Incentives for States to Offer Home and Community-Based Services as a Long-Term Care Alternative to Nursing Homes

Summary: Establishes a demonstration program for “balancing incentives payment program” for State Medicaid programs for fiscal years 2012 through 2015 with respect to home and community-based alternatives to nursing home care.

Next steps:
- October 1, 2011 – Program can begin
- September 31, 2015 – Program ends
- October 1, 2015 – Target spending requirement date

Additional information:
- Centers for Medicare and Medicaid Services (CMS) background on program – http://www.cms.gov/CommunityServices/15_Balancing.asp#TopOfPage
- National Senior Citizens Law Center background paper on provision -- http://www.nsclc.org/areas/medicaid/health-reform-ltss/at_download/attachment
- Centers for Medicare and Medicaid Services (CMS) background on Medicaid Home and Community-Based Services Waiver Program -- https://www.cms.gov/MedicaidStWaivProgDiagram/05_HCBSWaivers-Section1915(c).asp
- Clearinghouse on Home and Community-Based Services -- http://www.hcbs.org/

Long summary:
Sec. 10202. Incentives for States to Offer Home and Community-Based Services as a Long-Term Care Alternative to Nursing Homes.
Establishes a demonstration program for “balancing incentives payment program” for State Medicaid programs for fiscal years 2012 through 2015 with respect to home and community-based alternatives to nursing home care. Provides additional Federal Medical Assistance Percentages (FMAP) to participating states (from 2 to 5 percentage points as described below); caps total payments for this purpose for the entire period at $3 billion.
Application process. A state may apply for participation if less than half of its total long-term care Medicaid expenditures are for non-institutionally based services. Application must include a proposed budget to expand and diversify specified non-institutionally based long-term services and supports, including structural changes, optional presumptive eligibility, case management and the use of core standardized assessment instruments. If a state chooses to expand home and community based services through the option under section 1915(i), the application is also to include an election to increase eligibility for these services from 150% of FPL to a higher level, up to 300% of the SSI eligibility level. Applying states must indicate how they will achieve a target spending percentage by October 1, 2015, representing how much of the state’s total long-term care Medicaid expenditures are for home and community based services. For states starting at less than 25%, the target percentage is to achieve 25%. For other states, the target is 50%.

Increased FMAP. Increased FMAP for participating states for non-institutionally-based long-term care services and supports is 5 percentage points for states starting at less than 25% of Medicaid long-term care expenditures for non-institutionally based services and supports and 2 percentage points for other states.

Additional Requirements. Participating states must maintain eligibility standards, procedures and methodologies for non-institutionally based long-term-care services in effect on December 31, 2010. States must also make specified structural changes within 6 months of application for development of “no wrong door—single entry system” for accessing long-term care services, conflict free case management service, and core standardized assessment instruments. States must also collect specified data on services, quality and outcomes measures.

Legislative text:
SEC. 10202. INCENTIVES FOR STATES TO OFFER HOME AND COMMUNITY-BASED SERVICES AS A LONG-TERM CARE ALTERNATIVE TO NURSING HOMES.
(a) STATE BALANCING INCENTIVE PAYMENTS PROGRAM.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), in the case of a balancing incentive payment State, as defined in subsection (b), that meets the conditions described in subsection (c), during the balancing incentive period, the Federal medical assistance percentage determined for the State under section 1905(b) of such Act and, if applicable, increased under subsection (z) or (aa) shall be increased by the applicable percentage points determined under subsection (d) with respect to eligible medical assistance expenditures described in subsection (e).
(b) BALANCING INCENTIVE PAYMENT STATE.—A balancing incentive payment State is a State—
(1) in which less than 50 percent of the total expenditures for medical assistance under the State Medicaid program for a fiscal year for long-term services and supports (as defined by the Secretary under subsection (f)(1)) are for non-institutionally- based long-term services and supports described in subsection (f)(1)(B);
(2) that submits an application and meets the conditions described in subsection (c); and
(3) that is selected by the Secretary to participate in the State balancing incentive payment program established under this section.
(c) CONDITIONS.—The conditions described in this subsection are the following:
(1) APPLICATION.—The State submits an application to the Secretary that includes, in addition to such other information as the Secretary shall require—
(A) a proposed budget that details the State’s plan to expand and diversify medical assistance for non-institutionally-based long-term services and supports described in subsection (f)(1)(B) under the State Medicaid program during the balancing incentive period and achieve the target spending percentage applicable to the State under paragraph (2), including through structural changes to how the State furnishes such assistance, such as through the establishment of a “no wrong door—single entry point system”, optional presumptive eligibility, case management services, and the use of core standardized assessment instruments, and that includes a description of the new or expanded offerings of such services that the State will provide and the projected costs of such services; and
(B) in the case of a State that proposes to expand the provision of home and community-based services under its State Medicaid program through a State plan amendment under section 1915(i) of the Social Security Act, at the option of the State, an election to increase the income eligibility for such services from 150 percent of the poverty
line to such higher percentage as the State may establish for such purpose, not to exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act (42 U.S.C. 1382(b)(1)).

(2) TARGET SPENDING PERCENTAGES.—
(A) In the case of a balancing incentive payment State in which less than 25 percent of the total expenditures for long-term services and supports under the State Medicaid program for fiscal year 2009 are for home and community-based services, the target spending percentage for the State to achieve by not later than October 1, 2015, is that 25 percent of the total expenditures for long-term services and supports under the State Medicaid program are for home and community-based services.

