



August 12, 2022

**To:** Tribal Chairpersons, Designees of Indian Health Programs, and Urban Indian Organizations  
**Subject:** Notice of Intent to Submit Amendments of Section 1115 Demonstration and Section 1915(b) Waiver for Medi-Cal Managed Care Model Changes and Other Managed Care Updates

The purpose of this letter is to provide information regarding a proposed change to the Department of Health Care Services' (DHCS) Medi-Cal program that will be submitted to the Centers for Medicare & Medicaid Services (CMS). DHCS is forwarding this information for your review and comment.

DHCS is required to seek advice from designees of Indian Health Programs and Urban Indian Organizations on Medi-Cal matters having a direct effect on American Indians, Indian Health Programs or Urban Indian Organizations per the American Recovery and Reinvestment Act of 2009 (ARRA). DHCS must solicit the advice of designees prior to submission to CMS of any State Plan Amendments (SPAs), waiver requests or amendments, or proposals for demonstration projects in the Medi-Cal program.

Please see the enclosed summary for a detailed description of this DHCS proposal.

#### **QUESTIONS AND COMMENTS**

Tribes and Indian Health Programs may also submit written comments or questions concerning this proposal within 30 days from receipt of notice. To be assured consideration prior to submission to CMS, comments must be received no later than 11:59 PM (Pacific Time) on Monday, September 12, 2022. Please note that comments will continue to be accepted after Monday, September 12, 2022, but DHCS may not be able to consider those comments prior to the initial submission of the CalAIM Section 1115 demonstration and CalAIM Section 1915(b) waiver applications to CMS. Comments may be sent by email to [CalAIMWaiver@dhcs.ca.gov](mailto:CalAIMWaiver@dhcs.ca.gov) or by mail to the address below:

Department of Health Care Services  
Director's Office  
Attn: Jacey Cooper  
P.O. Box 997413, MS 0000  
Sacramento, California 95899-7413

Please also note that DHCS will host a CalAIM hearing for Tribes and Designees of Indian Health Programs on August 31, 2022. Registration and call-in information are listed at the end of this document.

Sincerely,

Original Signed By

Andrea Zubiante, Acting Chief  
Office of Tribal Affairs  
Department of Health Care Services

Enclosure

For DHCS Use only: Proposed SPA # or Waiver Title



**Department of Health Care Services  
Tribal and Designees of Indian Health Programs Notice**

**PURPOSE**

The California Department of Health Care Services (DHCS) is providing public notice of its intent to (1) submit amendments to the California Advancing and Innovating Medi-Cal (CalAIM) Section 1115 demonstration and Section 1915(b) waiver to the federal Centers for Medicare & Medicaid Services (CMS); and (2) hold a public hearing to receive public comments on these requests. The purpose of this notice is to request written feedback on the Section 1115 demonstration and Section 1915(b) waiver proposals described in this notice.

**OVERVIEW**

DHCS is seeking the CalAIM Section 1115 and 1915(b) amendment approvals to implement county-based model changes in its Medi-Cal Managed Care (MCMC) program. Through the 1915(b) waiver amendment, DHCS also plans to add or update language on policies or programs in the approved CalAIM 1915(b) waiver, including to reflect the plans operating in each county following the State's MCMC commercial plan re-procurement, MCMC model change in select counties, and proposed direct contracts with the Kaiser Foundation Health Plan available for enrollment of certain Medi-Cal beneficiaries in select counties.

California's MCMC delivery system consists of multiple managed care models that vary by county. Each county offers one of these models: one plan operated by the county (County Organized Health System (COHS)); one local initiative plan operated by the county and one commercial plan (Two Plan); multiple commercial plans (Geographic Managed Care, Regional, and Imperial model); or one commercial plan and a Fee-for-Service option (San Benito model). Today, [22 counties](#)<sup>1</sup> offer one plan operated by the county, all implemented through a COHS model. Prior to the launch of the State's commercial plan re-procurement process in 2022, counties had the opportunity to request a change to their managed care model. As part of this process, DHCS conditionally approved model changes in 17 counties; 15 of these counties seek to move to a managed care model that involves one plan per county, either via expansion of an existing COHS model or establishment of a "Single Plan" model. Single Plan models will be expansions of plans currently operating as county-driven local initiatives or will otherwise be operating under a county or local authority.

To effectuate the expanded COHS and new Single Plan models, DHCS is requesting to amend the CalAIM Section 1115 demonstration to include expenditure authority to limit choice of managed care plans in non-rural areas. This authority would apply in the Metro, Large Metro, and Urban counties proposed to participate in the COHS or Single

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<sup>1</sup> The 1915(b) waiver approved in December 2021 lists 23 counties as COHS in error. DHCS intends to include a technical correction in the 1915(b) amendment to update Stanislaus as a Two-Plan county instead of a COHS.



Plan models. Through the CalAIM 1915(b) waiver amendment, DHCS is also requesting updates to reflect use of the rural area exemption for plan choice in rural counties with existing and/or expanding COHS, and rural counties intending to operate under the Single Plan model. If approved, these county-based model changes will go into effect on January 1, 2024.

Implementing these models is consistent with the goals of CalAIM, including improving quality, access, and accountability. The proposed model transition will limit choice of plans for the Medi-Cal enrollees living in the counties that employ the COHS or Single Plan model. For more information on the COHS and Single Plan models, including information on which counties are currently seeking to adopt these models, please visit the MCP Model Change website [here](#).

