

## Kentucky HEALTH Public Notice & Public Comment Summary

Kentucky Department for Medicaid Services provided the public the opportunity to review and provide input on this §1115 demonstration waiver in accordance with the requirements set forth at 42 CFR §431.408. Governor Bevin publically announced the Kentucky HEALTH waiver application on June 22, 2016. Public notice was also provided the same day to formally open the 30-day public comment period, which ended at 5:00 p.m. on July 22, 2016. However, in response to the volume of comments that were submitted on the final day of the comment period, including after the 5:00 p.m. deadline, the State extended the comment period through 11:59 p.m. on August 14, 2016. The extension allowed for the numerous comments that came in after the official deadline to be incorporated, as well as allowed any individual who was unable to comment previously the opportunity to do so.

A full public notice that announced the three public hearings was posted on the Cabinet for Health and Family Services website at the web address of the Section 1115 waiver program's homepage: <http://chfs.ky.gov/kentuckyhealth>. In addition, the formal public notice was also published in newspapers in the Commonwealth which serve a population of at least 50,000 (which included more areas than the minimum threshold required under the federal regulation). Electronic copies of all documents related to the Kentucky HEALTH waiver application were also available on the above listed waiver website throughout the comment period.

Although federal regulations only require two public hearings, the Commonwealth held three formal public hearings in geographically distinct areas of the state during the public comment period. In accordance with the notice, three public hearings were held on the following dates and locations as scheduled and publicized: (1) June 28, 2016 in Bowling Green, Kentucky; (2) June 29, 2016 at the Advisory Council for Medical Assistance (MAC) Special Meeting in Frankfort, Kentucky; and (3) July 6, 2016 in Hazard, Kentucky. In addition, although federal regulations do not require telephonic and/or web conference capabilities be made available if at least two public hearings were held in geographically distinct areas of the state, a toll-free conference call line was made available for the June 28<sup>th</sup> hearing, and live internet streaming was available for both the June 28<sup>th</sup> and July 6<sup>th</sup> hearing dates. All of the public hearings followed the same format, beginning with an overview of the Kentucky HEALTH waiver proposal, a brief question and answer session, followed by the collection of formal public comments. A court reporter transcribed and entered into the public record all verbal comments presented during each of the public hearings.

On June 29, 2016, a special Medicaid Advisory Committee (MAC) meeting was held to provide an overview of the waiver to the committee members and receive comments from the public. Prior to taking public comment at this meeting, committee members were provided the opportunity to raise questions or concerns about the waiver. The questions raised spanned a variety of topics and were primarily technical in nature. For example, committee members sought clarification on how CHIP children will be impacted, what requirements are in place for the community engagement program, how the *My Rewards Account* will function, medically frail premium requirements, MCO contract term questions and how many individuals will be impacted by the waiver. They also posed questions about the benefit package and how the SUD program will operate. Representatives from the State provided clarification to the questions.

In addition to the MAC meeting, the Kentucky HEALTH waiver was also presented to several public legislative committee hearings throughout the course of the public comment period. Specifically, the waiver was presented to the Interim Joint Committee on Health and Welfare on July 20, the Interim Joint Committee on Appropriations and Revenue on July 23, and the Budget Review Subcommittee on Human Resources on August 1. Each of these legislative hearings was open to the public, and members of the legislative committees were able to ask questions and comment on the waiver.

Following both the initial public comment period as well as the extension thereof, all comments were cataloged, summarized, and organized. In total, the State received 1,428 public comments during the entire public comment period, including 1,342 unduplicated written comments, and 86 verbal testimonies at the three public hearings. In addition to these, several organizations gathered input and statements from their constituencies which were synthesized within the organization's overall submission. The below summary combines the testimony offered at the public hearings as well as the formal comments received by the State via mail and email.

