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U.S. DEPT. OF HEALTH & HUMAN SERVICES

bear State Medicaid Directors:

The Omnibus Budget Reconciliation Act (OBRA 89) made changes to the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program which have the potential to impact ~~them~~ and community-based services (HCBS) waivers under section 1915(c) of the Social Security Act (the Act). As you are aware, section 6403 of OBRA 89 modified the EPSDT program by adding section 1905(r) to the Act. Section 1905(r) requires that States provide any service included in section 1905(a) of the Act to recipients, when medical necessity for the service is shown by an EPSDT screen, regardless of whether the service is covered under the State plan.

In order for a HCBS waiver to be approved, it must provide services beyond those which are available under the State plan. With the expansions in the EPSDT program, which require that medically necessary services be provided to Medicaid eligible individuals under age 21 regardless of whether the service is covered under the state plan, HCBS waivers for this population need to be reexamined.

The first issue is whether HCBS waivers are necessary to provide the waiver services to EPSDT recipients; i.e. those services may now be available under the expanded EPSDT program. States also must consider the impact of the expanded EPSDT coverage on existing HCBS waiver programs, renewal requests, and new waiver submissions in terms of covered services in the cost-effectiveness formula. While all HCBS waivers providing services to EPSDT recipients should be reviewed in light of the expanded EPSDT program, special attention should be given to model waiver programs due to their concentration on technology dependent children. As a result, the following discussion focuses on model waiver programs.

Effect of EPSDT Changes on the Model Waiver Program

Since section 1905(r) requires that any service included in section 1905(a) of the Act be provided under the State plan when medical necessity is shown by an EPSDT screen, the model waiver program is no longer a feasible alternative for States choosing to offer only expanded State plan services to EPSDT recipients. Model waivers for technology dependent children must offer at least one non-State-plan service (e.g. respite,

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habilitation, environmental modifications). In addition, States with model waiver programs providing a mixture of both extended State plan and non-state-plan services must delete coverage of the State plan services as waiver services and convert these services to EPSDT State plan services.

Effect of EPSDT Changes on HCBS Waiver Cost-Effectiveness Formula

All approved cost-effectiveness formula values for HCBS waivers, which include children in the target group, may potentially be affected by the expanded EPSDT coverage. Special emphasis should be placed on the accuracy of formula values D and D'. The costs of providing extended State plan services to EPSDT recipients should be reflected under the estimated annual Medicaid expenditures per waiver recipient of acute care services provided under the plan (formula value D'). In such circumstances, formula value D (per-capita cost of services provided to recipients under the waivers) will decrease with a corresponding increase in formula value D'. To the extent that additional costs are borne by Medicaid in providing extended State plan services to EPSDT recipients, or the number of recipients served is affected, other formula values may also need to be adjusted.

EPSDT Changes and Optional TEFRA 134 Eligibility Provision

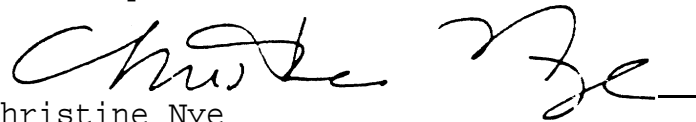
States with model waiver programs currently providing only extended State plan services to technology dependent children under age 18 may no longer need such a waiver if the State has also chosen to provide extended eligibility to individuals under section 1902(e)(3) of the Act. Section 1902(e)(3) of the Act, implemented by section 134(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), enables States to allow children under age 18, who would otherwise require institutional care, to become Medicaid eligible in the community without regard to parental income. In such cases, technology dependent children under age 18 served by a model waiver program could become eligible for Medicaid under the optional TEFRA 134 eligibility provision rather than through waiver of section 1902(a)(10)(C)(i)(III), which requires that States use a single standard and the methodologies of the most appropriate cash assistance program, in determining income and resource eligibility for the medically needy. Since these children would have access to the full range of Medicaid State plan services under the EPSDT program, a waiver would not be needed unless services beyond extended EPSDT services were required. On the other hand, if the State does not elect the TEFRA 134 eligibility provision, but waives section 1902(a)(10)(C)(i)(III) under a 1915(c) HCBS waiver in order to

limit eligibility to a select group of children, the State would require a HCBS waiver program to continue eligibility without regard to parental income for the limited waiver group. In order to do this, however, as previously discussed, the State would need to offer at least one non-State-plan service to children eligible under the waiver.

As we receive amendments, renewal requests, and new waiver submissions for HCBS waivers which include children in the target group, we will be reviewing these requests to assure that the costs of extended State plan services now available under EPSDT have been included in **D'** rather than in the cost of waiver services. Accordingly, you should ensure that this change has been addressed in future submissions related to the provision of HCBS waivers to children.

My staff is available for further assistance on this issue. If you should have any questions, or wish to arrange a teleconference to discuss the specific waivers in your State, please feel free to contact the appropriate HCFA regional office. The regional office will address your **question** directly or arrange a conference call with **Mary Jean** Duckett of my staff. She can be **reached** at (301) 966-5640.

Sincerely,



Christine Nye
Director
Medicaid Bureau

cc: Regional Administrators