

**Effective 5/12/2020**

**Renumbered 5/3/2023**

**26-18-416 Primary Care Network enhancement waiver program.**

- (1) As used in this section:
  - (a) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.
  - (b) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).
  - (c) "Health coverage improvement program" means the same as that term is defined in Section 26-18-411.
  - (d) "Income eligibility ceiling" means the percentage of federal poverty level:
    - (i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and
    - (ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.
  - (e) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.
  - (f) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.
- (2) The department shall continue to implement the Primary Care Network program for qualified individuals under the Primary Care Network program.
- (3)
  - (a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:
    - (i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be approved; or
    - (ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion.
  - (b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.
- (4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:
  - (a) the benefits offered under the Primary Care Network program;
  - (b) diagnostic testing and procedures;
  - (c) medical specialty care;
  - (d) inpatient hospital services;
  - (e) outpatient hospital services;
  - (f) outpatient behavioral health care, including outpatient substance abuse care; and
  - (g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.
- (5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:
  - (a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;
  - (b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(d); and

- (c) the individual meets the eligibility criteria established by the department under Subsection (6).
- (6)
- (a) Based on available funding and approval from CMS, the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:
    - (i) adults in the expansion population, as defined in Section 26-18-411, who qualify for the health coverage improvement program;
    - (ii) adults with dependent children who qualify for the health coverage improvement program under Subsection 26-18-411(3);
    - (iii) adults with dependent children who do not qualify for the health coverage improvement program; and
    - (iv) if funding is available, adults without dependent children.
  - (b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were enrolled in the Primary Care Network on December 31, 2017.
  - (c) The department may only use appropriations from the Medicaid Expansion Fund created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.
- (7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.
- (8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.
- (9) In accordance with Subsections 26-18-411(11) and (12), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.
- (10) If the department expands the state Medicaid program to the optional population, the department:
- (a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement waiver program after the day on which the expansion to the optional population is effective;
  - (b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and
  - (c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).
- (11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.