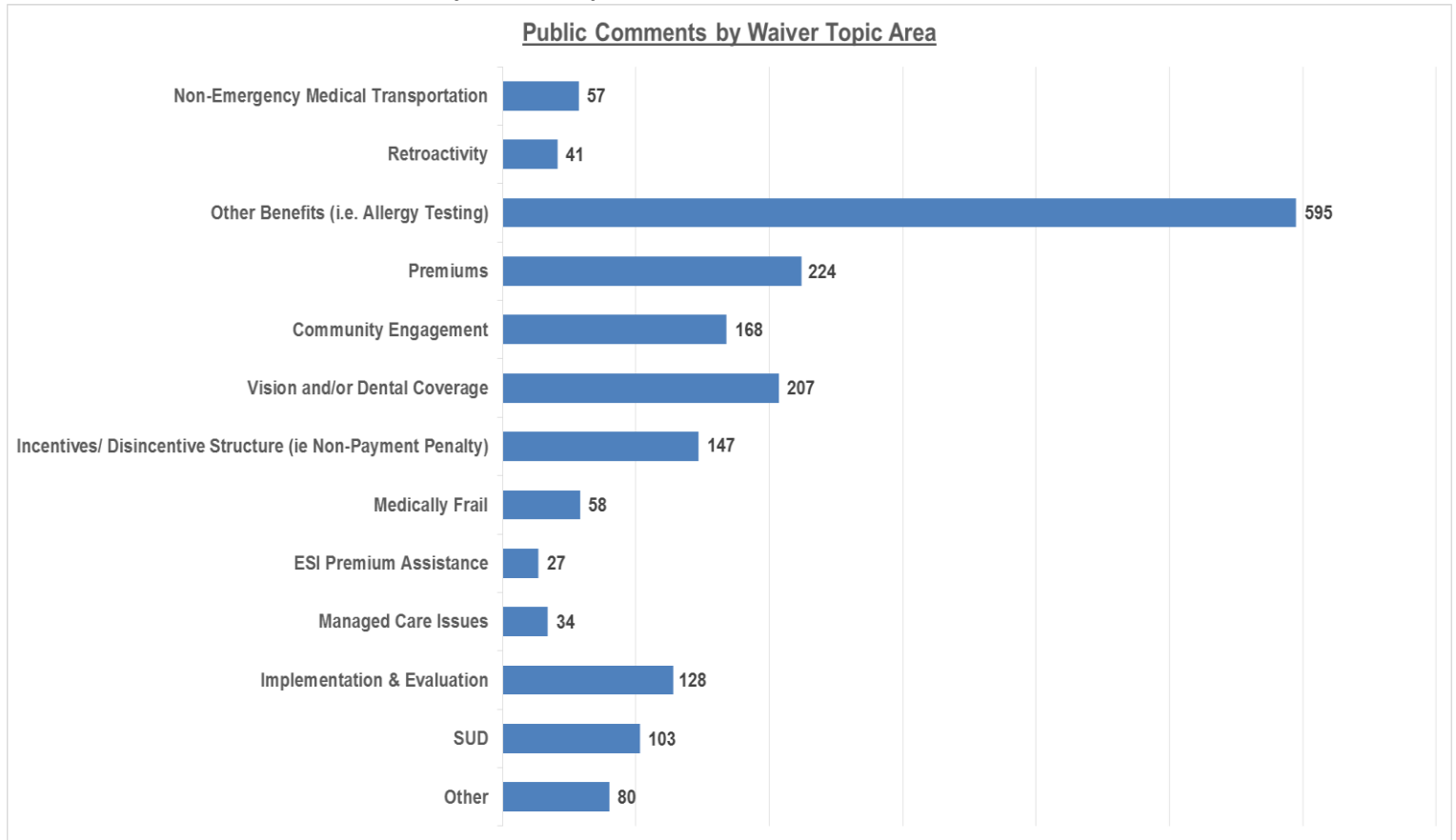
### Summary of Public Comments and State Response

A significant portion of the public comments targeted the waiver proposal as a whole. These comments shared either general support of the waiver initiative or general opposition to any changes to the existing Medicaid expansion program, without offering substantive comments on any particular aspect of the proposal. However, the majority of comments received were robust and touched on a broad range of topics that generally fell into the following categories:

- Changes to benefits;
- Premiums and cost sharing;
- Community engagement and employment initiative;
- *My Rewards Account* and the proposed changes to vision and dental coverage;
- Incentive and disincentive structure of Kentucky HEALTH (i.e. non-payment penalties);
- Medically frail;
- Employer-sponsored insurance (ESI) premium assistance program;
- Managed care and implementation of the waiver program; and
- Substance use disorder (SUD) waiver pilot project.

The frequency with which each of these topics were raised within the comments is listed below in [\*Table 9.1\*](#). Further, each topic area theme is summarized and discussed in more detail below.

**Table 9.1 Public Comment by Waiver Topic Area**



**1. Changes to Covered Benefits**

- a. **Summary of Comments:** Over 40% of the total comments received during the public comment period (or roughly 595 comments) were specific to the proposed state plan amendment, primarily the elimination of allergy testing. Generally, commenters encouraged continued coverage of allergy testing, and shared personal anecdotes of how they had personally benefitted from the service. Other commenters noted that allergy testing is a critical component of diagnosis, establishing appropriate treatment plans, and educating patients about potential triggers to avoid. Several of the allergy and asthma providers and interest groups cited high rates of allergies and asthma in the Commonwealth, and provided detailed evidence that allergy testing and treatment is a highly effective and cost efficient benefit for the Medicaid program. Further, several commenters suggested that appropriate allergy testing and treatment can increase productivity and reduce missed days of school and work, therefore, supporting the overall goals of the Kentucky HEALTH waiver.

A relatively few number of comments were received related to proposed changes to non-emergency medical transportation and retroactivity, which received 57 comments (4% of total comments) and 41 comments (3% of total comments) respectively. Half of the comments received on these topics were from impacted providers and advocacy groups, many of which expressed concern with the potential negative economic impact these

changes would have on providers through missed appointments and uncompensated care. In addition, many commenters expressed concern about the potential impact that lack of NEMT services would have on access to care, particularly on the State's more vulnerable clients living in rural areas.

