTH 1115 Waiver in July 2017, and we will submit comments on these modifications by August 2, 2017.

### **Maintain Proposed 1115 Medicaid Waiver Provisions that Protect Vulnerable Populations**

We thank the Bevin Administration for considering vulnerable populations in the 1115 Medicaid Waiver and strongly recommend that the final waiver **maintain** the provisions that protect them, including:

- Exempt children and pregnant women from cost-sharing requirements including monthly premiums and copayments.

- Exempt primary caregivers of dependents from work and community engagement requirements.
- Maintain the current Medicaid benefit package for children, pregnant women, and parents covered through SSA 1931, which were all eligible for Medicaid prior to the 2014 expansion.
- Exempt all youth formerly in the foster care system up to age 26 from the waiver entirely, a recommendation from Kentucky Youth Advocates that the Bevin Administration incorporated into its final proposal to CMS.

### **Amend or Add Proposed 1115 Medicaid Waiver Provisions to Improve Health Outcomes for Kids and Families**

A number of provisions in the 1115 Medicaid Waiver proposal create barriers to parents maintaining health insurance. Based on research on other states, we know that when parents lose health insurance due to added requirements and cost-sharing mechanisms, their children are likely to also lose coverage even if children's eligibility and benefits do not change. Parents' health is vitally important to children's health, and if parents are going to improve health outcomes for themselves and their children, the Medicaid program must be simple for families to understand, participate in, and utilize. Many Kentucky families who will be affected by this Waiver face challenges, such as homelessness, and may be transient in where they live. Because of that, even the basic components of applying for Medicaid coverage or receiving updates about that coverage can pose a challenge for these families.

We recommend the following provisions be **added or amended** in the final 1115 Medicaid Waiver:

- Include dental and vision benefits in the standard benefits package instead of being classified as an earned benefit.
- Exempt individuals under 100% of the federal poverty level from premiums and copayments.
- Cap the monthly premium at \$15 per month for the length of the 1115 Medicaid Waiver (5 years) to ensure working adults without employer-sponsored insurance who cannot secure jobs with higher pay can maintain affordable health insurance through Medicaid.
- Remove barriers to Medicaid re-enrollment, such as lockout provisions and the requirement to back pay premiums, if dis-enrolled for nonpayment or failure to report changes in eligibility.

- Exempt all caregivers in non-traditional situations, like kinship care, from all cost-sharing and lockout periods.
- Exempt individuals diagnosed with a substance use disorder (SUD) from all cost-sharing and work (or community engagement) requirements until they are on a successful path to recovery.
- Increase the dollar amount of My Rewards Account incentives for parents and pregnant women for activities such as prenatal visits or taking children for preventative dental visits. While the Bevin Administration added more activities for parents to the final waiver proposal submitted CMS, increasing the incentive dollar amount to be earned per activity would allow individuals to earn more dollars to spend on things like over-the-counter medications.
- Define pregnancy to include a time period of six months after birth to ensure eligibility for appropriate follow-up care.
- Extend the timeline of the 1115 Medicaid Waiver implementation.
- Ensure Medicaid members have access to help if they have questions about their plan in person, by phone, and online. This includes having help available after regular business hours so parents who work during the day can get help in the evening in understanding their plan and the requirements they must meet to continue receiving Medicaid.

The Bevin Administration has put kids and families first in many of its policies, and we at Kentucky Youth Advocates encourage the Administration and CMS to come to an agreement that prioritizes kids and families as they move forward with the 1115 Medicaid Waiver proposal and preserve Medicaid expansion.

## Frequently Asked Questions About Kentucky's Proposed 1115 Medicaid Waiver

### **Why does Kentucky Youth Advocates care about the 1115 Medicaid Waiver proposed by the Bevin Administration?**

Kentucky Youth Advocates is a statewide, nonprofit independent voice for Kentucky's children. We are not a government entity or take any government funding. As a watchdog for children, we work hard to ensure elected leaders create policies and make investments that will positively impact children and families in Kentucky. An important component to the overall health of children and their parents is health insurance. Kentucky has made a lot of progress in reducing its rate of uninsured children and parents, and we want to ensure this progress continues. We are concerned that some of the provisions of the Bevin Administration's 1115 Medicaid Waiver proposal will negatively impact parents and indirectly affect their children.

