

Kentucky's Analysis of/Draft Response to Public Comments Received During Federal Comment Period (7/19/18 – 8/18/18)

Acknowledgement

The Commonwealth of Kentucky appreciates the time and consideration given by those who submitted comments in response to the federal comment period regarding Kentucky's 1115 Medicaid Demonstration Waiver. The Kentucky HEALTH team has been reviewing the comments received, and has noticed some recurring misconceptions regarding the proposed Kentucky HEALTH program, which is being reconsidered by CMS. The Kentucky HEALTH team would like to use this opportunity to clarify some of the most commonly recurring misconceptions, and address some of the general themes from the public comments submitted to the Centers for Medicare and Medicaid Services. Please note: The clarifications provided are based on Kentucky's original Section 1115 waiver as submitted to CMS, along with the Special Terms and Conditions that were part of the original approval, which was vacated on 6/29/18.

Comments that are misconceptions about Kentucky HEALTH

Community Engagement Requirement

Misconceptions:

- "I do not have time to work, I'm a full-time student."
 - **Clarification:** Full-time students are considered to be meeting the Community Engagement requirement. Full-time students must provide required documentation to verify their status as a full-time student, as defined by their educational institution. Once verified as a full-time student, monthly reporting of Community Engagement hours is not required.
- "I am already meeting a work requirement for SNAP or TANF (KTAP). I do not have time to meet another work requirement."
 - **Clarification:** SNAP/KTAP recipients who fulfill SNAP/KTAP requirements already meet the Community Engagement requirement. While these beneficiaries are active SNAP/KTAP recipients, they do not need to report Community Engagement hours each month.
- "I am already working more than 30 hours a week. I do not have time to submit my work hours every month."
 - **Clarification:** Full-time employees (those working 30+ hours per week) meet the PATH Community Engagement requirement. Full-time employees must provide required documentation to verify their status as a full-time employee. Once their full-time (30+ hours per week) status is verified, the eligibility system will automatically show them as meeting this requirement, and will not need to report Community Engagement hours each month.
- "I stay at home to work as a full-time caregiver for my child or my parent. I cannot leave them to go work or volunteer for that many hours a week."

- **Clarification:** Primary caregivers of a dependent are exempt from the PATH Community Engagement requirement. A child is considered a dependent if the adult has a legal or tax-dependent relationship with a child. A disabled adult may be considered a dependent if they have a tax dependency. Primary caregivers of a dependent do not need to report PATH community Engagement hours each month. There can only be one primary caregiver per household.

PATH stands for “Partnering to Advance Training and Health.” The PATH Community Engagement initiative focuses on helping people engage more in their communities and gain the skills they need for future success.

Kentucky HEALTH offers several PATHs (Community Engagement) to a healthier lifestyle, employability, long-term stability, and future success.

Kentucky HEALTH beneficiaries can fulfill the PATH Community Engagement requirement by doing any of the following activities:

- Working
- Being self-employed
- Taking GED classes and the GED exam
- Looking for a job
- Training for a new job or skill
- Attending approved classes
- Volunteering
- Taking care of someone who is elderly, disabled, or a non-dependent child
- Getting treatment for substance use disorder

Many beneficiaries may already be meeting the PATH Community Engagement requirement by:

- Working full-time (30 or more hours a week – no need to submit hours)
- Working 20 or more hours a week (and submitting monthly hours)
- Meeting SNAP/TANF program requirements
- Taking classes in a full-time educational program

These opportunities will be available to all Kentucky HEALTH beneficiaries, but will not be an eligibility requirement for people who determined to be medically frail, pregnant women, children, former foster youth (up to age 26), or primary caregivers of a dependent.

Individuals who are already working 20 hours per week or more meet the requirement of the initiative, and will not be required to perform additional activities as a condition of continued enrollment.

Regarding caregivers, the Commonwealth recognizes the value and critical role of the countless Kentuckians who provide care for children and aging or disabled individuals. Therefore, both primary caregivers of dependent minor children and disabled adult dependents are exempt from participating in PATH Community Engagement. Additionally, caregiving activities for non-dependents, such as caregiving services provided to elderly parents, will be counted as a qualifying activity for the PATH Community Engagement requirement.

Refugees and Victims of Domestic Violence

Misconception:

- “I recently came to Kentucky as a refugee, and I cannot fulfill my Community Engagement requirement or pay premiums or copayments (cost sharing).”
- “I am a victim of domestic violence, and I cannot meet my Community Engagement requirement or pay premiums or copayments (cost sharing).”

Clarification:

Refugees and victims of domestic violence will be **exempt** from cost sharing and the Community Engagement requirement.

Refugees and victims of domestic violence who qualify for Medicaid based on the Medicaid expansion will be covered under the Alternative Benefit Plan (ABP). They will be required to access non-medical vision and dental services through their My Rewards Account. However, \$500 automatically will be credited to their My Rewards Account, and will be replenished as needed to provide services.