Ultimately, the overwhelming majority of comments received during the public comment period were related to proposed changes in allergy testing services. Most of the benefit related comments were submitted by impacted provider groups and their patients. Several commenters supported efforts to make Kentucky HEALTH benefits equal to the Kentucky State Employees' Health Plan, as well as efforts to maintain the current robust Medicaid mental health and substance use disorder benefits.

- b. **State Response:** Based on the overwhelming public response and significant evidence provided related to the cost effectiveness of the allergy testing benefit, the State will *not* pursue a state plan amendment to remove the additional benefits added in 2014, including allergy testing and private duty nursing.

In regards to comments related to non-emergency medical transportation, the Division of Medicaid Services data indicates that utilization for this benefit among expansion adults has been extremely low. From June 2014 through June 2015, the expansion adult population of more than 400,000 individuals utilized less than 140,000 non-emergency trips.<sup>1</sup> In addition, data from Iowa and Indiana, two states currently operating Medicaid expansion programs without NEMT benefits, indicates that members have not experienced any meaningful obstruction of member access to care. In fact, two independent evaluation surveys of Indiana members found that those without NEMT benefits missed fewer appointments than members with NEMT benefits (whether those benefits were provided by the State or as an enhancement through MCOs).<sup>2</sup> Due to this research as well as the under-utilization of this benefit among the expansion population in Kentucky, no changes were made to the waiver resulting from these comments, and the State will continue to seek a waiver of the NEMT benefit for the adult expansion group only. However, for purposes of clarification, NEMT will remain a covered service for the more vulnerable populations participating in Kentucky HEALTH, including children, pregnant women, medically frail individuals, and any individuals eligible for Medicaid prior to the passage of the Affordable Care Act.

In addition, the State has opted not to modify the waiver related to retroactive coverage. One of the main goals of Kentucky HEALTH is to "encourage individuals to become active participants and consumers of healthcare who are prepared to use commercial health insurance." A waiver of retroactive eligibility is consistent with this goal, as commercial market coverage begins after payment of a premium. In addition, Medicaid expansion has been in effect since 2014, therefore, most individuals are already covered, eliminating the

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<sup>1</sup> Kentucky Department for Medicaid Services, Non-Emergency Medical Transportation Utilization of Adult Expansion Population from June 2014 through May 2015 (May 23, 2016) (on file with the State).

<sup>2</sup> Indiana NEMT Waiver Amendment Request to the Healthy Indiana Plan (HIP) 2.0 Medicaid Section 1115 Demonstration Waiver (2016) available at: <http://in.gov/fssa/hip/files/Indiana%20HIP%202.0%20NEMT%20Waiver%20Amendment%20Request%20-%2008%2001%2016.pdf>

need for retroactive coverage—as demonstrated by the relatively few comments on this policy (approximately 2%). Further, retroactivity has been widely waived by CMS in other states. However, in recognition of the concerns in the provider community, the Kentucky HEALTH waiver proposed to expand the presumptive eligibility program to allow more providers the opportunity to facilitate expedited enrollment for their uninsured patients in a time of need. This policy should address the few concerns related to increased uncompensated care.

## 2. Premiums and Other Cost Sharing

- a. **Summary of Comments:** Approximately 16% of all comments received (or 224 comments) addressed member cost-sharing components of the waiver. The State received several supportive comments, with even one Medicaid recipient indicating they would be willing to pay more for coverage. Several individuals indicated that the collection of even one dollar helps members engage in their own care as well as appropriately manage utilization and cost. In contrast, many commenters expressed general concern related to the affordability of the cost-sharing provisions for this population. Several commenters suggested there was no evidence that charging premiums would increase patient engagement. In addition, several stakeholder groups cited various studies indicating that any form of cost-sharing would negatively impact access to care and reduce coverage. In addition, several commenters opposed increasing premiums for individuals with income greater than the poverty level.

Other commenters focused on potential logistical difficulties that many low income individuals would face in making regular premium payments, particularly those individuals with mental disorders and those without a checking account or stable address. These concerns were most pronounced in regards to individuals determined medically frail. Many advocates and other stakeholders expressed concern with applying any form of cost-sharing (premiums or copayments) to the medically frail population. While many supported exempting these individuals from disenrollment for failing to pay premiums, many commenters requested the policy go further and simply exempt individuals determined medically frail from all cost-sharing obligations. These commenters noted that individuals who miss premiums will instead be subject to copayments which may be very expensive for medically frail individuals with extensive health care needs, which could lead to pharmaceutical noncompliance and other reductions in utilization.

**State Response:** In regards to concerns about copayments, all Medicaid copayments are subject to the federal maximum cost-sharing limit equal to 5% of income. CMS regulations allow states to charge copayments up to this limit without a waiver. However, stakeholder feedback expressed support for predictable, lower premiums as an alternative to standard Medicaid copayments up to 5% of income, as low-income working families are better able to budget for the expense. CMS has recently approved several similar 1115 waivers that implemented premium requirements equal to 2% of income. The flat rate premium amounts proposed in this waiver are all equal to or less than 2% of income, while the increasing premium amounts for individuals with income over 100% FPL never exceed the CMS threshold of 5% of income. Therefore, the cost-sharing provisions in the waiver are consistent with federal regulations and current CMS policy.

