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Submitted Via Electronic Mail
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Ms. Barbara Hale
Children's Health Insurance Program Administrator
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P.O. Box 110660
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Re: Children's Health Insurance Program (CHIP) – CHIP State Plan Amendment (SPA) – CS14 – Children Ineligible for Medicaid as a Result of the Elimination of Income Disregards – AK-13-002

I. Introduction.

Thank you for the opportunity to comment on the Alaska Department of Health and Social Services' (the Department's) October 9, 2013 letter to Tribal Health Leaders (the Letter) discussing the Department's recent proposed Alaska Medicaid State Plan Amendment (SPA). The SPA would establish statutorily-required continuing Medicaid coverage for children who lose Medicaid eligibility due to the elimination of income disregards under the new "modified adjusted gross income" (MAGI) eligibility determinations set out in Section 2002 of the Patient Protection and Affordable Care Act (ACA).[1]

Norton Sound Health Corporation (NSHC) is a tribally owned and operated, independent, non-profit health care organization. NSHC operates the Norton Sound Regional Hospital in Nome and clinics in the 15 villages within the 44,000 square miles that comprise the Bering Strait region.

NSHC was established in 1970 to meet the health care needs of the Bering Strait region's Inupiaq, Siberian Yupik and Yup'ik people. Our mission is to provide quality health services and

[1] Codified as amended at 42 U.S.C. § 1396a(e)(14).

promote wellness within our people and environment. As a non-profit consortium of 20 tribes, NSHC was one of the first Native health organizations in the country to assume complex responsibility for medical care of the people it serves.

NSHC provides services through Administration, Finance Division, Hospital Services, Quyanna Care Center- the only tribal long-term nursing home in the state of Alaska and Village Health Services. We proudly express our values: Integrity. Cultural sensitivity and respect for traditional values. Always learning and improving. Compassion. Teamwork

The proposed SPA outlines the Department's decision to provide coverage for the applicable children in the State's Medicaid program, rather than through a separate Children's Health Insurance Program (CHIP). We approve of this approach, although we are still unable to independently evaluate whether the MAGI transition adequately addresses all of the elements of eligibility of the current Alaska Medicaid and CHIP programs. Accordingly, our support for the SPA is necessarily conditioned.

II. Discussion.

As of January 1, 2014, Medicaid eligibility will be determined for most individuals using the MAGI formula,[2] which eliminates any assets/resources tests or income/expense disregards that states currently use to calculate Medicaid eligibility.[3] In order to ensure continuity of coverage for any children who might lose Medicaid eligibility as a result of the MAGI transition, section 2101(f) of the ACA requires that states treat any child under the age of nineteen who is enrolled in Medicaid as of December 31, 2013 as a "targeted low-income child" and to provide them with ongoing child health assistance for a limited time.[4] This protection applies under the following circumstances:

- The child ***is***
  - enrolled in Medicaid on December 31, 2013;
  - determined ineligible for Medicaid, specifically as a result of the elimination of income disregards, as of the child's first Medicaid renewal where MAGI methodologies are applied; and
  - is not otherwise eligible for a separate CHIP.

- The child ***is not***

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[2] *Id.* MAGI is determined by taking an individual's adjusted gross income, as calculated for federal income tax purposes, and adding back in certain types of income that is considered tax deductible for non-MAGI purposes. 26 U.S.C. § 36B(d)(2)(B) (setting out definition of MAGI for the purposes of the Tax Code); *see also* 42 C.F.R. § 435.603(e) (incorporating Tax Code definition of MAGI for the purposes of determining Medicaid eligibility).

[3] 42 U.S.C. § 1396(e)(14)(B); 42 C.F.R. § 435.603(g).

[4] 42 C.F.R. § 457.310(d).

