



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

January 25, 2011

The Honorable Kathleen Sebelius
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, S.W., Room 120-F
Washington, D.C. 20201

Dear Secretary Sebelius:

It was a pleasure speaking with you over the phone earlier this month. I greatly appreciate the time you took to discuss with me Arizona's fiscal crisis and the role that the Medicaid program plays in Arizona's budget. As a former Governor of the great State of Kansas, I know you can appreciate first-hand the difficult choices involved with the responsibility of balancing a budget. However, these are unprecedented times for governors across our nation. We are in a crisis unlike any we have seen. As a state that has been disproportionately affected, we are in a struggle for our State's survival.

It is under these circumstances that I have had to make some of the most difficult decisions of my almost 30 years in public service. Despite these decisions, which included my two-year effort to increase state revenues through a voter-approved temporary sales tax, Arizona still finds itself with a deficit of \$763 million in FY 2011 and \$1.2 billion in FY 2012. As I will explain, I believe I have no choice but to ask for your assistance in providing Arizona with a waiver from the maintenance of effort requirements of the Patient Protection and Affordable Care Act (ACA). I am respectfully requesting that Arizona be allowed to reduce its Medicaid eligibility for certain non-disabled adults in order to preserve its underlying Medicaid program.

These challenging times require innovation and flexibility, difficult decisions and new ideas. But we cannot attain any of these if we do not work in partnership. One of the most important steps in fostering these critical partnerships is for states and the federal government to work together. I know you have the same goal, and for that I am grateful. These partnerships will be critical to achieving the type of Medicaid reform for which I have long advocated – reform that responsibly controls excessive cost increases while preserving coverage for society's most vulnerable. However, given the current federal restrictions on the program, this type of true reform is not yet achievable. The Affordable Care Act maintenance of effort requirements, which even further restrict the manner in which states can control the costs of their programs, limit state reform opportunities to an even greater extent.

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Setting aside my concerns about the Medicaid program's lack of sustainability for a moment, I should note that the Arizona Health Care Cost Containment System (AHCCCS), Arizona's single state Medicaid agency, is a model of federal and state partnership. AHCCCS was created and continues to thrive and innovate under Section 1115 Demonstration Waiver authority. This flexibility has allowed AHCCCS to operate the most effective Medicaid managed care program in the country.

Flexibility, partnership and innovation are the reasons that the Kaiser Family Foundation continually ranks Arizona as having one of the lowest per-member per-year costs among Medicaid programs nationally, while AHCCCS health plans consistently meet the highest level of quality care to our members. The AHCCCS program allows its members to receive care in an integrated model, so AHCCCS members sit side-by-side with those who are commercially insured. Our partnership with your agency has also allowed the AHCCCS program to serve 70 percent of our elderly and physically disabled and 98 percent of our members with developmental disabilities in the home or community rather than in costlier nursing facilities. The AHCCCS program also ranks among those with the highest utilization of generic drugs and the lowest error rates, according to the Payment Error Rate Measurement (PERM) program. We do not let these successes breed complacency, however. AHCCCS continues to push the envelope, seeking to further streamline patient care and improve health outcomes through payment reform initiatives and care integration, as was expressed in the waiver renewal letter that I sent to you on September 30, 2010.

In other words, the AHCCCS program is a working example of health care reform that has achieved great successes and strives toward continued improvement through its partnership with private health plans, hospitals, physicians, community health centers, nursing facilities, other providers and stakeholders. Indeed, I believe many of the reforms you seek to drive through your reform initiatives are based on models like AHCCCS. However, I would reiterate my concern that without additional flexibility, the new reforms will face the same cost pressures Arizona has faced.