In addition, the studies cited by a few commenters were not specific to the new adult group category. Recent data from Indiana's Healthy Indiana Plan (HIP), also a Section 1115 waiver, indicated that premiums equal to 2% of income are affordable.<sup>3</sup> Approximately 87% of HIP members reported they would pay more than 2% of income premiums to remain enrolled in the program and that affordability was not an issue for people that left the program.<sup>4</sup> Only 5% of people surveyed who left the program indicated they did so for affordability reasons.<sup>5</sup> In addition, individuals who made regular payments had better outcomes, higher satisfaction, higher primary and preventive care, higher drug adherence, and lower ER use.<sup>6</sup> The State will not seek changes to the premium amounts set forth in the original waiver draft.

While there were a relatively small number of comments (approximately 16%) related to cost-sharing and premiums, the State has adjusted the plan based on a few recommendations. A couple of commenters suggested that the State implement family caps on premium requirements, such that the monthly premium equal to 2% of household income was not charged individually to all adults in the household. Based on this feedback, the Kentucky HEALTH waiver has been updated to clarify that premiums will be charged on a household basis rather than an individual basis. For example, for a married couple with household income equal to 75% FPL, the couple would be required to pay only \$8.00 per month (rather than \$16.00 per month).

In regards to the collection of premium payments, the State will ensure a variety of payment collection methods are available, including cash, money order, personal checks, credit card or debit card (including prepaid Visa debit cards). The Kentucky HEALTH program will seek to provide ample opportunity for members to make a premium payment in a method most convenient to their situation.

Finally, based on the comments received, the waiver has been updated to exempt medically frail individuals from the imposition of both premiums and copayments. The waiver was updated to allow medically frail members to choose to make premiums in order to maintain access to the My Rewards Account, however, in the event of non-payment of premium, such individuals will not be disenrolled and will not be subject to copayments for services.

### 3. Community Engagement & Employment Initiative

- a. **Summary of Comments:** Relatively few comments (168, or approximately 12% of the total comments) addressed the community engagement and employment initiative. Several commenters supported the idea of requiring individuals who are able to work or volunteer for their tax funded benefit, noting that the majority of Americans also have to work to obtain employer sponsored health coverage. Of the individuals opposed to the imposition of the community engagement and employment initiative, many had questions about who would be subject to the requirements, as well as what types of activities would satisfy the

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<sup>3</sup> The Lewin Group, Indiana Healthy Indiana Plan 2.0 Interim Evaluation Report (2016), available at: [http://www.in.gov/fssa/hip/files/Lewin\\_IN%20HIP%202%200%20Interim%20Evaluation%20Report\\_FINAL.pdf](http://www.in.gov/fssa/hip/files/Lewin_IN%20HIP%202%200%20Interim%20Evaluation%20Report_FINAL.pdf)

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

requirements. Specifically, several individuals expressed concern that Kentucky HEALTH would increase burdens on low-income working families that are already struggling and would have little time for extra-curricular activities, such as community service. Further, several advocacy groups, including the AARP, requested that the exemption for caretakers of a dependent child be expanded to include other forms of caretaking activities. In addition, several organizations posed very detailed operational questions related to the implementation of this initiative.

- b. **State Response:** With respect to comments concerned about the increased burden on low-income working families, the proposed waiver as originally drafted indicated that employment satisfies the requirement. However, the waiver has been updated to provide further emphasis that the community engagement and employment initiative would not impact working families. Specifically, individuals who are already working more than 20 hours per week will meet the requirement of the initiative, and will not be required to perform community service or other job training activities as a condition of continued enrollment. This point is clarified in *Section 2.3* of the waiver.

In regards to caretakers, the State recognizes the value and critical role of the countless Kentuckians who serve as caretakers for aging or disabled individuals. Therefore, in response, the waiver will be amended in two ways. First, the community engagement and employment exemption will be expanded to exempt not only primary caregivers of a dependent minor child, but also primary caregivers of a disabled adult dependent. Secondly, caregiving activities for non-dependents, such as caregiving services provided to elderly parents, will be counted as a qualifying activity for the community engagement and employment initiative.

#### **4. My Rewards Account and Changes to Vision and Dental Coverage**

- a. **Summary of Comments:** Slightly over 200 comments (approximately 14%) were submitted in regards to the proposed changes to vision and dental coverage. Many commenters expressed concern over the elimination of dental and vision services, as well as concern that the *My Rewards Account* limits access to care through the requirement to complete reward activities in order to purchase benefits. In addition, some raised concerns over the perception that vision and dental benefits were classified in the same category as a gym membership. However, several commenters wrote in support of the *My Rewards Account* structure and related benefit change, indicating that asking a person to participate in beneficial activities in exchange for vision and dental services promotes ownership and teaches responsibility.

