Comments Concerning the *Healthy Pennsylvania* Section 1115 Medicaid Waiver Application

Submitted by the Safety-Net Association of Pennsylvania

January 13, 2014

The Safety-Net Association of Pennsylvania (SNAP) appreciates the opportunity to submit these comments on the draft section 1115 Medicaid waiver released by Governor Corbett on December 6, 2013. An 1115 waiver presents a unique and substantial opportunity to secure federal financial participation to reform the health care delivery system in a manner that ensures the health and well-being of low-income Pennsylvanians. SNAP commends Governor Corbett for creating and advancing a thoughtful plan that seeks to improve access to quality, affordable health care, a vision shared by SNAP and its member safety-net hospitals and health systems.

Safety-net hospitals have a long-standing commitment to serve on the front lines in treating all Pennsylvanians regardless of their socio-economic or health status. Large and small, teaching and sole community, and located in 36 counties, safety-net hospitals serve as the backbone of Pennsylvania's health care safety net in ensuring access to high quality care.

Safety-net hospitals also serve in many cases as the backbone of economic stability in the communities they serve. Often located in low-income communities, safety-net hospitals typically are among their communities' largest employers. SNAP recognizes that Governor Corbett seeks to reform and expand Medicaid coverage in a financially responsible and sustainable way while preserving the economic benefits associated with expansion.

SNAP supports insurance expansion, but health insurance expansion alone is not a guarantee of improved access to health care. The delivery and payment systems must be structured to ensure that safety-net hospitals have the resources needed to provide quality health care. SNAP's comments focus on recommendations to help ensure that the Medicaid reforms and insurance expansion contemplated by the plan include protections that ensure the ongoing financial viability of the safety-net hospitals that treat the majority of the population affected by the reform plan's provisions.

Proposed Improvements: Access to Care

Continue the Current Supplemental Medicaid Payments to Safety-Net Hospitals

Currently, Pennsylvania hospitals that meet specific criteria receive a number of supplemental Medicaid payments from the state: inpatient disproportionate share payments, outpatient disproportionate share payments, tobacco uncompensated care payments, Community Access Fund payments, medical education payments, OB/NICU payments, trauma center payments, burn center payments, and critical access hospital payments. Individually, these payments support hospitals that are significantly underpaid for the

care they provide to Medicaid and uninsured patients or special services they provide to the general population that can never be profitable, or even break even, yet are clearly needed in the communities they serve. Collectively, these payments reflect the state's recognition that recipient hospitals play a very special role in their communities, shoulder special financial burdens as a result of these roles, and need – and deserve – special financial assistance from the state to help them fulfill these special roles.

None of this will change in the immediate future with the implementation of the Affordable Care Act and, if approved by the federal government, of Healthy Pennsylvania's Medicaid reform and insurance expansion. Hospitals will continue to be underpaid by the state for the more than two million people who remain in the traditional Medicaid program, and the highly specialized services communities need, and that cannot possibly be operated on a break-even basis, will continue to rely on the state's support. Additionally, some people will not take advantage of the opportunities now available to obtain affordable health insurance and continue instead to turn to hospitals for care when they have no means of paying for that care, leaving those hospitals – and more often than not, safety-net hospitals – with significant uncompensated care expenses to absorb.

This poses a financial challenge for hospitals but, no less important, an access to care challenge for all 12.8 million residents of Pennsylvania, not only those enrolled in Medicaid. Over the years, we have seen many hospitals close and many others discontinue money-losing services like obstetrics and behavioral health services. To a significant degree, the money-losing services that remain today remain because of these supplemental payments.

While further implementation of the Affordable Care Act and possible implementation of Healthy Pennsylvania will eventually ease some (but not all) of these pressures as more people obtain health insurance, that time is not yet upon us. Both programs will have significant break-in periods, and we are currently witnessing the serious challenges the launch of the Affordable Care Act is encountering. At some point there should be a decline in the amount of uncompensated care Pennsylvania's safety-net hospitals provide but that point is not upon us now, nor is it probably near. For this reason, it is essential that the state continue to provide these critical supplemental payments, thereby ensuring continued access to critical health care services for all Pennsylvanians. SNAP urges state officials to modify the Healthy Pennsylvania waiver application so it explicitly states the commonwealth's intention to continue making these payments as it does today.