As I mentioned to you in our discussion, without your help, the AHCCCS program is at great risk of being unraveled. We need the cooperation of our longstanding federal partners to achieve the flexibility Arizona so desperately needs to keep its Medicaid program viable. This letter and the accompanying documents make the case for Arizona's need for flexibility in the form of Section 1115 Waiver authority. Specifically, beginning October 1, 2011, Arizona is requesting to reduce eligibility for approximately 280,000 individuals in the expansion group known as Proposition 204. This would include:

- (1) Elimination of coverage for childless adults and the Medical Expense Deduction (or spend down) populations (250,000); and
- (2) Reduction of coverage to TANF families from 100 percent FPL to approximately 50 percent FPL (which may impact approximately 30,000 parents).

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Please know that I understand fully the impacts of this rollback and it is with a heavy heart that I make this request. However, I am left with no other viable alternative. Nearly \$1 billion of our \$1.2 billion FY 2012 deficit is attributable to the AHCCCS program alone due to the expiration of the enhanced federal match included in the stimulus and the maintenance of effort requirements of the ACA. We have already taken strong measures to address the State's crisis, including \$2.2 billion in reductions to a \$10 billion General Fund budget. As I mentioned above, I also spent two years leading the fight for a voter initiative that raised taxes by \$1 billion on a state that has lost over 300,000 jobs (10 percent of our workforce). I simply cannot ask struggling Arizonans to shoulder any more of the burden.

Despite the already painful reductions in AHCCCS benefits, provider rates, and administration, our Medicaid program is still growing at an astounding rate. In 2007, the Medicaid program represented 17 percent of the State's General Fund spending; today that figure is nearly 30 percent. Overall Medicaid spending has increased by 65 percent over the same time period.

The reason for these stunning increases is primarily due to Arizona's generous eligibility. As you know, Arizona is one of only six states that covers childless adults in its Medicaid program. It is also one of a few states that covers parents up to 100 percent of the federal poverty level. The national median of coverage for parents is 63 percent. In comparison, Kansas does not cover childless adults and provides coverage to parents up to only 41 percent of the federal poverty level. Our generous coverage and recent job losses means that 20 percent of Arizonans were covered by Medicaid in 2009, greater than the national average of 15.8 percent and more than twice the 9.8 percent rate in Kansas. This expanded coverage means that the ACA mandates have had a greater impact on Arizona than most states – at a staggering annual cost of almost \$1 billion. And unlike the similar mandates in the stimulus package, Congress did not provide funding for the continued maintenance of effort requirements.

This explosive Medicaid growth threatens to consume the core functions of state government. We cannot maintain a Medicaid program at the expense of public safety and our children's education.

You may have heard some discussion that some children and individuals with serious mental illness (SMI) are included in the number of individuals that may lose Medicaid coverage. I pledge to you and all Arizonans that we will do everything possible, with your support, to ensure no TANF child or individual with SMI loses coverage.

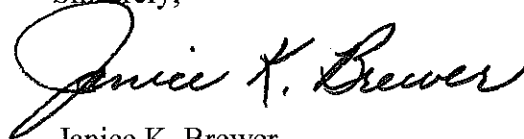
I understand that these reductions in coverage have a significant impact in both human and economic terms. However, I cannot sacrifice those basic government services of public safety and education to preserve a Medicaid program that is far more generous than most other states. Arizonans want to protect our most vulnerable, but they also expect their elected officials to find an appropriate balance. I believe this waiver request strikes that balance by preserving the AHCCCS model that has served as a national example and, even with the proposed reductions, will still serve over one million Arizonans who represent the core of Medicaid's mission – the aged, blind, disabled, pregnant women and children.

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I have attached a proposal containing additional information on how we can work together to preserve Arizona's Medicaid program and continue to promote Medicaid's mission in serving over one million of the State's most vulnerable citizens. I have no doubt that you will give this request its due consideration as you have given to so many other employers, unions and insurers for whom you have waived other key mandates in the ACA.

Thank you again for your consideration and I look forward to working with you on this important effort.

Sincerely,

A handwritten signature in black ink that reads "Janice K. Brewer". The signature is written in a cursive style with a large initial "J".

Janice K. Brewer
Governor

Attachment