A significant portion of comments related to vision and dental coverage were from impacted providers and their professional organizations. Dentists and other oral health professionals expressed concern that reduction in access to dental services would lead to increased emergency room visits and increased opioid use due to tooth pain. Similarly, many optometrists opposed removing vision screenings from the base benefit package, since these preventive visits often lead to early detection of other chronic diseases. Overall, the provider communities advocated for inclusion of vision and dental in the base benefit package, as cost effective methods of addressing the overall health of the member.

Further, several commenters indicated concern that the change in dental and vision coverage for adults could negatively impact utilization of these services for children resulting from potential misunderstanding that the parents and children have different covered benefits. In addition, a few commenters indicated that, as currently structured, it would be impossible for a person to accumulate enough funds to pay for basic dental and vision services. These individuals urged inclusion of additional and more inclusive opportunities to earn rewards. In addition, several individuals recommended that coverage for eyeglasses and contacts be added to the *My Rewards Account*.

- b. **State Response:** Many of the comments indicated a misunderstanding of the waiver and additional clarifying language has been added. The Kentucky HEALTH program will continue to cover all of the vision and dental services currently covered in Medicaid. It does not propose to “eliminate” or add new coverage, but rather transition existing vision and dental services (both considered optional Medicaid services under federal law) to the *My Rewards Account*. Vision and dental benefits will be maintained in the standard benefits for children, pregnant women, medically frail individuals, and any individuals eligible for Medicaid prior to the passage of the Affordable Care Act.

The *My Rewards Account* is structured to give participants flexibility and ownership of their own benefits and healthcare spending. The State recognizes that some members may only need one dental cleaning and vision screening in a year. Rather than a one-size-fits-all approach, the *My Rewards Account* creates flexibility and tailors benefits to the individual, allowing the participant to make choices about how to spend additional funds, which may be on a gym membership or additional dental work. It is up to the individual to decide what benefit they value most and use of the account is flexible based on individual needs.

In responding to the comments, the State will delay the implementation of this benefit change by three months, to allow current members additional time to accumulate dollars in their *My Rewards Account*. In addition, the State is committed to ensuring that the structure of the account provides meaningful access to covered vision and dental benefits. The table of qualifying activities provided in the waiver is illustrative, but not definitive, and several additional opportunities will be made available for achievement of rewards. For example, parents will also be able to earn dollars in their *My Rewards Account* for obtaining prenatal and/or preventive care for their children, including recommended well-child visits, dental cleanings, and vision screenings. This will serve to educate and encourage parents to utilize the full array of children’s preventive services.

In addition, Kentucky HEALTH will also seek to encourage members to complete their GED not only by rewarding members who pass the exam with a *My Rewards Account* incentive, but also by helping to pay for the out of pocket costs associated with taking the exam. The State will seek a waiver to pay for this service as part of the Medicaid package in order to further promote independence. *Section 4.1.2* of the waiver has been updated to reflect these additions.



## 5. Incentive & Disincentive Program Structure

- a. **Summary of Comments:** Another set of commenters (approximately 10%) discussed various aspects of the incentive and disincentive structure of the Kentucky HEALTH waiver proposal. Several comments were received praising the use of incentives to drive healthy behaviors, as well as rewarding members for taking educational classes, health assessments, and engaging in their community. In addition, numerous commenters expressed concern about the non-payment penalty provisions of the waiver, particularly the impact of the six month disenrollment period for individuals with income greater than 100% FPL. Specifically, commenters are concerned that this policy will increase emergency room utilization and uncompensated care during coverage gaps. In addition, several providers, particularly substance use disorder (SUD) providers, stated that a disenrollment penalty would disrupt continuity of care, which is particularly important for individuals in active mental health and SUD treatment programs. In addition, a few commenters opposed the emergency room penalty, and noted that the non-emergency use of a hospital emergency department penalty is much higher than the \$8.00 federally allowable copayment amount.
- b. **State Response:** The intent of the penalties is not punitive in nature, but rather is intended to familiarize members with the requirements of private insurance to help make their eventual transition easier. Further, the disenrollment non-payment penalty does not apply to individuals with income below the poverty line or individuals determined medically frail, which would include those individuals actively participating in SUD treatment programs. Further, Indiana's Healthy Indiana Plan waiver also includes a similar six month non-payment disenrollment period for individuals with income greater than 100% FPL. According to program data, less than 6% of the individuals (2,677) were disenrolled for non-payment, and the majority (56%) were able to obtain health insurance during this six month period.<sup>7</sup> While the Kentucky waiver contains similar disincentives to encourage key behaviors, it is also designed to create a way for individuals to minimize or eliminate the penalty. As drafted, the waiver provides disenrolled members the opportunity to take a financial or health literacy class, as well as pay owed premiums for the months they received coverage but did not pay, in order to regain coverage prior to the expiration of the six month disenrollment period.

In regards to the non-emergency use of hospitals emergency department penalty, the penalty is not an actual member copayment and does not use member out-of-pocket funds. Instead, it reduces reward dollars from the *My Rewards Account* that were gained through positive behavior, which may also include reward contributions for avoiding inappropriate emergency room use. In addition, the Emergency Medical Treatment and Active Labor Act (EMTALA) regulations at 42 CFR §489.24, which sets special responsibilities for hospitals in emergency cases, including definitions of emergency conditions, will apply and members may not be refused treatment.