- an inmate of a public institution;
- a patient in an institution for mental diseases; or
- eligible for coverage under a state health benefits plan on the basis of a family member's employment with a public agency (unless the state has elected the option to provide CHIP coverage to such children).[5]

States must provide coverage to children fulfilling these requirements until the child's first scheduled annual review after being determined ineligible under MAGI (a period of twelve months).[6] As CMS has noted in subsequent guidance, this twelve month grace period will terminate if the child reaches age nineteen, the child moves out of state, the child voluntarily disenrolls in Medicaid, or the child dies.[7] CMS has offered states one of two options for covering eligible children during the eligibility extension period: states may either enact a Medicaid SPA categorizing these children as an "optional reasonable classification of children" under 42 C.F.R. § 435.222(b) and make them categorically eligible for Medicaid, or else enroll the children in a new or existing separate CHIP for the duration of their extended eligibility.[8]

In the Letter, the Department explains that the State has chosen the former option and will deem these children categorically eligible for Medicaid under 42 C.F.R. § 435.222(b). We generally approve of this approach, as it provides continuity in benefits, services, and cost-sharing protections for Alaska Native and American Indian (AN/AI) children within the scope of the Alaska Medicaid program. It also helps ensure that neither the State nor the individual will be required to undertake the administrative burden of enrolling in a separate CHIP, and that Tribal health programs need not expend resources on learning any service or billing requirements under the separate CHIP. We therefore agree with the Department that maintaining the extension within Medicaid is the preferable option.

The Department also states in the Letter that because it:

> chose to opt for the SIPP+1 conversion (Survey of Income and Program Participation under MAGI conversion), it is likely that most all children enrolled in Medicaid/Denali KidCare will not be

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[5] 42 U.S.C. § 1397jj(b)(2); 42 C.F.R. § 457.310(c).

[6] 42 C.F.R. § 457.310(d) (ensuring eligibility until "the date of the child's next renewal under [42 C.F.R.] § 457.343").

[7] CMS GUIDANCE CS14 – CHILDREN INELIGIBLE FOR MEDICAID AS A RESULT OF THE ELIMINATION OF INCOME DISREGARDS at 1 [hereinafter "CMS GUIDANCE"].

[8] *See generally id. See also* CENTERS FOR MEDICARE AND MEDICAID SERVICES, ANSWERS TO FREQUENTLY ASKED QUESTIONS: TELEPHONIC APPLICATIONS, MEDICAID AND CHIP ELIGIBILITY POLICY AND 75/25 FEDERAL MATCHING RATE (Aug. 9, 2013); CENTERS FOR MEDICARE AND MEDICAID SERVICES, CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) COVERAGE FOR CHILDREN WHO LOSE MEDICAID ELIGIBILITY DUE TO THE ELIMINATION OF INCOME DISREGARDS AS A RESULT OF THE CONVERSION TO MAGI (April 28, 2013) (discussing requirements for the eligibility extension).

> impacted by this change. . . . In addition there is no anticipated effect to reimbursement for Tribal health providers.[9]

However, as the Alaska Native Health Board explained in comments submitted on October 9, 2013 concerning the Department's proposed SPA implementing the transition to MAGI, Tribes and Tribal organizations in Alaska cannot adequately evaluate the effects of the MAGI implementation at this time because the Department had not explained how existing Medicaid and CHIP eligibility standards would be affected by the new MAGI calculation, both for individuals who have IRS-determined MAGI and for those who apply directly to Medicaid for eligibility determination. Until Tribes are able to review the Department's proposed MAGI formula, we will be unable to independently assure ourselves that all current income disregards have been incorporated into the new MAGI application as the Department asserts.

We do understand that there is some concern that children in homes with step-children may be adversely affected since the income of the step-parents may now be counted where in the past it would have been excluded. We appreciate the one year transition, but strongly recommend careful accounting about how many children are affected so that evaluation can be made about how their access to health care has been affected and what can be done to ameliorate any negative effects.

We also appreciate the commitment made by the Division of Health Care Services at the recent meeting of the State/Tribal Medicaid Task Force to provide a detailed comparison of pre-and-post MAGI Medicaid and CHIP eligibility in Alaska. That will be enormously helpful, not only in our evaluation of how the SPA will affect eligibility, but in our efforts to assist individuals to understand the changes that are occurring. Until then, we remain concerned about any loss in eligibility by children under the MAGI transition.

III. Conclusion.

We support the Department's efforts the extent that the proposal to enroll extension-eligible children in Medicaid rather than through a separate CHIP maximizes protections for AN/AI children while minimizing burden for Tribal health programs and their patients. However, because a cross-comparison of the current eligibility rules to the new rules has not been available, we are unable to determine with certainty whether the impact on AN/AI children and Tribal health programs is truly minimal and cannot provide a definitive response to the Department.

Sincerely,

Angie Gorn
NSHC President/ CEO

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[9] Department Letter at 2.