Account Appropriately for the Care Provided to the Expansion Population Served by Private Option Insurers

In the section above entitled "Continue the Current Supplemental Medicaid Payments to Safety-Net Hospitals," SNAP noted the importance of the state continuing to make supplemental Medicaid payments to safety-net hospitals to ensure their continued ability to meet the health care needs of both their Medicaid patients and the state's residents as a whole. Qualification for some of these payments, and calculation of the size of these payments, is based in large part on how much care hospitals provide to Medicaid patients. This is determined based on what are known as "Medicaid days" – the cumulative number of days Medicaid patients spend in a given hospital.

The Medicaid days figure also is used to determine eligibility for Medicare disproportionate share payments – very important payments from the federal government that, much like Medicaid

disproportionate share payments, help hospitals with the cost of caring for their many low-income and uninsured patients. Medicaid days also are used to determine eligibility for the federal section 340B prescription drug discount program, which enables hospitals (and other health care organizations) that care for low-income people to purchase drugs for outpatient use at discounted prices. This enables hospitals to help far more low-income patients on an outpatient basis than their own resources and public reimbursement would otherwise permit.

The Healthy Pennsylvania expansion population, although served by private insurers, will still pose special challenges to safety-net hospitals that will require the expenditure of extra resources. For this reason, SNAP believes the days these hospitals spend serving such patients on an inpatient basis should qualify as Medicaid days for the purpose of determining eligibility for state Medicaid supplemental payments. Doing so also will help hospitals qualify for Medicare disproportionate share payments and participation in the vital federal section 340B prescription drug discount program. This issue is not adequately addressed in the state's draft waiver application, so SNAP urges state officials to ensure that these days are classified as Medicaid days in the final version they submit to the federal government.

Extend Retroactive Eligibility to the Private Option Population

The Healthy Pennsylvania draft waiver does not call for retroactive eligibility for the private option population even though this provision has long been part of the state's traditional Medicaid program. Not including this critical provision constitutes a major challenge for the state's safety-net hospitals because it will result in uncompensated care, creating additional strains on the ability of safety-net hospitals to provide accessible care for Pennsylvania's proposed expansion population.

History shows that many people – and not only low-income people – choose not to obtain health insurance until after they have experienced a major medical problem; this was certainly the case, observers found, with Pennsylvania's now-defunct Adult Basic program. Typically, people realize the gravity of their new medical problems – and the value of health insurance – only after they are in a hospital bed, facing surgery or extensive medical treatment, and only then do they seek to obtain health insurance. Pennsylvania should not abandon safety-net hospitals seeking to treat these people in their time of greatest need.

SNAP urges the state to extend retroactive eligibility to Healthy Pennsylvania's expansion population and seek to strengthen access to care for those falling into the safety net instead of creating additional strains on safety-net providers. We recognize that insurers do not contemplate retroactive eligibility when establishing their rates and therefore also propose that the Medicaid fee-for-service program assume financial responsibility for retroactive coverage until the individual is enrolled in a private-market plan.

Modify the Proposed Penalties for Non-Payment of Premiums and Failure to Meet Work Search Requirements

Healthy Pennsylvania proposes suspending the Medicaid coverage of Medicaid recipients for up to nine months if they fail to pay their monthly premiums in a timely manner or fail to fulfill their work search requirements. While SNAP appreciates the state's desire to cultivate responsible behavior in the Medicaid population by establishing these penalties, such policies should not be structured in a manner that creates potential barriers to access to care. If the purpose of Medicaid is to help keep low-income

residents of Pennsylvania healthy and productive citizens, taking away their access to medical services is not a reasonable way to achieve that objective. SNAP recognizes that the state is counting on premium revenue to help pay for Healthy Pennsylvania and that it hopes the job search requirement will lead to gainful employment for some program participants, but leaving the state's low-income residents medically vulnerable, possibly for long periods of time, is not an appropriate way to go about this.

In 2005, the Commonwealth Fund issued a report[1] analyzing the impact of reduced benefits and increased premiums and cost-sharing under the Oregon Health Plan (OHP). According to that report

> The study findings so far suggest that even small changes to premiums, cost-sharing, or benefit structures can have a dramatic effect on enrollment. After the initial cost-sharing increases and benefit reductions, nearly two-thirds of individuals surveyed had lost their coverage, many as a direct result of the increased premiums and cost-sharing. Those who left the program because of the premium and cost-sharing policies reported worse access to care, less primary care utilization, more emergency department utilization, and greater financial hardships than those who remained enrolled or left OHP for other reasons.

The Oregon experience seems to indicate that the proposed premium requirements could very likely undermine the main goals of the Healthy Pennsylvania proposal. For this reason, SNAP urges the state to eliminate what we view to be excessive suspension of eligibility for non-payment of premiums, even if that means reducing the grace period. A more reasonable approach would be suspension for one month after three consecutive months of non-payment; suspension for two months after a second period of three months of non-payment; and suspension for three months after a third period of three months of non-payment. In addition, the premium should be waived for individuals with incomes up to 100 percent of the federal poverty level.

