

Using State Plan Amendments and 1115 Waivers to Improve Medicaid Coverage of Tobacco Cessation

The Medicaid population smokes at a rate over twice as high than the population with private insurance (24.9% vs. 10.7%).¹ Research shows that Medicaid coverage of tobacco cessation treatment, including tobacco cessation medication and counseling, leads to reduced smoking rates and fewer smoking-related healthcare costs.^{2,3} In order to improve Medicaid coverage of cessation, it is critical to understand the structure of the program and the processes to make changes.

This document provides a basic overview of the Medicaid program's funding structure, state plans (the agreements between the state and Federal government), and the methods for states to change coverage in their Medicaid programs.

How is the Medicaid Program Funded?

Medicaid is a program to provide healthcare services to low-income Americans. It is administered by the states and jointly funded by the states and the federal government through the Federal Medical Assistance Percentage (FMAP). The FMAP is the percentage of a state's Medicaid expenses that the federal government will cover. The FMAP is determined by the state's per capita income, with a floor of 50% federal contributions. For the standard Medicaid population, a state's FMAP is anywhere between 50 to 76% of their total Medicaid spending. The state is responsible for the remaining Medicaid expenses.

Special eligibility groups, such as children, pregnant women or expansion adults, can have a higher FMAP than that for the standard population.

- **Example:** Under the Affordable Care Act, the federal government encouraged states to expand Medicaid coverage to all low-income adults up to 138% of the federal poverty line by offering an FMAP of 100% for this new population. The FMAP for the expansion population has declined since 2014 to 90%, where it will stay indefinitely.

The federal government can also set a higher FMAP for specific services that it wants to encourage.

- **Example:** States that cover all evidence-based preventive services with no cost-sharing can receive a one percentage point increase in their FMAP for these services for the standard Medicaid population.

* Standard Medicaid population refers to the non- Medicaid expansion population. These individuals would have been eligible for Medicaid prior to Medicaid expansion.

What is a Medicaid State Plan?

A Medicaid state plan is an agreement between the state and federal government describing how the state will administer its Medicaid program.⁴ States are required to submit a state plan to CMS and the agreement provides the following assurances:⁵

- States will follow the federal rules of the Medicaid program; and
- The federal government will provide the state Medicaid program with the allotted portion of federal funds (i.e. the FMAP).

The plan is expected to detail how the state will cover all mandatory benefits,⁶ which optional benefits will be covered[†], and which populations will be eligible for Medicaid. Tobacco cessation counseling for pregnant women is a mandatory benefit, but it is an optional benefit for the rest of the population. For states looking to make changes to their Medicaid program, there are two ways: a state plan amendment (SPA) and a waiver.

What is a State Plan Amendment?

When a state wants to add or remove an operational service or change the way a particular benefit or population is covered, they must submit a state plan amendment (SPA) to CMS for review and approval.

- **Example:** A state can use a SPA to expand their Medicaid program eligibility to adults earning up to 138% of the federal poverty level.

A state may also be required to submit a SPA if a new federal requirement for coverage in the Medicaid program is established.

- **Example:** The Affordable Care Act requires tobacco cessation treatment to be a covered service for pregnant women. States were required to submit a SPA to indicate to the federal government how they planned to meet this new requirement.⁷

The process of submitting a state plan amendment requires the state Medicaid agency to submit the requested change to the governor before it is submitted to CMS. Comments from the governor must be included with the submission of the SPA to the CMS regional office.[‡] Additionally, there are no hearings or public comments federally required. The approval time once the SPA is submitted to CMS is no more than 90 days. If CMS submits formal questions to the state about their SPA, then the 90-day clock is suspended. Once the state answered CMS' questions, the clock starts again. If the state does not hear from CMS within 90 days, the SPA is deemed approved.

[†] Tobacco cessation counseling for pregnant women is a mandatory benefit, but it is an optional benefit for the rest of the population.

[‡] The two exceptions to this rule are if the governor's designee is the head of the Medicaid agency or if the change is one required by CMS (42 CFR § 430.12).

Louisiana State Plan Amendment

Louisiana Medicaid has been working with the state department of health for a few years to create a comprehensive benefit for pregnant women and women who are 60 days postpartum. Each LA MCO includes tobacco cessation medications for pregnant women in their contracts as value added benefits, funding those themselves. Thus, the state employees decided to focus on counseling services and submitted a [state plan amendment](#) to ensure the following benefits are available for pregnant women and women who are 60 days postpartum enrolled in Medicaid (as of December 1, 2020):

- Four face-to-face tobacco cessation counseling sessions per quit attempt
- Two quit attempts per calendar year

These limits can be exceeded if deemed medically necessary. The claims for services that exceed the limits must be submitted as a hardcopy with supporting documentation.

What are 1115 waivers?

Under Section 1115 of the Social Security Act, states may apply for authority to administer experimental, pilot or demonstration projects that promote the objectives of the Medicaid program.

- **Example:** Several states have used Section 1115 waivers to create managed care programs or provide premium assistance for expansion enrollees to purchase coverage in the state marketplace

It is important to note that the process to submit 1115 waivers to CMS varies from state to state. Some states need legislation to submit an application and in other states governors have the administrative authority to submit an application. Either way, there has to be a state and federal public comment period. Once the comment periods have closed and have been reviewed, CMS may approve the waiver application. Once a state receives an 1115 waiver approval, they are required to test the innovative approach to determine if the demonstration is successful.⁸

Nebraska 1115 Waiver

On November 16, 2020 - the Centers for Medicare & Medicaid Services (CMS) approved [Nebraska's 1115 Waiver](#) to enact a substance use disorder (SUD) Monitoring Protocol. The monitoring protocol is approved for the demonstration period through June 30, 2024.

The goal of this waiver is for the state to retain and improve access to opioid use disorder (OUD) and other SUD services and continue delivery system improvements for these services to provide more coordinated and comprehensive treatment of Medicaid beneficiaries with SUDs. The state also has the authority to provide high-quality, clinically appropriate treatment to Medicaid beneficiaries with SUD while they are short-term residents in residential and inpatient treatment settings that qualify as Institutions for Mental Diseases.

¹ Cornelius ME, Wang TW, Jamal A, Loretan CG, Neff LJ. Tobacco Product Use Among Adults — United States, 2019. MMWR Morb Mortal Wkly Rep 2020;69:1736–1742. DOI: <http://dx.doi.org/10.15585/mmwr.mm6946a4>

² McCallum DM, Fosson GH, Pisu M. Making the case for Medicaid funding of smoking cessation treatment programs: an application to state level health care savings. J Health Care Poor Underserved, 2014; 25(4):1922–40.

³ Department of Health and Human Services, Office of the Surgeon General. (2014). The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Available at: <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

⁴ <https://www.medicaid.gov/medicaid/medicaid-state-plan-amendments/index.html>

⁵ Medicaid and CHIP Payment and Access Commission. State Plan. Accessed at: <https://www.macpac.gov/subtopic/state-plan/>

⁶ Centers for Medicare and Medicaid Services. List of Medicaid Benefits. Accessed at: <https://www.medicaid.gov/medicaid/benefits/list-of-benefits/index.html>

⁷ Medicaid and CHIP Payment and Access Commission. State Plan. Accessed at: <https://www.macpac.gov/subtopic/state-plan/>

⁸ Medicaid and CHIP Payment and Access Commission. Waivers. Accessed at <https://www.macpac.gov/subtopic/waivers/>