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Subject: Maryland HealthChoice Medicaid Section 1115 Demonstration
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Thank you for speaking with us on Friday, October 16, regarding Maryland's section 1115 HealthChoice Demonstration amendment request to provide federal funding for psychiatric and substance use related services for individuals residing in an Institution for Mental Disease (IMDs). We understand that Maryland participated in the Medicaid Emergency Psychiatric Demonstration Project, established under section 2707 of the Affordable Care Act, and that payment under this demonstration ended earlier this year. An extension of this demonstration is beyond the scope of CMS' authority; it would require congressional action.

It has been CMS policy for some time to not provide expenditure authority through a section 1115 demonstration for services furnished to individuals in IMDs. Although CMS strongly supports the goal of increased access to mental health services, CMS is concerned that introducing federal funding into payment for inpatient psychiatric services risks advancing institutional care at the expense of greater community-based care. However, CMS has recently introduced two opportunities for federal funding for services furnished to individuals in IMDs.

In July of this year, we established a new opportunity for states to use section 1115 demonstrations to undertake or complement Substance Use Disorder (SUD) delivery system transformation efforts. This includes using section 1115 authority to provide federal financial participation for short-term inpatient and short-term residential SUD treatment, including when provided in facilities that meet the definition of an IMD, when such coverage complements broader SUD system reforms and specific program requirements are met. The guidance set forth in the State Medicaid Director (SMD) letter issued on July 27, 2015 describes the programmatic expectations for states who are interested in making significant transformations to their care delivery system for individuals with SUD through a section 1115 demonstration. Among these programmatic requirements are adherence to industry standards such as the American Society for Addiction Medicaid (ASAM) treatment guidelines and the integration of SUD treatment with primary and long-term care.

In addition, in the June 1, 2015 Notice of Proposed Rulemaking on revisions to Medicaid managed care regulations, CMS proposed permitting capitation payments on behalf of Medicaid beneficiaries aged 21 to 64 who spend a portion of the month for which the capitation is made as a patient in an IMD, so long as the facility is a hospital

providing psychiatric or SUD inpatient care, or a sub-acute facility providing psychiatric or SUD crisis residential services, and the stay in the IMD is for less than 15 days in that month. We are working to finalize these regulations, and look forward to continuing the conversations with states in this managed care context.

CMS is available to engage in further conversations and assist Maryland in developing a section 1115 demonstration approach focusing on SUD exclusively that meets the parameters of our July letter. We recommend that the state withdraw the current amendment request while we work with you to develop a SUD-focused proposal.

We look forward to continuing to work with you and your staff in implementing reforms for Maryland beneficiaries with SUD treatment needs and are available to provide technical assistance should Maryland decide to submit an 1115 that aligns with our new SUD opportunity.

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