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<sup>7</sup> The Lewin Group, Indiana Healthy Indiana Plan 2.0 Interim Evaluation Report (2016), available at: [http://www.in.gov/fssa/hip/files/Lewin\\_IN%20HIP%202%200%20Interim%20Evaluation%20Report\\_FINAL.pdf](http://www.in.gov/fssa/hip/files/Lewin_IN%20HIP%202%200%20Interim%20Evaluation%20Report_FINAL.pdf)

## 6. Medically Frail

- a. **Summary of Comments:** Approximately 4% of comments (or 58 comments) were received specific to medically frail. Many of the commenters sought additional detail regarding the state-specific definition of “medically frail.” Several commenters asked that certain populations be explicitly identified and included in the definition, including those receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI). In addition, the American Academy of HIV medicine specifically recommended that individuals with HIV be automatically considered medically frail due to the critical importance of medication adherence and continuity of care. Further, several commenters also requested additional information regarding the medically frail determination process.
- b. **State Response:** The State concurs with the commenters that providing a clear, concise, and objective definition of medically frail will be critical to ensuring that the most vulnerable members participating in Kentucky HEALTH are quickly and appropriately identified. In response to several comments received about the urgency in quickly identifying specific segments of the medically frail population, the State will modify the waiver to create specific populations that automatically will be considered medically frail, including (1) individuals in hospice care, (2) individuals living with HIV/ AIDS, and (3) individuals receiving SSDI.

The waiver also has been updated to provide additional clarification that individuals with SSI are not included under the Kentucky HEALTH waiver and will retain traditional disability Medicaid benefits. By contrast, individuals otherwise eligible for Kentucky HEALTH who also receive SSDI will be automatically determined medically frail under this waiver program. Further, in response to the requests that additional detail be provided regarding the medically frail determination process, *Section 3.2* of the waiver was modified to provide additional detail about the process, as well as the role of the MCOs in providing information to the State for medically frail determinations.

## 7. ESI Premium Assistance

- a. **Summary of Comments:** Only 27 comments (approximately 2% of the total received) expressed concerns that employer sponsored insurance (ESI) is too expensive and individuals will not qualify for the employer premium assistance program due to their part-time employment status. Two comments were received requesting input from stakeholders, including MCOs, in the design and operationalization of the program.
- b. **State Response:** As stated in *Section 3.2* of the original waiver proposal, individuals eligible for the employer premium assistance program will not be subject to out-of-pocket expenses in excess of the Kentucky HEALTH required premiums. Additionally, enrollment in ESI will only be required to the extent an individual qualifies and the employer plan is cost-effective to the State. Therefore, no changes were made to the waiver in response to comments received, as the concerns raised were due to a misinterpretation of the program requirements.

## 8. Managed Care and Implementation Concerns

- a. **Summary of Comments:** Many commenters discussed the implementation of Kentucky HEALTH, including comments about changes to managed care (34 comments or 2%) and the administration of the plan more generally (128 comments or approximately 9% of the total comments). Several commenters indicated that they appreciated the proposed MCO reforms contained within Kentucky HEALTH and indicated they have struggled with the administrative burden of working with multiple MCOs. These commenters encouraged reducing the number of MCOs in future contracting. In addition, many commenters also explicitly supported efforts to implement a single formulary, consistent prior authorization processes and standardized forms, as well as uniform credentialing. More generally, a number of comments were received that expressed various concerns with perceived administrative complexities built into the program that will impact the Commonwealth, the MCOs and their members, as well as increase overall program costs. In addition, a few commenters were concerned that the program would be too difficult for members to understand and navigate.
- b. **State Response:** No additional revisions to the waiver were made resulting from these comments, except that the State removed specific references to “five” MCOs, as the state is making a number of reforms to its contracting and cannot affirmatively state that the program will continue to be administered by five MCOs for the duration of the waiver. The State intends to build on existing infrastructure within the SNAP program to operationalize the community engagement initiative and will explore existing technology solutions to track engagement. Ultimately, the investment in developing the workforce in the Commonwealth is important for not only to reduce unemployment, but also to improve health outcomes. As detailed in the waiver, there is a known link between health and employment, and CMS states it is “essential to individual's economic self-sufficiency, self-esteem and well-being.”<sup>8</sup> Kentucky HEALTH aims to work across the various Cabinets in the Commonwealth to leverage existing health and employment-related programs and focus efforts on assisting Kentucky HEALTH members achieve improved health and self-sufficiency. The State intends to partner with stakeholder groups and initiate a strong communications effort to educate members about changes to the program throughout the implementation process to ensure all members and potential members are notified of upcoming program changes.

