UTAH HEALTH POLICY PROJECT

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# NEWS RELEASE

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**Salt Lake City** –Today the Utah Department of Health released the much anticipated Medicaid "waiver" proposal (http://health.utah.gov/medicaid/stplan/1115%20Waivers.htm), a critical step in a multi-year process to modernize the way Medicaid services are paid for and delivered in Utah. The proposal is item #1 on the ambitious to-do list set forth by Senate Bill 180 (*Medicaid Reform*, sponsored by Sen. Dan Liljenquist). Stakeholders, legislators, and members of the public have exactly 20 days to provide input on the document before it goes forward to CMS (Centers for Medicare and Medicaid Services), the federal agency that oversees Medicaid and requests for waivers of federal Medicaid regulations.

SB180 (Sen. Liljenquist) aims to move Utah Medicaid away from the current fee-for-service payment systems towards risk-based delivery models that will support the state's transition to Accountable Care, an approach to payment and care delivery that minimizes incentives to provide surplus care, whether that care is medically necessary or not, while maintaining and increasing the quality of care.

"From our understanding of the changes needed to move Utah down the path toward accountable care, the proposal makes a promising start; it also reflects a good deal of the positive input from stakeholders. **But we also knew going into this where the trouble spots would be for beneficiaries: around cost sharing obligations, access to primary care, and coverage of benefits," says Judi Hilman, Executive Director of the Utah Health Policy Project. And sure enough, there we have very serious concerns.** "The waiver proposal seeks to maximize cost sharing to levels that will likely interfere with access to cost-effective care," adds Hilman. "The waiver proposal needs to reflect the consensus through the research literature that excessive cost sharing will interfere with treatment compliance."

*(all quotes henceforth may be attributed to Ms. Hilman unless otherwise stated)*

**Cost Sharing Changes** (p. 24 of Waiver Proposal)
The waiver proposes a cost sharing schedule more similar to CHIP, this puts Utah's proposed Medicaid cost sharing schedule off the charts in comparison to other states'(see p. 24 in waiver compared to the current cost-sharing schedule for Utah Medicaid, available here: http://health.utah.gov/umb/forms/pdf/adultcomp.pdf; also see Kaiser Foundation's recent survey of 50 states: http://www.kff.org/medicaid/upload/8130.pdf.) While the total out of pocket spending will be limited to 5% of income, the waiver also introduces a $40 deductible.

**Access, Provider Payments, and Medical Homes**
A principal goal of the waiver is to restructure Medicaid provider payment provisions to reward health care providers for delivering the most appropriate services at the lowest cost and in ways that maintain or improve the health status of beneficiaries. To this end, each ACO (Accountable Care Organization) will have a medical home component. By the National Academy for State Health Policy's definition, a medical home is an enhanced model of primary care which provides whole person, comprehensive, ongoing and coordinated patient-centered care. "What is not clear from this waiver proposal or input process is whether current payment to Medicaid providers is adequate to facilitate real-time access to medical homes. If this research is available, as managed care plan representatives say, it should be presented in this context."

**Unexpected Provision: Allow Medicaid $ to be used to Subsidize Premiums on Utah Exchange** (p. 9-11)
Prior to passage of the Affordable Care Act, researchers determined it was more cost effective (for all payers, including the taxpayer) to cover low-income individuals, defined as having household income less than 133% of poverty level, in Medicaid rather than in the new Exchanges. "Utah has yet to consider the reasons for this, and this may be why deductibles of up to $2,500 are permitted in this new program—quite a stretch from the new $40 deductible proposed for regular Medicaid enrolles !" "In addition, there is no reason to suppose Utah's Health Insurance Exchange, with its bewildering choice of 142 plans, will serve the Medicaid population at all adequately." "With navigator functions still under construction even for current participants, who will help the otherwise Medicaid eligible select the right plan?"

**Rationing of Medicaid Benefits—as in the Oregon Plan** (p. 29)
The waiver includes a provision that for years when Medicaid growth (per member, per month) exceeds general fund growth targets, benefits would be reduced on a pre-determined schedule. The language in this section is not clear: does the provision apply to "optional" benefits or to mandatory benefits or both? What impact will this have on quality of care? Will it result in a cost-shift as a result of delayed care and increased emergency department visits? This section is precariously lacking in details, making it difficult to comment further.