### **What is an 1115 Medicaid Waiver?**

States can apply for an 1115 Medicaid Waiver with the federal government in order to receive additional flexibility in designing their Medicaid programs. Waivers must be budget neutral and are intended to lead to more stable coverage, better health outcomes, and improve the quality of health care delivery. The Bevin Administration applied for an 1115 Medicaid Waiver. The proposed plan is called Kentucky HEALTH and includes many changes to the Medicaid program. Kentucky's proposed 1115 Medicaid Waiver must be approved by the federal government before it can be implemented. Once implementation begins, Kentucky HEALTH will be in place for five years.

### **Who will be most affected by the 1115 Medicaid Waiver?**

Most of the proposed changes in the 1115 Waiver directly impact individuals who received coverage through expanded Medicaid in 2014, including many low-income working parents.

### **What is expanded Medicaid?**

The Affordable Care Act included a provision for states to expand Medicaid coverage to more low-income adults up to 138% of the federal poverty level (FPL). The federal government picks up a large portion of the cost to expand. Prior to this law, most states only provided Medicaid coverage to vulnerable groups of children, pregnant women, disabled individuals, children in foster care, and a small population of parents. In 2012, the federal Supreme Court ruled that states had the option but were not required to expand Medicaid. Since then, each state has individually decided whether or not to expand. Kentucky expanded Medicaid in 2014.

### **How will children's health coverage be affected by the Bevin Administration's proposed 1115 Medicaid Waiver?**

All children who are currently eligible for Medicaid or the Kentucky Children's Health Insurance Program (KCHIP) will maintain their eligibility under the waiver. Children are also exempt from cost-sharing, including copayments and deductibles. However, we know that children's health coverage aligns closely with parents' health coverage; between 2013 and 2014—when many more parents enrolled through Medicaid expansion—Kentucky saw a 27 percent drop in the number of uninsured children. Many parents who currently receive coverage through expanded Medicaid will face

barriers to continuing that coverage if the 1115 Medicaid Waiver is approved by the federal government as currently written. If parents lose coverage due to added barriers in the waiver, they may not know to renew their children's coverage when it comes time each year, resulting in more children becoming uninsured.

### **Who approves 1115 Medicaid Waivers?**

Throughout the approval process, states and the federal government come to an agreement about the 1115 Medicaid Waiver components. The Centers for Medicare and Medicaid Services (CMS) is the agency responsible for reviewing and approving states' 1115 Medicaid Waiver applications. CMS is the federal agency within the United States Department of Health and Human Services which administers and oversees Medicare, Medicaid, and the Children's Health Insurance Program within states. CMS will review Kentucky's waiver and provide feedback to the Bevin Administration on what CMS will approve and not approve in the waiver. The Bevin Administration will have the opportunity to negotiate Kentucky's 1115 Medicaid Waiver with CMS to come to a final agreement.

### **What is the approval process for Kentucky's 1115 Medicaid Waiver?**

The Bevin Administration released the initial waiver proposal in June 2016 and, after a public comment period, submitted its final waiver proposal to the Centers for Medicare and Medicaid Services (CMS) on August 24, 2016. CMS then held a 30-day public comment period prior to negotiations with the Bevin Administration. After negotiations with CMS, the Bevin Administration released proposed modifications to their 1115 Waiver in July 2017. The Bevin Administration is accepting public comments on these modifications through August 2, 2017 and then will continue negotiations with CMS.

### **Is Kentucky's 1115 Medicaid Waiver good for kids and families?**

The proposed 1115 Medicaid Waiver protects children and pregnant women from the potential negative impacts of premiums, reduced benefit packages and lockout periods. It also exempts former foster youth up to age 26 from the waiver entirely, which helps protect this vulnerable population of youth. However, aside from these protections, the waiver would create barriers for many parents to maintain health insurance. When parents lose health insurance due to added requirements and cost-sharing mechanisms, their children are likely to also lose coverage even if children's eligibility and benefits do not change. Parents' health is vitally important to children's health, and if parents are going to improve health outcomes for themselves and their children, the Medicaid program must be simple for families to understand, participate in, and utilize. Many Kentucky families who will be affected by this Waiver face challenges, such as homelessness, and may be transient in where they live. Because of that, even the basic components of applying for Medicaid coverage or receiving updates about that coverage can pose a challenge for these families. Learn more about how the 1115 Waiver application could be less harmful to kids and families in our position statement.

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