

# **Exhibit B**

December 27, 2012

Susan Mosier, M.D.  
Medicaid Director  
Kansas Department of Health and Environment  
900 SW Jackson Ave., Suite 900  
Topeka, KS 66612

Dear Dr. Mosier:

This letter is to inform you that Kansas' request for a new section 1115(a) Medicaid demonstration, entitled "KanCare" (Project Number 11-W-00283/7), has been approved by the Centers for Medicare & Medicaid Services (CMS) in accordance with section 1115(a) of the Social Security Act (the Act). This approval is effective from January 1, 2013, through December 31, 2017.

Under this demonstration, Kansas will operate a statewide Medicaid reform effort that expands managed care to most Medicaid state plan populations with physical, behavioral, and long-term care services and support (LTSS). KanCare also provides managed care authority for the state's concurrent section 1915(c) home and community based services (HCBS) waivers, creating the first section 1115(a)/1915(c) combination. KanCare also creates a Safety Net Care Pool in the state, made up of two sub-pools: an Uncompensated Care (UC) Pool and a Delivery System Reform Incentive Payment (DSRIP) Pool.

Below are the primary components of Kansas' comprehensive statewide demonstration request that CMS has approved:

Managed care expansion

Under KanCare, nearly all state plan populations (including some dual eligibles) and individuals eligible through the state's concurrent section 1915(c) waivers will receive all state plan services and home and community-based services (HCBS) (with the exception of the mentally retarded/developmentally disabled (MR/DD) waiver) via a managed care delivery system. The concurrent 1915(c) waivers are: Autism waiver (KS-0476); Physically Disabled wavier (KS-0304); Technology Assisted waiver (KS-4165); Traumatic Brain Injury (KS-4164); Serious Emotional Disturbance waiver (KS-0320); Frail and Elderly waiver (KS-0303); and, Intellectual Disabilities/Developmental Disabilities (ID/DD; MR/DD) waiver (KS-0224). While state plan services for the MR/DD waiver will be provided via managed care beginning with the effective date in this letter, HCBS services for this waiver will continue to be provided on a fee-for-service basis until the state receives approval of section 1115 demonstration and 1915(c) waiver amendments to move these services into managed care. Per the demonstration proposal, CMS does not expect this delivery system change for the ID/DD waiver to occur any sooner than demonstration year 2.

Concurrent section 1115(a)/1915(c) authorities

Page 2 – Dr. Susan Mosier

The CMS is approving this demonstration as a section 1115(a)/1915(c) combination. The 1115(a) demonstration provides the authority to mandate 1915(c) waiver participants into managed care for all services, including HCBS. The concurrent 1915(c) waivers continue to contain eligibility standards, benefit specifications, and reporting requirements; other than the managed care authority provided by the section 1115(a) demonstration, these waivers continue to guide and define the state's HCBS program. Each 1915(c) waiver continues to have its own waiting list (if applicable), defined service package, and expiration date. This letter provides approval only for the section 1115 authority; approval for amendments to the current section 1915(c) waivers is issued separately.

#### ID/DD Pilot Project

The CMS is approving the request to operate a demonstration year 1 pilot project for individuals on the ID/DD 1915(c) waiver. This pilot project is voluntary, and will allow providers and beneficiaries to become familiar with the benefits of managed care for their HCBS, and will help the MCOs to learn more about the unique needs of this population and program.

#### Safety Net Care Pool

Beginning January 1, 2013, the state will end its existing supplemental payment programs for hospitals. Under KanCare, the state will operate a safety net care pool, which contains two sub-pools: the UC Pool and the DSRIP Pool. The UC Pool provides support for the uncompensated care costs eligible hospitals experience as a result of providing medical services to Medicaid eligible and uninsured individuals; this pool will operate throughout the demonstration. The DSRIP Pool will provide incentive payments to participating hospitals for the achievement of specified metrics related to reforming the health care delivery system and quality improvement initiatives. The DSRIP Pool will operate in years 2 through 5 of the demonstration.

#### Program Implementation Beneficiary Protections

Given the significant transition the state is undertaking with the single-day implementation of KanCare (with the exception of HCBS services for the ID/DD 1915(c) waiver), CMS is requiring the state agree to provide a number of beneficiary protections, including:

- Beneficiaries have access to consumer telephone hotlines such as through the enrollment broker, managed care plans, the Ombudsman Program, and choice counseling entities;
- The state will create an Ombudsman Program to assist beneficiaries in the resolution of conflicts with the managed care organizations (MCOs) regarding services, coverage, access, and rights;
- The state will oversee plans of care for beneficiaries in HCBS waiver programs;
- The state has added "good cause" reasons to allow beneficiaries to change managed care plans outside of the open enrollment period;
- The MCO must follow the existing LTSS service plan until the beneficiary either agrees to the revised plan or the issue is resolved through the appeals and fair hearings process;
- The state will conduct a KanCare educational tour during the first 180 days of the demonstration to educate beneficiaries during the transition;
- The state will conduct ride-alongs with each MCO during the first 180 days of implementation to observe the service planning process for each MCO;

Page 3 – Dr. Susan Mosier

- The state is required to maintain and keep current a KanCare website for the lifetime of the demonstration; and,
- The section 1915(c) waivers remain in place and all of the protections in section 1915(c) authority will remain.