**Request of Disenrollment of enrollees by an ACO** (p. 36)
UHPP has serious concerns regarding certain criteria for disenrolling an enrollee from the new ACOs. "We are most concerned about the ability to disenroll if the enrollee does not follow medical advice or doesn't keep a good relationship with his/her doctor," says Shanie Scott, Medicaid Policy Director of UHPP. "This is a vague and dangerous slippery slope for Medicaid consumers and could lead to ACO's disenrolling the most vulnerable of our consumers, causing a breakdown in their continuum of care which could lead to higher costs as clients are forced into Emergency Room care," adds Scott.

**Client Wellness Incentives**
"We are glad to see responsiveness to advocates' concerns regarding the use of client incentives, in particular the need to have carrots (positive rewards) and no sticks (punishments). Beyond that, the waiver proposal is precariously vague. A stick to a consumer advocate may look like a carrot to another stakeholder or state officials."

A few months ago, CMS released guidance to states in the form of an RFP for the new Affordable Care Act prevention grants: the guidance applies hard lessons from state healthy incentives initiatives. For example, this guidance cautions against proposals that reduce benefits for non-compliance with prescribed treatment or participation in wellness incentives. We hope to lean on CMS for support and expertise around these and other concerns.

"We will do what we can to limit the growing political pressures on the White House to grant Utah considerable flexibility in these areas."

**Quality standards**
*All ACOs must meet quality of care and access to care standards monitored by external, and nationally recognized, professional entities whose entire focus is monitoring the quality of medical care services (*from the summary*).* "What's awkward here is that the waiver gets released at a time when quality standards for ACOs are very much under construction—for now we applaud the use of intermediate quality measures, but the waiver needs to specify how the quality measurement process will interface with the new NCQA quality measures as these are finalized." "Moreover, with changes of the magnitude proposed, we want to see more quality improvement activities checked in the list on p. 51: we should have consumer focus groups and disenrollment surveys, for example, even if these activities will need to be contracted out to private sector or independent evaluators."

**Financing**
The waiver anticipates there will be no decrease in the current level of Medicaid spending. Rather, the waiver is intended to reduce the rate of increase in future Medicaid appropriations. "To succeed in these worthy goals, however, providers must be paid at levels that will facilitate real-time access to care."
"Utah should not create the option to freeze the spending growth rate before they determine whether providers are paid enough to see Medicaid beneficiaries in the most appropriate settings."
"Likewise with all payment arrangements: the current hospital assessment (like a bed tax, on p. 54) rests on delicate premises not unrelated to the hospitals' obligation to treat emergent patients regardless of insurance status. Such assessments or hospital rates in general are typically negotiated in conjunction with agreements to reduce the number of uninsured—but this is not a proximate goal of state health reform and not even on the table in the waiver."

**Related Announcements and Tools**

See helpful overview in Rules bulletin

UDOH wants the public to have an opportunity to see the waiver amendment, understand the concepts, and offer comments. The waiver application will be available for review and comment on June 1, 2011, at: http://health.utah.gov/medicaid/stplan/1115%20Waivers.htm. It will also be available at local health departments.

UDOH will provide two **public forums** for comments. The first will be from 10:00 a.m. to 12:00 (noon) on **June 7, 2011**, at the Cannon Health Building, 288 N 1460 W, Room No. 125, Salt Lake City, Utah. The second will be during the Medical Care Advisory Committee meeting from 4:00 p.m. to 6:00 p.m. on **June 9, 2011**, at the Cannon Health Building, 288 N 1460 W, Room No. 125, Salt Lake City, Utah.

## Today's Monthly Meeting with Michael Hales will be devoted to this waiver (1:30 pm today at Dept of Health, Room 125).

UHPP will be releasing more detailed analysis later in the week.

*The public may direct comments to the Utah Department of Health, Division of Medicaid and Health Financing, PO Box 143102, Salt Lake City, Utah 84114-3102.*

Click here for the Stakeholder Meeting Highlights from a mostly UHPP or consumer advocacy perspective.

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