State of California—Health and Human Services Agency
Department of Health Care Services

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CALIFORNIA MEDI-CAL 2020 DEMONSTRATION (NO. 11-W-00193/9) AMENDMENT REQUEST TO PROVIDE MEDICAID COVERAGE OF FORMER FOSTER YOUTH

Dear Ms. Garner, Ms. Ross, and Ms. Sam-Louie:

The State of California proposes to amend the Special Terms and Conditions (STCs) of Waiver 11-W-00193/9, California Section 1115 “Medi-Cal 2020” Demonstration Waiver (Demonstration Waiver) pursuant to STCs paragraph 7.

This proposed amendment would allow the California Department of Health Care Services (DHCS) to continue providing coverage to Former Foster Youth (FFY) who were in foster care under the responsibility of a different state at the time they turned 18 or when they “aged out” of foster care, were enrolled in Medicaid, and are now under

age 26. The State anticipates the amendment will increase and strengthen overall coverage of FFY and improve health outcomes for these youth.

California is requesting this Demonstration Waiver amendment be effective November 1, 2017. DHCS is prepared to collaborate with the Centers for Medicare and Medicaid Services (CMS) in order to secure prompt approval of this amendment.

Background

Title IV-E foster care youth have been a mandatory eligibility category since the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). On March 23, 2010, the Affordable Care Act (ACA) was signed into law, making a number of changes to Medicaid eligibility, effective January 1, 2014. To further the overall goal of the ACA and to expand health coverage, it included a new provision to allow youth to maintain coverage under their parent's or guardian's health insurance plan until age 26 (to the extent that such plan extends coverage to dependents). In addition, section 2004 of the ACA added a new mandatory Medicaid eligibility group at section 1902(a)(10)(A)(i)(IX) of the Act to provide a parallel opportunity for FFY to obtain Medicaid coverage until age 26 from the state responsible for the individual's foster care.

On January 22, 2013, CMS issued a notice of proposed rulemaking, entitled "Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing," which proposed to implement the under age 26 former foster care eligibility group in regulations at 42 Code of Federal Regulations section 435.150 (78 Fed.Reg. 4594 (Jan. 22, 2013)). As part of that rulemaking, CMS proposed to provide states the option to cover FFY who were in foster care under the responsibility of another state and enrolled in Medicaid, upon turning 18 or when they "aged out" of foster care in the other state, under their Medicaid State Plan.

Pursuant to the January 22, 2013 CMS guidance, California currently has approved Medicaid State Plan Amendment (SPA) 13-021 in place to provide Medi-Cal eligibility to FFY up to age 26 who were in foster care in any state at age 18 or older when they "aged out" and "on Medicaid" on that date.

On November 30, 2016, CMS published a final rule, entitled "Medicaid and Children's Health Insurance Programs: Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP". The final rule clarified that, after further review, the Department of Health and Human Services had determined that a state option to cover youth who were in foster

care under the responsibility of another state was not available under section 1902(a)(10)(A)(i)(IX) of the Social Security Act (81 Fed.Reg. 86382 (Nov. 30, 2016)). That subparagraph provides that, to be eligible under this group, an individual must have been "in foster care under the responsibility of the state" and to have been "enrolled in the state plan under this title or under a waiver of the plan while in such foster care[.]" However, CMS further clarified that states can cover such youth pursuant to other statutory provisions, specifically through section 1115 demonstration waiver authority.

To continue coverage of these FFY, DHCS requests an amendment to the California Medi-Cal 2020 Demonstration (Waiver Number 11-W-00193/9) to cover FFY up to age 26 who were in foster care and on Medicaid in any state at the time they turned 18 or aged out of the foster care system. DHCS will also concurrently submit SPA 17-016 to withdraw the authority provided by SPA 13-021, to provide that coverage. The proposed effective date of the SPA will have the same effective date as the approved waiver amendment.

Furthermore, DHCS and CMS have come to an agreement on the eligibility determination process that will be used going forward for FFY who come to California from another state. Currently, DHCS provides eligibility for FFY based upon self-attestation with no regard for income or Modified Adjusted Gross Income (MAGI) rules. County eligibility workers (CEWs) then verify the individual's FFY status. If CEWs cannot verify the individual's FFY status, the individual undergoes a full eligibility determination based upon MAGI rules. CMS verbally agreed on January 11, 2017, to allow California to maintain this eligibility determination process for FFY who come from out-of-state.

Eligibility
Under the Medi-Cal 2020 waiver, DHCS proposes to cover FFY who were in foster care under the responsibility of another state at the time they turned 18 or when they "aged out" of foster care, were enrolled in Medicaid on that date and are under the age of 26.

Delivery System
The delivery system for FFY (fee-for-service (FFS) or managed care) depends on the county of residence and/or the FFY's choice. DHCS estimates 220 FFY who were in foster care under the responsibility of a different state at the time they turned 18 or when they "aged out" of foster care, were enrolled in Medicaid at the time they "aged out" and are under age 26 will receive benefits via FFS.

Financial Data
DHCS estimates approximately 220 FFY will enroll annually in California from other states.The annual aggregate expenditure for this demonstration population will be approximately $539,440.

Waiver Authority
DHCS believes the existing waivers of freedom of choice, statewideness, and comparability encompass this proposed Demonstration Waiver amendment. To the extent necessary, DHCS requests that its authority to operate under these waivers extend to the amendments contained in this request.

Expenditure Authority
This proposed Demonstration amendment will not impact the existing Demonstration Waiver expenditure authority.

Public Notice and Tribal Notice
As required by STCs paragraphs 8 and 14, DHCS has provided, and continues to conduct, public notice through the following means:

Public Notice and Processing
Public notices include notification of the of the foster care waiver and amendment process and its effect to the public through channels such as:

- Former Foster Youth Stakeholder meetings on December 8, 2016; January 12, 2017; February 9, 2017; March 9, 2017; and May 11, 2017
- a stakeholder call on April 26, 2017
- posting the notice to the DHCS website on May 1, 2017
- distributions through listservs and Medi-Cal 2020 Newsletter on May 1, 2017

No stakeholder questions or comments were received prior to submission of this waiver amendment request to CMS.

Tribal Notice
On April 14, 2017, CMS accepted the State's written rationale for no tribal consultation or publication. A copy of the "No Tribal Notice Summary Request" is attached.

Impact to Services
FFY will receive the standard full scope Medicaid benefit package offered under the Medicaid state plan. The State is not proposing any changes to benefits or cost sharing.

Budget Neutrality
This proposed amendment will not impact the Demonstration Waiver budget neutrality.

Evaluation Design
DHCS will conduct an evaluation of the demonstration using the Suggested Modified Evaluation Design as provided by CMS. Enclosed is the FFY Draft Evaluation. DHCS will develop and submit a Final Evaluation Design to CMS in response to CMS' comments and feedback.

Thank you for your support and consideration. DHCS is happy to assist you and your staff in any way as you review the proposed Demonstration amendment. If you have any questions, please contact Angeli Lee by email at Angeli.Lee@dhcs.ca.gov or by phone at (916) 324-0184.

[redacted]

Mari Cantwell
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State Medicaid Director

Enclosures:
- Medi-Cal 2020 Newsletter for FFY Amendment – May 1, 2017
- CMS No Tribal Notice Summary Request
- FFY Amendment Draft Evaluation Design
- Attachment A for 2015 Enrollment, Utilization, and Access Measures

cc: Rene Mollow
Sandra Williams
Robert Sugawara