Children

Misconception:

- “I am a child, and I cannot meet my Community Engagement requirement.”

Clarification:

Children under the age of 19 are exempt from cost sharing and the Community Engagement requirement. Children will remain enrolled with Kentucky HEALTH and will continue receiving Medicaid benefits, even if their parent(s) do not meet the program requirements. In addition, since children remain on the Medicaid State Plan, all Medicaid-eligible dental/vision services and Non-Emergency Medical Transportation (NEMT) services are covered.

Medically Frail and Disability

Misconception:

- “I am on disability and do not want to lose benefits.”
- “I have a health problem and cannot be expected to work.”

Clarification:

Beneficiaries who receive Social Security Disability Insurance (SSDI) will be considered Medically Frail for the purpose of the Kentucky HEALTH program. Beneficiaries who have a condition that may prevent them from working **could** also be determined Medically Frail.

Beneficiaries who are determined to be Medically Frail are enrolled in the State Benefit Plan, which means that dental/vision services and access to Non-Emergency Medical Transportation (NEMT) services are covered. Kentucky HEALTH beneficiaries who are determined Medically Frail are exempt from the PATH Community Engagement requirement, and cost sharing (paying premiums) is optional. Medically Frail beneficiaries who pay premiums each month will have access to a My Rewards Account to earn virtual dollars.

Beneficiaries could be considered Medically Frail for many different reasons. Some of those reasons include:

- Disabling mental health diagnosis
- Chronic substance use disorder
- Serious and complex medical condition
- Significant impairment in ability to perform activities of daily living
- Diagnosed with HIV/AIDS
- Eligible for Social Security Disability Insurance (SSDI)
- Chronic homelessness

Kentucky HEALTH will identify people who are Medically Frail using four key methods:

- The Medicaid management information system will evaluate state health information for claims, diagnoses, and treatment history.
- Managed Care Organizations (MCOs) will evaluate a beneficiary's medical claims or use a tool to screen for medically frail status.
- Medicaid-qualified providers can report that their patient may be medically frail to the Managed Care Organization (provider assessment).
- The beneficiary can report that he or she may be medically frail to the Managed Care Organization.

Emergency Dental and Vision Services

Misconception:

- "I have a documented reason to need a dental or vision service. Is this still covered?"

Clarification:

The Kentucky HEALTH program will continue to cover Medicaid-eligible medically necessary dental and vision services. Kentucky HEALTH does not propose to eliminate or add new coverage, but rather **transition** existing routine, **non-medical** dental and vision services to the My Rewards Account for **some** beneficiaries. (Non-medical dental and vision services are considered optional Medicaid services under federal law.)

All Medicaid-eligible dental and vision services will be maintained in the standard benefits for children, pregnant women, medically frail individuals, former foster youth (up to age 26), and any individuals eligible for Medicaid prior to the passage of the Affordable Care Act.

Benefits

Misconception:

- "Kentucky HEALTH reduces Medical Benefits."

Clarification:

Individuals will not lose medical benefits under Kentucky HEALTH.

Most individuals will keep the same benefits. Pregnant women, children, individuals who are considered medically frail, former foster youth up to age 26, and groups covered by Medicaid before the expansion will have all the same benefits they do now, including vision, dental, and access to non-emergency medical transportation.

Non-disabled adults—those who became eligible for Medicaid when it was expanded—will also be able to get the same medical benefits, but they will get some of them in a different way. These individuals will still have access to preventive and specialty medical services through their Managed Care Organization (MCO) plan. However, routine non-medical vision and dental services will be available through their My Rewards Account—a special health savings account where participants can earn dollars by doing certain healthy activities.

“Lock-out” Periods

Misconception:

- “Kentucky HEALTH locks people out for 6 months if they do not meet all the requirements.”

Clarification:

Penalty periods are effective the first of the month following a beneficiary’s non-compliance with Kentucky HEALTH requirements of either payment of premiums (for individuals over 100% of the federal poverty level) or Community Engagement hours. Beneficiaries can avoid entering a penalty period by coming into compliance prior to the effective date. Furthermore, once someone is in a penalty period, they can regain coverage prior to the end of the 6-month penalty period by completing early re-entry requirements. Beneficiaries who are suspended for premium non-payment can avoid a gap in coverage even after the penalty is in effect by completing re-entry requirements in the first month of the penalty.

Bureaucracy

Misconception:

- “Kentucky HEALTH adds too much bureaucracy”

Clarification:

The requirements of the Kentucky HEALTH program are designed to empower Kentuckians to move towards a future of improved health outcomes, well-being, and self-sufficiency. The Commonwealth is prepared and eager to help beneficiaries meet Kentucky HEALTH program requirements by leveraging many existing and some new resources. From helping beneficiaries learn how to better use health care benefits, to using the online benefits and reporting systems, to connecting them to high-demand jobs in their areas, the Commonwealth looks forward to collaborating with beneficiaries in their individualized approach to self-sufficiency.