Finally, similar to SNAP's proposal for retroactive coverage, we recommend that hospital claims for emergency services delivered to individuals who apply for coverage but are found to be in a period of ineligibility be covered for payment under the Medicaid fee-for-service system.

Require Wraparound Services for the Medicaid Population Covered by Private Insurers

Wraparound services such as medical transportation, translation assistance, and many others have long been part of Pennsylvania's Medicaid program. Introduced over the years in recognition of the many obstacles low-income people face in obtaining the primary care they need to lead healthy lives and restore their good health after illnesses and injuries, these services have been retained and survived numerous budget crises because of their demonstrated effectiveness and value. Without these wraparound services, the care to which Medicaid recipients theoretically have access is too often inaccessible, yet the Healthy Pennsylvania waiver application proposes not extending these services to the Medicaid expansion population. SNAP urges the state to support Medicaid patients who obtain their insurance through the private market option with the same wraparound services that have made such a difference for people served by the traditional Medicaid program over the years.

[1] "Impact of Changes to Premiums, Cost-Sharing, and Benefits on Adult Medicaid Beneficiaries: Results from an Ongoing Study of the Oregon Health Plan," Bill J. Wright, Ph.D., Matthew J. Carlson, Ph.D., Jeanene Smith, M.D., M.P.H., et al., The Commonwealth Fund, July 2005.

Reconsider the Proposed Approach to Serving the Medically Frail

SNAP has reservations about how Healthy Pennsylvania proposes identifying the medically frail. We believe the proposed approach will not encompass a number of chronic medical conditions for which patients routinely experience especially high utilization – conditions including but not limited to end-stage renal disease, diabetes, asthma, sickle cell disease, chronic obstructive pulmonary disease (COPD), and others. Consequently, Medicaid-eligible individuals with these and comparable conditions may not qualify for the state's proposed high-risk Medicaid plan and its more generous benefit limits. This may prevent such individuals from receiving the care they need in the proper setting and could lead to otherwise avoidable inpatient admissions.

While SNAP recognizes and appreciates that the state envisions creating additional care management programs for individuals with conditions like these through federal health care innovation grant funding, those programs are not yet in place and these patients are likely to remain high utilizers of medical services. For this reason, SNAP recommends that the state adopt a two-part approach to serving these individuals:

- develop a list of conditions that includes those noted above, and others, and automatically designate individuals with such conditions as medically frail and therefore eligible for more benefits; and

- create an automatic exceptions process so such individuals can continue to receive the services they need if they reach their benefit limits in a given year (there is precedent for automatic exceptions in the state's current prescription drug program for people with specific medical conditions).

Through such an approach, SNAP believes the state can better identify people who truly are medically frail and then do a better job of ensuring that they receive the care they need and remain productive members of their communities.

Proposed Improvements: Quality of Care

Eliminate Proposed Limits on Benefits

Healthy Pennsylvania proposes instituting new benefits limits for the traditional Medicaid program. Such benefit limits jeopardize the delivery of quality care as well as access to care. While no one endorses permitting insured people to abuse their coverage and seek unnecessary services, the state should rely instead on qualified medical professionals, not arbitrary limits, to determine when their patients do and do not need care. At a time when unprecedented steps are being taken to hold hospitals accountable for the quality of care they deliver and the patient outcomes they produce, those hospitals must have access to the tools they need to succeed at this work and deliver quality care. Telling them that at some arbitrary point they will no longer be reimbursed for delivering care in a more appropriate and lower-cost setting than the emergency room undermines that objective and potentially jeopardizes the well-being of patients.

Require Insurers Serving Medicaid Patients to Contract With Adequate Provider Networks

SNAP understands the desire of insurers to manage their costs effectively and their preference for contracting with low-cost providers, but insurers should not be permitted to do so at the risk of jeopardizing the ability of patients to receive the quality care they need. The Medicaid program and the state go to great lengths to ensure that HealthChoices managed care organizations have provider networks that can truly meet their members' needs. Enrollees in the private option population deserve no less, so SNAP urges the state to require participating insurers to meet the same network adequacy minimum standards currently in effect under the HealthChoices program.