(B) In the case of any other balancing incentive payment State, the target spending percentage for the State to achieve by not later than October 1, 2015, is that 50 percent of the total expenditures for long-term services and supports under the State Medicaid program are for home and community-based services.

(3) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—The State does not apply eligibility standards, methodologies, or procedures for determining eligibility for medical assistance for non-institutionally-based long-term services and supports described in subsection (f)(1)(B) under the State Medicaid program that are more restrictive than the eligibility standards, methodologies, or procedures in effect for such purposes on December 31, 2010.

(4) USE OF ADDITIONAL FUNDS.—The State agrees to use the additional Federal funds paid to the State as a result of this section only for purposes of providing new or expanded offerings of non-institutionally-based long-term services and supports described in subsection (f)(1)(B) under the State Medicaid program.

(5) STRUCTURAL CHANGES.—The State agrees to make, not later than the end of the 6-month period that begins on the date the State submits an application under this section, the following changes:

(A) ‘‘NO WRONG DOOR—SINGLE ENTRY POINT SYSTEM’’.—Development of a statewide system to enable consumers to access all long-term services and supports through an agency, organization, coordinated network, or portal, in accordance with such standards as the State shall establish and that shall provide information regarding the availability of such services, how to apply for such services, referral services for services and supports otherwise available in the community, and determinations of financial and functional eligibility for such services and supports, or assistance with assessment processes for financial and functional eligibility.

(B) CONFLICT-FREE CASE MANAGEMENT SERVICES.—Conflict-free case management services to develop a service plan, arrange for services and supports, support the beneficiary (and, if appropriate, the beneficiary’s caregivers) in directing the provision of services and supports for the beneficiary, and conduct ongoing monitoring to assure that services and supports are delivered to meet the beneficiary’s needs and achieve intended outcomes.

(C) CORE STANDARDIZED ASSESSMENT INSTRUMENTS.—Development of core standardized assessment instruments for determining eligibility for non-institutionally-based long-term services and supports described in subsection (f)(1)(B), which shall be used in a uniform manner throughout the State, to determine a beneficiary’s needs for training, support services, medical care, transportation, and other services, and develop an individual service plan to address such needs.

(6) DATA COLLECTION.—The State agrees to collect from providers of services and through such other means as the State determines appropriate the following data:

(A) SERVICES DATA.—Services data from providers of non-institutionally-based long-term services and supports described in subsection (f)(1)(B) on a per-beneficiary basis and in accordance with such standardized coding procedures as the State shall establish in consultation with the Secretary.

(B) QUALITY DATA.—Quality data on a selected set of core quality measures agreed upon by the Secretary and the State that are linked to population-specific outcomes measures and accessible to providers.

(C) OUTCOMES MEASURES.—Outcomes measures data on a selected set of core population-specific outcomes measures agreed upon by the Secretary and the State that are accessible to providers and include—

(i) measures of beneficiary and family caregiver experience with providers;

(ii) measures of beneficiary and family caregiver satisfaction with services; and

(iii) measures for achieving desired outcomes appropriate to a specific beneficiary, including employment, participation in community life, health stability, and prevention of loss in function.

(d) APPLICABLE PERCENTAGE POINTS INCREASE IN FMAP.—The applicable percentage points increase is—

(1) in the case of a balancing incentive payment State subject to the target spending percentage described in subsection (c)(2)(A), 5 percentage points; and

(2) in the case of any other balancing incentive payment State, 2 percentage points.

(e) ELIGIBLE MEDICAL ASSISTANCE EXPENDITURES.—
(1) **In General.**—Subject to paragraph (2), medical assistance described in this subsection is medical assistance for noninstitutionally-based long-term services and supports described in subsection (f)(1)(B) that is provided by a balancing incentive payment State under its State Medicaid program during the balancing incentive payment period.

(2) **Limitation on Payments.**—In no case may the aggregate amount of payments made by the Secretary to balancing incentive payment States under this section during the balancing incentive period exceed $3,000,000,000.

(f) **Definitions.**—In this section:

(1) **Long-term Services and Supports Defined.**—The term “long-term services and supports” has the meaning given that term by Secretary and may include any of the following (as defined for purposes of State Medicaid programs):

(A) **Institutionally-based Long-term Services and Supports.**—Services provided in an institution, including the following:

(i) Nursing facility services.

(ii) Services in an intermediate care facility for the mentally retarded described in subsection (a)(15) of section 1905 of such Act.

(B) **Non-institutionally-based Long-term Services and Supports.**—Services not provided in an institution, including the following:

(i) Home and community-based services provided under subsection (c), (d), or (i) of section 1915 of such Act or under a waiver under section 1115 of such Act.

(ii) Home health care services.

(iii) Personal care services.

(iv) Services described in subsection (a)(26) of section 1905 of such Act (relating to PACE program services).

(v) Self-directed personal assistance services described in section 1915(j) of such Act.

(2) **Balancing Incentive Period.**—The term “balancing incentive period” means the period that begins on October 1, 2011, and ends on September 30, 2015.

(3) **Poverty Line.**—The term “poverty line” has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(4) **State Medicaid Program.**—The term “State Medicaid program” means the State program for medical assistance provided under a State plan under title XIX of the Social Security Act and under any waiver approved with respect to such State plan.