The Commonwealth has built on existing infrastructure within the Supplemental Nutrition Assistance Program (SNAP) and Kentucky Career Centers to operationalize the PATH Community Engagement initiative. The existing technology infrastructure that supports SNAP will also support Kentucky HEALTH.

Ultimately, the investment in developing the workforce in the Commonwealth is important not only in order to reduce unemployment, but also to improve health outcomes. As detailed in the waiver, there is a known link between health and employment, and CMS states it is “essential to individual's economic self-sufficiency, self-esteem and well-being.”

Kentucky HEALTH aims to work across the various Cabinets in the Commonwealth to leverage existing health and employment-related programs, and focus efforts on assisting Kentucky HEALTH beneficiaries achieve improved health and self-sufficiency. The Commonwealth is partnering with stakeholder groups, and will initiate a strong communications effort to educate beneficiaries, MCOs, advocacy groups, and the public about changes to the program throughout the implementation process to ensure all beneficiaries and potential beneficiaries are notified of upcoming program changes.

Cost

Misconception:

- “Kentucky cannot afford the administrative costs of the program.”

Clarification:

While there are some new development costs to implement the program, initial estimates suggest that Kentucky HEALTH could save an **estimated \$2 billion** in state and federal funds over the course of the demonstration.

Cost Sharing:

Misconception:

- “Medicaid cannot charge copayments or premiums.”

Clarification:

CMS regulations allow states to charge copayments up to 5% of quarterly household income without a waiver. However, stakeholder feedback expressed support for predictable, lower premiums as an alternative to standard Medicaid copayments that can add up to 5% of income, as families are better able to budget for a set monthly expense. CMS approved several similar 1115 waivers that implemented premium requirements equal to 2% of income. The flat rate premium amounts proposed in this waiver are all equal to or less than 2% of income, while the increasing premium amounts for individuals with income over 100% FPL never exceed the CMS threshold of 5% of income. The cost sharing provisions in the waiver are consistent with federal regulations and current CMS policy.

In addition, the studies cited by a few commenters were not specific to the new adult group category. Recent data from Indiana’s Healthy Indiana Plan (HIP), also a Section 1115 waiver, indicated that premiums equal to 2% of income are affordable. Approximately 87% of HIP members reported they would pay more than 2% of income premiums to remain enrolled in the program and that affordability was not an issue for people who left the program. Only 5% of people surveyed who left the program indicated they did so for affordability reasons. In addition, individuals who made regular payments had better outcomes, higher satisfaction, higher primary and preventive care, higher drug adherence, and lower Emergency Room use.

Conclusion:

Healthcare should mean more than providing a Medicaid card. Properly implemented, healthcare should incorporate a more broad-based approach that promotes all around health and leads to an overall improved quality of life. Kentucky’s expanded Medicaid program as it is currently designed has not accomplished those goals.

The current system has not improved health outcomes in Kentucky. The Medicaid expansion as enacted has not moved the needle on poor health outcomes, and the Commonwealth cannot continue a program that does not motivate participants toward better health outcomes and overall well-being. Instead, the Commonwealth needs a program that empowers and supports the improved health, well-being and self-sufficiency of individuals, families, and communities in Kentucky.

Further, Kentucky has one of the highest rates of enrollment in expanded Medicaid in the nation. At the time of Medicaid expansion, the federal government paid for the cost of beneficiaries who received coverage under the expansion. Since Medicaid expansion was implemented in Kentucky, the federal funding for the program has been reduced, which means more state funds will be needed to continue paying for expansion. This change in funding from the federal government could have significant impacts on other government programs if there are no changes to the Medicaid program to address costs and outcomes.

Kentucky needs an innovative healthcare solution that addresses its unique challenges. Kentuckians need improved health, and recipients of Medicaid benefits need a program that is economically sustainable. Kentucky HEALTH (Helping to Engage and Achieve Long Term Health) has been designed to meet these needs.

Kentucky HEALTH will:

- Improve beneficiary health and well-being by taking a holistic approach to health that considers social and economic factors.
- Empower beneficiaries to be more active and informed about their healthcare and available resources.
- Connect beneficiaries to employment and training services using programs, resources, and tools that are already available in our communities.
- Provide beneficiaries skills to transition them successfully to commercial health insurance.
- Save an initial estimated \$2 billion in state and federal taxpayer dollars over the demonstration, according to initial estimates.
- Support the long-term fiscal sustainability of the Commonwealth's Medicaid program, despite the other economic challenges Kentucky faces.

Through health incentives, cost-sharing, and engaging members to be involved in improving their health, the Kentucky HEALTH program will help make Kentucky a healthier state and ensure our most vulnerable populations will always be protected.