

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Recommendations for Commenting on the Impact of Tennessee's Medicaid Block Grant Proposal on Individuals Dually Eligible for Medicare and Medicaid

December 17, 2019

Tennessee has submitted an [application](#) to the Centers for Medicare & Medicaid Services (CMS) to amend its Section 1115 TennCare II waiver to dramatically restructure and deregulate its Medicaid program and convert the bulk of its federal funding to a modified block grant. The modified block grant proposal would risk many of the same harms as a per capita cap model. (Read more about per capita caps and the specific harms to older adults [here](#)). The proposal would also eliminate many crucial accountability elements of federal Medicaid law, create a closed formulary for Medicaid prescription drugs, and make other harmful changes. Although the proposal itself lacks many important details, it is clear that if approved it would threaten both TennCare and the Medicaid program nationally.

Advocates have an indispensable role building the administrative record through public comments. The record has been key to the successful litigation to stop other harmful Medicaid demonstration waivers. We encourage everyone to submit individual and organizational comments to CMS before the public comment period closes on **December 27th, 2019**.

The Tennessee Justice Center has templates for both [individuals](#) and [organizations](#). The more unique your comments and the more examples you include, the better. Below are key points to work from, as well as additional analyses and resources. Organizations can submit their comments [here](#) on or before December 27th.

Key points to include in all comments:

- **CMS should reject this proposal as a whole.** Do not suggest fixes.
- **The proposal is so vague that it does not allow for a meaningful opportunity to comment.** (See [NHeLP's letter to CMS](#)) You can also ask questions about how this will affect older adults you know or represent to call attention to the lack of clarity and raise concerns about the proposal's consequences—both intended and unintended.
- **TennCare enrollees who are dually eligible for Medicare and Medicaid will be harmed.** The state explicitly acknowledges that its proposals to eliminate critical beneficiary protections and deregulate managed care organizations are intended to apply to the entire TennCare population, including more than [260,000 Tennesseans](#) dually eligible for Medicare and Medicaid. (See pp. 39-40 of [the waiver application](#).) This means that duals could lose access to covered services because managed care plans could limit their provider networks, or could deny or make it difficult to get authorization for necessary but costly treatments. This not only harms individuals' health, but also their finances by exposing them to bills for necessary care and services that the Medicaid plan refused to cover. Include **examples** of the older adults you serve—they may have more complex

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

care needs or be more likely to need access to specialists. What would it mean for their health and financial well-being?

- **Capping federal funding fundamentally alters the Medicaid program**, threatening TennCare and the integrity of the Medicaid program nationwide.
 - Capping funding will certainly inhibit TennCare’s ability to serve older adults and people with disabilities, especially as needs increase with the growth of the older adult population and the simultaneous increases in senior poverty. In fact, Tennessee says it needs a waiver from federal safeguards to mitigate the financial risk of the block grant—indicating that it would offset financial risk by cutting services.
 - The state’s waiver application and proposed structure of the block grant raise serious concerns that Tennessee has not thought through the impact on every single Medicaid population, including those who are dually eligible for Medicaid and Medicare. The state intends to exclude all *expenditures* on behalf of dually eligible beneficiaries from the block grant. Yet, the state is deregulating the managed care organizations that deliver their care and will be highly incentivized to cut spending across the TennCare program under the block grant. This means, the decisions the managed care organizations and the state make under capped funding will impact access to necessary care for the entire TennCare population, including dually eligible individuals.
 - Moreover, Tennessee’s proposal provides no way to cover additional unanticipated costs such as public health crises (e.g., the opioid epidemic) or advances in treatment (e.g., new drug therapies).
- **Tennessee makes no commitment to improvements.** Although Tennessee suggests various improvements it could make to TennCare, it makes no commitment to implement any of them. This proposal will neither improve care nor expand coverage, and puts the health and well-being of 1.4 million TennCare enrollees, especially older adults and people with disabilities who have greater care needs, at risk.

Additional Resources:

- Kaiser Family Foundation’s [Why it Matters: Tennessee's Block Grant Waiver Proposal](#)
- Tennessee Justice Center’s Resources
 - Comment portal for [individuals](#) and toolkit for [organizations](#).
 - [Inside Tennessee’s Final 1115 Medicaid Block Grant Proposal](#)
 - [Tennessee’s History of Medicaid Mismanaged Care](#)
 - [Tennessee’s Misuse of Federal Funds Makes It A Poor Candidate for a Medicaid Block Grant](#)
- NHeLP’s [tips for filing comments that help build an administrative record](#)
- Justice in Aging’s [Medicaid Funding Caps Would Harm Older Americans](#)