Proposed Improvements: Reimbursing Providers Fairly for the Care They Deliver

If Healthy Pennsylvania is implemented, hospitals in general, and safety-net hospitals in particular, face the daunting but welcome challenge of serving a large influx of new patients, many of whom will be seeking help for long-term and chronic medical problems they have entirely neglected, or for which they have received only occasional assistance, over a period of years. They also face the prospect of helping to teach these new patients how to function as insured patients in a modern health care system – things like not turning to hospital emergency rooms for routine care, working cooperatively and productively with providers to manage chronic medical conditions, and engaging in behaviors that improve their health and reduce their chances of future illnesses and injuries.

All of these things require resources – money – for hospitals to undertake successfully. For this reason, it is essential that hospitals be paid fairly by both the traditional Medicaid program and the private market insurers that enroll the Medicaid expansion population. The following are recommendations for ensuring that this happens.

Reverse the Proposed Policies That Would Not Extend Coverage of Retroactive Eligibility, Reduce Benefits, Impose Penalties for Failure to Pay Premiums or to Meet Work Search Requirements, and Eliminate Wraparound Services for the Medicaid Expansion Population

As noted, certain aspects of the Healthy Pennsylvania proposal – no provision for retroactive eligibility, the reduction of benefits, penalties associated with failure to pay premiums on time, penalties associated with failure to complete specified work search requirements, and the elimination of wraparound services for the private option population – pose potential barriers to care for many low-income Pennsylvanians who currently have Medicaid coverage and those who would have new opportunities for access under the Healthy Pennsylvania proposal.

But they pose another problem as well: if implemented, these policies make it likely that many individuals will continue to seek care as they currently do, through hospital emergency rooms rather than more appropriate settings, leaving the financial responsibility where it currently resides: with safety-net hospitals.

The Affordable Care Act reduced federal support for supplemental payments targeted to safety-net hospitals with the assumption that Medicaid programs and the insurance marketplace would be taking over financial responsibility for low-income individuals. Already, Medicare payments to all hospitals have been reduced to account for coverage expansions in other states. In the post-Affordable Care Act marketplace, Medicaid is the presumed payer of last resort for all low-income people. Hospitals will clearly be doing their part if Healthy Pennsylvania is implemented: treating new patients, improving their facilities, launching new programs, hiring and training new staff, working with new insurers, and more. They need to be paid fairly for their efforts and not be asked to absorb the cost of the care they provide and the many steps they will be taking to ensure their ability to provide all that care.

Proposed Improvements: Adequate Resources to Serve Communities

Developing the State's Health Care Infrastructure

If implemented, Healthy Pennsylvania will add approximately 500,000 people to the ranks of the insured in the state. Many of these people will have a history of only episodic and mostly crisis-driven contact with the health care system and can be expected to seek care for long-neglected medical problems. Many may have little experience navigating the health care system and may be ill-equipped to pursue the care they need. It is far from clear, moreover, whether that system today has the providers and programs needed to rise to the challenges posed by these new health care consumers. Many parts of the state with especially high proportions of low-income patients, both urban and rural, have been formally designated as medically underserved by the federal government.

Other states have tackled this challenge by investing in new health care infrastructure and programs. One popular mechanism for doing so is what has come to be known as "Delivery System Reform Incentive Payments" (DSRIP), which are funded primarily by the federal government as part of a Medicaid waiver. Through such an approach, the state develops specific objectives for program and infrastructure development and then invites proposals from entities interested in pursuing those objectives, awarding funds to the most promising proposals. DSRIP is only one way to develop infrastructure capacity and new programs to serve more insured patients – among others, California, New Jersey, and Texas have employed it – and SNAP urges the state to include a provision, or some kind of placeholder, in its section 1115 waiver application so it can pursue such approaches in the immediate future.

About the Safety-Net Association of Pennsylvania

The Safety-Net Association of Pennsylvania represents the interests of private, acute-care hospitals that play the leading role in caring for the poor, the disadvantaged, and the uninsured residents of the commonwealth. These 59 hospitals provide disproportionate amounts of care to the state's 2.2 million Medicaid recipients and one million uninsured residents. As a result of the patients they serve and the communities in which they are located, safety-net hospitals face a significant, continuing challenge to their financial health. SNAP's mission is to secure better, fairer reimbursement for the hospitals that

serve as partners of the state in ensuring that Medicaid recipients receive the benefits to which they are entitled.

While all of these safety-net hospitals share the common characteristic of their unusual level of service to low-income Pennsylvanians, they are diverse in many other ways: they include community hospitals, teaching hospitals, children's hospitals, and academic medical centers; they are large, small, and medium-sized hospitals; they are located in urban, suburban, and rural areas as well as in the western, eastern, and central parts of the state; and they can be found in 36 of Pennsylvania's 67 counties.

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