## 9. SUD Pilot Project

- a. **Summary of Comments:** Nearly all of the 103 comments received related to the proposed SUD pilot project were supportive. Commenters described the devastating impact of addiction and commended the State for addressing this issue and increasing access to critical services through the proposed pilot project. Many commenters took the opportunity to ask questions related to the specific details of the program, and provided detailed suggestions for the design of the pilot project. Suggestions included specific quality measures to study, provider qualifications for telehealth and partial hospitalization

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<sup>8</sup> Medicaid Employment Initiatives, CENTERS FOR MEDICARE AND MEDICAID SERVICES, <https://www.medicare.gov/Medicaid-CHIP-Program-Information/By-Topics/Delivery-Systems/Grant-Programs/Employment-Initiatives.html> (last visited June 7, 2016).

programs and expansion of the IMD waiver on a statewide basis. Commenters also requested specific counties be included in the pilot project and provided suggested criteria for determining which counties to include.

- b. **State Response:** The State will utilize the comments received in the development of the operational components of the SUD pilot project. Additionally, regarding expansion of the IMD exclusion, the State intends to permit MCOs to utilize IMDs for up to fifteen (15) days as an in-lieu of service, as available under 42 CFR §438.6(e). In accordance with these new federal regulations, this will be accomplished through the MCO contracting and rate setting process and does not require a modification to the waiver proposal. Further information on this change will be provided at a later time. By contrast to the 15 day IMD stay permitted under the new managed care rule, the IMD waiver sought for the SUD pilot project would allow Medicaid to reimburse for IMD stays up to 30 days in length.

## 10. Questions and Misconceptions

- a. **Summary of Comments:** During the public comment process, many individuals took the opportunity to ask specific questions related to the program generally, including how it will impact specific individuals, details regarding how it will be operationalized and which vendors will be utilized. Also, several comments were based on misunderstandings of various aspects of the waiver. For example, several comments were received related to perceived reductions in the coverage of smoking cessation benefits or perceived elimination of hearing aid coverage. In addition, others were concerned about estimated reductions in enrollment of children over the 5 year demonstration period.
- b. **State Response:** To clarify, in regards to the smoking cessation benefit, there are no changes to benefits related to the coverage of smoking cessation counseling and medication. The State will continue to cover all services (including smoking cessation services) given an "A" or "B" from the United States Preventive Services Task Force (USPSTF), at no cost to the recipient. All preventive services are covered by the managed care organization outside of the member's deductible account.

Many of the questions asked specific operational questions that will be helpful in the future as the State works to operationalize and further refine the program. In addition, the State plans to use the comments to develop member and stakeholder communication material prior to implementation. However, as these types of questions did not provide specific feedback on the waiver, no modifications were made to the waiver as a result.

In addition, the enrollment figures for children contained in the initial waiver draft were mistakenly transposed with the enrollment numbers for expansion adults in the table on Page 18 of the waiver. The correct enrollment figures were available on Page 3 of Attachment III. To clarify, the State does not anticipate that enrollment for children will decrease, rather it may actually increase under the waiver.

### Summary of Waiver Changes Following Public Comment

The State appreciates the massive public response to its 30-day request for public comments. Due to the robust and thoughtful input, the State took additional time to thoroughly review and give due consideration to each comment. While the broad themes are summarized and discussed above, each

comment received during the public comment period helps inform not only the development of the waiver, but also future discussions with CMS, the design of the program evaluation, member communication strategies, and other operational considerations. In addition, the State has chosen to directly respond to a number of significant concerns and specific recommendations suggested during this process, and has made changes and modifications to the waiver as a direct result of public input. These changes were discussed above and are also summarized in the below table:

Section	Description of Change	Page #
Kentucky Health Overview (Section 1.2.2)	<p>Several updates and clarifications were added to the program overview section, including:</p> <ul style="list-style-type: none"> <li>• Clarified that benefits will not change for children, pregnant women, medically frail, and adults eligible for Medicaid before expansion.</li> <li>• Listed eligibility groups excluded from waiver.</li> <li>• Added language that premiums will only be applied on a family basis.</li> <li>• Clarified that members may choose how to use the <i>My Rewards Account</i> benefits.</li> <li>• Added language about Medicaid policy goals in support of services to support independence.</li> <li>• Added caretaking as community engagement &amp; employment activity, and clarified list of exempt individuals.</li> </ul>	Pages 9, 10, 12, & 13
Demonstration Area and Timeframe (Section 1.5)	The implementation of changes to the dental and vision benefit will be delayed by three months to allow members time to accrue funds in the <i>My Rewards Account</i> .	Page 14
Impact to Medicaid and Chip (Section 1.6)	Clarification was added to explain that this waiver primarily only impacts “non-disabled” individuals in traditional Medicaid populations.	Page 14
Eligibility (Sections 2 and 2.1)	<ul style="list-style-type: none"> <li>• Added description and chart describing groups excluded from the waiver: <ul style="list-style-type: none"> <li>○ Former foster children up to age 26;</li> <li>○ Individuals on a 1915(c) waiver;</li> <li>○ Individuals in an institution; and</li> <li>○ Individuals eligible for Medicaid on the bases of age, blindness, or disability, including individuals eligible for social security income (SSI).</li> </ul> </li> <li>• Made technical correction to listed income levels for Section 1931 parents and caretakers in <i>Table 2.1(A)</i></li> </ul>	Pages 15-16
Community Employment & Engagement (Section 2.2)	<p>Several revisions and clarifications were made to this section, including:</p> <ul style="list-style-type: none"> <li>• Added language about Medicaid policy goals in support of services to support independence.</li> <li>• Extended community engagement &amp; employment exemption for primary caretakers of minor children as well as disabled adult dependents.</li> </ul>	Pages 16-18