## **BACKGROUND**

The expansion of the COHS model and new Single Plan model to counties as proposed by DHCS will build on the existing COHS model in the State. Currently, DHCS has authority relating to the existing COHS to limit Medi-Cal managed care plan choice under federal law provisions<sup>2</sup> that exempt them from the otherwise applicable managed care choice requirements set forth in or derived from Section 1903(m)(2)(A) of the Social Security Act. Four of these COHS are health insuring organizations (HIOs) under federal law; their statutory exemption from 1903(m)(2)(A) and associated Medicaid requirements is conditioned on not exceeding a 16% enrollment level in those four COHS as a share of all Medi-Cal beneficiaries. Once the 16% enrollment level is exceeded, the managed care requirements in 42 CFR Part 438, including choice provisions, would apply to all HIOs currently operating under federal statute. DHCS projects that enrollment will likely be close to or exceed the aggregate 16% level following the expansion of two of those four COHS/HIOs into new counties.

Given enrollment will be close to or in excess of the aggregate 16% level following the expansion of the COHS model, DHCS is seeking expenditure authority through an

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<sup>2</sup> [SSA 1932\(a\)\(3\)](#): requires choice of at least two MCOs, with specific exceptions including:

- COHS / HIOs that became operational prior to Jan 1, 1986, so long as a choice between at least two providers;
- HIOs as described in Sec. 9517(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 as amended by Section 4734 of the Omnibus Budget Reconciliation of 1990, Section 704 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, and Section 205 of the Medicare Improvements for Patients and Providers Act of 2008, subject to certain conditions including that total membership in those HIOs is under 16% of Medi-Cal beneficiaries; and
- Rural areas if >2 physicians or case managers (if available in the area) and may go out-of-network in appropriate circumstances.



amendment to the CalAIM 1115 demonstration to limit plan choice in all non-rural areas operating under the COHS model. Additionally, because the new Single Plan model is not subject to federal statutory exemption from plan choice requirements as are existing COHS/HIOs, DHCS is also seeking expenditure authority through the CalAIM Section 1115 demonstration amendment to limit plan choice in Single Plan model counties in non-rural areas.

Through a separate submission, DHCS is also requesting an amendment to the CalAIM 1915(b) waiver to reflect use of the rural area exemption for rural counties in existing and expanding COHS and rural counties intending to operate under the new Single Plan model, and to include language memorializing the model changes and plans operating in each county effective January 1, 2024.

### **IMPACT TO TRIBAL HEALTH PROGRAMS**

There is no direct impact to Tribal health programs. DHCS is not proposing changes to Tribal health program services, eligibility, or any other related requirement authorized by this demonstration authority or the Medi-Cal State Plan.

### **IMPACT TO FEDERALLY QUALIFIED HEALTH CENTERS (FQHCs)**

There is no direct impact to FQHCs since DHCS is not proposing changes to FQHC services, rates, eligibility, or any other related requirement authorized by this demonstration authority or the Medi-Cal State Plan.

### **IMPACT TO INDIAN MEDI-CAL BENEFICIARIES**

Like other members residing in counties implementing a COHS or Single Plan model, the changes DHCS is requesting will limit plan choice for American Indian and Alaska Native individuals who are enrolled in MCMC. American Indians and Alaska Natives have the option but are not required to enroll in MCMC (voluntary enrollment). DHCS is committed to ensuring a smooth transition among plans for all members transitioning to a new plan following the COHS and Single Plan model changes, with particular attention to those members most vulnerable to disruptions in care. Member noticing, outreach and continuity of care policies and procedures are being carefully considered and will be included in a Transition Plan developed with substantial input from stakeholders. The proposed model changes will not change eligibility for Medi-Cal or reduce benefits.

### **RESPONSE DATE**

Tribes and Indian Health Programs may also submit written comments or questions concerning this proposal within 30 days from the receipt of notice. To be assured consideration prior to submission to CMS, comments must be received no later than 11:59 PM (Pacific Time) on Friday, September 12, 2022. Please note that comments will continue to be accepted after September 12, 2022, but DHCS may not be able to



consider those comments prior to the initial submission of the CalAIM Section 1115 demonstration and CalAIM Section 1915(b) waiver applications to CMS.

Comments may be sent by email to [CalAIMWaiver@dhcs.ca.gov](mailto:CalAIMWaiver@dhcs.ca.gov) or by mail to the address below.

DHCS will host the following hearing to solicit Tribal and Indian Health Program stakeholder comments. The public hearing will be held electronically to promote social distancing and mitigate the spread of COVID-19. The meeting will have online video streaming and telephonic conference capabilities to ensure statewide accessibility.

- – Tribal and Designees of Indian Health Programs Webinar for CalAIM Waivers
  - Register for conference: [Registration link](#)
    - Please register in advance to receive your unique login details and link to add to calendar
  - Call-in information
    - Phone Number: 415-655-0001 (Toll Free)
    - Webinar ID: 2598 690 1752
    - Passcode: a9Mgw2r7kch
    - Callers do not need an email address to use the phone option and do not need to register in advance

## **CONTACT INFORMATION**

Written comments on the CalAIM Section 1115 demonstration and CalAIM Section 1915(b) waiver may be sent to the following address; please indicate “CalAIM Section 1115 & 1915(b) Waiver Amendments” in the written message:

Department of Health Care Services  
Director’s Office  
Attn: Jacey Cooper  
P.O. Box 997413, MS 0000  
Sacramento, California 95899-7413