

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services

March 15, 2012

Mr. Billy Millwee
Associate Commissioner for Medicaid & CHIP
Health and Human Services Commission
P.O. Box 13247
Austin, TX 78711

Dear Mr. Millwee:

I am writing in regard to Texas' section 1115 Medicaid Family Planning Demonstration, entitled "Women's Health Program" (WHP). As you know, together with the State, we have been committed to the success of this critical coverage program since its inception in 2006. WHP has been essential to ensuring that women in Texas have access to important preventive care services. It has been our hope that we can continue to support WHP through a renewal of the program, which serves over 130,000 women. In December 2011, CMS granted Texas a temporary extension of the Demonstration until March 31, 2012, to allow the State additional time to consider a renewal request, while maintaining coverage for women enrolled in WHP.

Texas has elected to move forward with a State rule that restricts freedom of choice of health care providers for women enrolled in WHP effective March 14, 2012. Consistent with longstanding statutory provisions that assure free choice of family planning providers, the Demonstration does not provide the State the authority to impose such a limitation, and we advised the State in our December 12, 2011 letter that we had concluded that such authority would not be granted. We very much regret the State's decision to implement this rule, which will prevent women enrolled in the program from receiving services from the trusted health care providers they have chosen and relied upon for their care. Last year, nearly half of all the services under WHP were provided by clinics that are likely to be excluded from the program under the new rule.

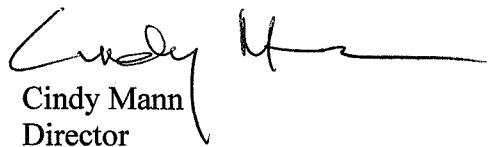
In light of Texas' actions, CMS is not in a position to extend or renew the current Demonstration, except for purposes of phasing out the Demonstration. Given the important role that this Demonstration plays for the women of Texas, CMS is prepared to allow a two-stage phase-out period. This will help to minimize any disruption in coverage for women enrolled in the program. During the first three months, the State would take all necessary steps associated with preparing for termination of the Demonstration, including identifying women who may be eligible for Medicaid under another eligibility category and preparing notices to enrollees and providers. It should also establish a referral process for women whose providers have been dropped from the program, to the extent that other providers are available to serve them. This first stage of the phase out would also permit a transfer of the program, with a more limited set of providers, to a fully State-funded program, consistent with Governor Perry's March 8, 2012

letter. If at any time during the three-month period the State were to confirm that it is ready to begin operating a fully State-funded program, CMS would terminate the WHP Demonstration, allowing the State to assume all responsibility for the program. If Texas were not to establish a State-funded program within this three-month period, the State would begin the second stage of the phase out, which would extend for six months. During this period, the State would stop new enrollment, provide enrollees clear notice of the termination of the WHP program, offer assistance to enrollees in transitioning to other sources of needed services if available, and ensure that ongoing courses of treatment will continue as necessary to stabilize and protect patient health and safety.

We request that the State submit a Demonstration phase-out plan for CMS approval, as described above and consistent with the Special Terms and Conditions (STCs) that govern this Demonstration. Please submit the proposed phase-out plan to CMS no later than April 16, 2012. It is important to note that, until a phase-out plan is approved by CMS or until you receive further notice from CMS, the State should not make any eligibility changes to its program or issue notifications to enrollees or applicants regarding planned changes. Your Project Officer for this Demonstration, Jennifer Sheer, may be reached at 410-786-1769 or by e-mail at Jennifer.Sheer@cms.hhs.gov, and is ready to assist the State with phase-out plan development.

CMS regrets the State's decision to move forward with this restriction on women's choice of health care providers, but we remain committed to working with Texas on this or future Family Planning Demonstration proposals that do not impermissibly limit enrollees' choice of providers. Please feel free to contact me at 202-205-5682 if you have any questions or wish to discuss this issue further.

Sincerely,


Cindy Mann
Director

cc: Victoria Wachino, CMCS
Jennifer Ryan, CMCS
Bill Brooks, Region VI ARA