



**MATTHEW G. BEVIN**  
GOVERNOR

**EXECUTIVE ORDER**

**Secretary of State**  
Frankfort  
Kentucky

**2018-040**  
**January 12, 2018**

**RELATING TO MEDICAID EXPANSION**

**WHEREAS**, Kentucky expanded its Medicaid Program under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, pursuant to executive action; and

**WHEREAS**, under Section 1115(a) of the Social Security Act, the Secretary of Health and Human Services is permitted to waive compliance with any of the requirements of section 1902 of the Social Security Act in order to pilot or test projects which, in the judgment of the Secretary, are likely to assist in “promoting the objectives” of the Medicaid program; and

**WHEREAS**, the Centers for Medicare & Medicaid Services (CMS) issued an information bulletin on November 6, 2017, setting forth changes and improvements to the existing Section 1115 waiver process, which includes re-defining the objectives that CMS seeks to promote in approving Section 1115 waivers; and

**WHEREAS**, the objectives that CMS seeks to promote in approving Section 1115 waivers include: (a) improve access to high-quality, person-centered services that produce positive health outcomes for individuals; (b) promote efficiencies that ensure Medicaid’s sustainability for beneficiaries over the long term; (c) support coordinated strategies to address certain health determinants that promote upward mobility, greater independence, and improved quality of life among individuals; (d) strengthen beneficiary engagement in their personal healthcare plan, including incentive structures that promote responsible decision-making; (e) enhance alignment between Medicaid policies and commercial health insurance products to facilitate smoother beneficiary transition, and (f) advance innovative



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delivery system and payment models to strengthen provider network capacity and drive greater value for Medicaid; and

**WHEREAS**, the Commonwealth of Kentucky submitted a Section 1115 Waiver Application to CMS on August 24, 2016, pursuant to which the Commonwealth sought to modify its Medicaid expansion program in order to empower and incentivize individuals to improve their health outcomes, ameliorate their socioeconomic standing, and gain employer sponsored coverage or other commercial health insurance coverage while simultaneously ensuring the program's long-term fiscal sustainability; and

**WHEREAS**, the objectives of Kentucky's Section 1115 Waiver Application are completely aligned with the revised objectives supporting the granting of Section 1115 waivers as published by CMS on November 6, 2017; and

**WHEREAS**, CMS approved Kentucky's Section 1115 Waiver Application on January 12, 2018; and

**WHEREAS**, statistical data collected by the Commonwealth confirms that merely providing access to health care alone to Medicaid beneficiaries without simultaneously addressing various social determinants of health and poverty does not meaningfully correlate to better health outcomes for Medicaid beneficiaries; and

**WHEREAS**, it is imperative for the long-term fiscal sustainability of the Medicaid expansion program that all components of Kentucky's Section 1115 Waiver and the accompanying Special Terms and Conditions be implemented within the demonstration period set forth in the Special Terms and Conditions; and

**WHEREAS**, the benefits to Medicaid beneficiaries from the implementation of Kentucky's Section 1115 Waiver, entitled Kentucky HEALTH, will be substantially compromised in the event any one or more of the components of Kentucky's Section 1115



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Waiver and the accompanying Special Terms and Conditions are prevented by judicial action from being implemented within the demonstration period set forth in the Special Terms and Conditions; and

**WHEREAS**, given all of the other financial obligations and commitments imposed upon the Commonwealth under Kentucky's Constitution, federal and Kentucky statutes, regulations and case law, the Commonwealth will not be able to afford to continue to operate its Medicaid expansion program as currently designed in the event any one or more of the components of Kentucky's Section 1115 Waiver and the accompanying Special Terms and Conditions are prevented by judicial action from being implemented within the demonstration period set forth in the Special Terms and Conditions; and

**WHEREAS**, the Commonwealth has invested significant resources in preparing for the implementation of Kentucky's Section 1115 Waiver, and any delay in the implementation of the Waiver due to judicial action will cause fiscal harm to the Commonwealth and will prevent Medicaid beneficiaries from realizing the benefits under the Waiver:

**NOW, THEREFORE**, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by Section 69 of the Constitution of the Commonwealth of Kentucky, do hereby Order and Direct the following:

- I. In the event one or more of the components of Kentucky's Section 1115 Waiver and the accompanying Special Terms and Conditions are prohibited from being implemented pursuant to a final judgment issued by a court of competent jurisdiction, with all appeals of the judgment having been exhausted or waived, the Secretary of the Cabinet for Health and Family Services and the Commissioner of the Department for Medicaid Services within the Cabinet for Health and Family Services are hereby directed to take the necessary actions to terminate Kentucky's Medicaid expansion program no later than six months from the date on which all appeals of the judgment have been exhausted or waived, or otherwise as soon as legally practicable under the remaining terms of the Special Terms and Conditions, applicable statutes or regulations.



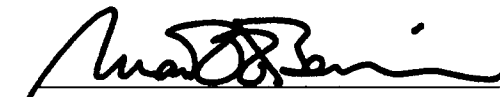
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ALISON LUNDERGAN GRIMES  
Secretary of State

  
MATTHEW G. BEVIN, Governor  
Commonwealth of Kentucky

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DATE

1/16/18

ALLIANCE OF MUNICIPALITIES

COUNTY OF STATE

COMMONWEALTH OF KENTUCKY

BY *R. Adkins*