	<ul style="list-style-type: none"> <li>Clarified that students or individuals employed more than 20 hours a week meet the requirements of this section, and no additional community engagement activities are required to maintain benefits.</li> <li>Added “caregiving services for a family member or other person with a chronic, disabling health condition” as a qualifying activity.</li> <li>Added clarification around education component of the initiative, and added GED benefit.</li> </ul>	
Projected Enrollment (Section 2.3)	Made a technical correction to the enrollment chart.	Page 19
Kentucky HEALTH Benefits (Sections 3 & 3.1.2)	<p>Made changes to proposed benefit changes as follows:</p> <ul style="list-style-type: none"> <li><u>Allergy Testing</u>: Removed proposed amendment to the Medicaid State Plan, as allergy testing and private duty nursing will continue to be covered services.</li> <li><u>Smoking Cessation</u>: Clarified that current smoking cessation benefits will continue to be covered as an “A” and “B” service recommended by the United States Preventive Services Task Force.</li> </ul>	Pages 21 & 23
<i>My Rewards Account</i> Benefit (Section 3.1.3)	The dental and vision benefit change will be delayed by three months to allow members time to accrue funds in the <i>My Rewards Account</i> .	Page 24
Educational Support (Section 3.1.4)	Added GED testing costs as an additional covered benefit for Kentucky HEALTH members.	Pages 24 & 25
Medically Frail (Section 3.3.1)	<p>Clarified the definition and process</p> <ul style="list-style-type: none"> <li>Certain populations will be determined automatically medically frail, including individuals receiving hospice care, persons with HIV/AIDS, and individuals receiving SSDI.</li> <li>Added additional detail regarding the medically frail identification, determination and appeal process.</li> <li>Medically frail individuals will be exempt from copayments.</li> </ul>	Page 26
<i>My Rewards Account</i> (Section 4.1.2)	<p>Clarified and added the following:</p> <ul style="list-style-type: none"> <li>Added description of educational support benefit</li> <li>Community engagement related activities will only qualify for a reward deposit if in excess of hours required to maintain coverage as set forth in <i>Section 2.2</i>.</li> <li>Expanded the reward activity chart to include caretaking responsibilities, passing the GED, and completion of child preventive services.</li> <li>Clarified that the inappropriate emergency room penalty is not a member copayment.</li> <li>Added an incentive and disincentive option for excessive missed healthcare appointments</li> </ul>	Pages 28-30
Member Required Contributions (Section 4.2)	<p>Clarified and added the following:</p> <ul style="list-style-type: none"> <li>Added an explanation that premiums will be paid on a household basis rather than per person.</li> </ul>	Pages 31-33

	<ul style="list-style-type: none"> <li>• Added an exemption for medically frail from the imposition of premiums and copayments.</li> <li>• Included study results supporting positive impact premium payment has on member health outcomes.</li> </ul>	
Cost-Sharing Exemption (Section 4.3)	Clarified that medically frail members will be exempt from the imposition of premiums and copayments. However, premiums are still required to maintain the member's <i>My Rewards Account</i> .	Page 34
SUD Pilot Program (Section 5.1.1)	Added that the pilot project will include measurement of specific recommended SUD and HIV quality indicators.	Page 35
Managed Care Reforms (Section 5.1.3)	Removed references to 5 MCOS, as the State is not committed to maintaining this number of MCOs in the future.	Page 38
Fee for Service (Section 5.6)	Clarified that the State may carve out the services provided through the <i>My Rewards Account</i> from managed care.	Page 38
Implementation (Section 6)	The implementation of changes to the dental and vision benefit will be delayed by three months to allow members time to accrue funds in the <i>My Rewards Account</i> .	Page 39
Costs Not Otherwise Matchable (Section 8.2)	Added a request that GED testing fees be regarded as a Medicaid expenditure.	Page 41
Evaluation Plan (Attachment I)	Added a new evaluation metric related to measuring GED participation rates.	Page 61
Financing & Budget Neutrality Summary (Attachment II)	<ul style="list-style-type: none"> <li>• Eliminated reference to removal of private duty nursing.</li> <li>• Added GED certification fees for expansion and non-expansion adults as a covered benefit.</li> <li>• Clarified premiums will be collected on a household basis.</li> <li>• Made allowance for a three month delay in changes to the vision and dental benefit in the first year of the waiver.</li> </ul>	Pages 67 & 68

Other than the changes noted above, the content of this application is identical to the copy of the application initially posted on the Cabinet for Health and Family Services website on June 22, 2016.