In addition to these protections, the state is required to monitor call center statistics and hold regular calls with the MCOs during the first 180 days following implementation. The state must also participate in implementation monitoring calls with CMS for the first 180 days of KanCare, as a supplement to standard demonstration monitoring.

Requests CMS is Not Approving

As CMS staff have discussed with the state, there are also some requests that CMS is not able to approve at this time.

- Kansas requested to include the state's separate title XXI Children's Health Insurance Program (CHIP) in this demonstration. CMS determined that the state could accomplish the changes proposed under KanCare for the CHIP population via amendments to the title XXI state plan. The state agreed to pursue CHIP state plan amendments to implement KanCare for this program.
- The KanCare proposal would have limited the period of time a beneficiary could change plans without cause from the statutory 90 days to 45 days. This proposal raised a number of concerns for CMS, given the movement of vulnerable populations to managed care for the first time, and the state's current lack of a similar 45-day requirement for populations currently in managed care. CMS informed the state that it would not allow the state to limit the choice period to 45 days at this time, but that it might consider such a proposal as a demonstration amendment after the state has experience with the managed care expansion employing the choice period provided for by statute.
- The KanCare proposal included requests for several pilot projects. The state has agreed to pursue these pilot projects as amendments to the demonstration rather than as components of the initial demonstration approval, in order to allow the state and CMS to focus on the managed care implementation at this time.

Our approval of this demonstration is subject to the limitations specified in the enclosed approved expenditure and waiver authorities, and special terms and conditions (STCs). These documents specify the agreement between the Kansas Department of Health and Environment and CMS. The state may deviate from the Medicaid state plan requirements only to the extent those requirements have been specifically listed as granted expenditure authority or waived. All requirements of the Medicaid programs as expressed in law, regulation, and policy statement not expressly identified as waived in the waiver authorities shall apply to KanCare.

This approval is also conditioned upon continued compliance with the enclosed STCs which set forth in detail the nature, character, and extent of federal involvement in this demonstration and the state's obligations to CMS, including an evaluation of this demonstration, during the term of

Page 4 – Dr. Susan Mosier

the approval period. This award letter is subject to our receipt of your written acceptance of the award, including the waiver and expenditure authorities and the STCs, within 30 days of the date of this letter.

Your project officer is Ms. Jennifer Sheer, who may be reached at (410) 786-1769 and through e-mail at [Jennifer.Sheer@cms.hhs.gov](mailto:Jennifer.Sheer@cms.hhs.gov). Ms. Jennifer Sheer is available to answer any questions concerning your section 1115 demonstration. Communications regarding program matters and official correspondence concerning the demonstration should be submitted to Ms. Sheer at the following address:

Centers for Medicare & Medicaid Services  
Center for Medicaid and CHIP Services  
Mail Stop S2-01-16  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Official communication regarding program matters should be submitted simultaneously to Ms. Jennifer Sheer and Mr. James Scott, Associate Regional Administrator for the Division of Medicaid and Children's Health Operations in the CMS Kansas City Regional Office. Mr. James Scott's contact information is as follows:

Centers for Medicare & Medicaid Services  
Kansas City Regional Office  
Division of Medicaid and Children's Health Operations  
601 East 12th Street  
Room 355  
Kansas City, MO 64106

We extend our congratulations to you on this award, and we appreciate your cooperation throughout the review process. If you have additional questions, please contact Ms. Jennifer Ryan, Acting Director of the Children and Adults Health Programs Group within the Center for Medicaid and CHIP Services at (410) 786-5647.

We look forward to continuing to work with you and your staff.

Sincerely,

/s/

Marilyn Tavenner  
Acting Administrator

Enclosures

Page 5 – Dr. Susan Mosier

cc:

Ms. Cindy Mann, CMCS

Ms. Jennifer Ryan, CMCS

Mr. James Scott, ARA, Kansas City Regional Office

**CENTERS FOR MEDICARE & MEDICAID SERVICES  
WAIVER AUTHORITY**

**NUMBER:** 11-W-00283/7  
**TITLE:** KanCare  
**AWARDEE:** Kansas Department of Health and Environment

All requirements of the Medicaid program expressed in law, regulation, and policy statement, not expressly waived in this list, shall apply to the demonstration project beginning the date of the approval letter through December 31, 2017, unless otherwise specified. In addition, these waivers may only be implemented consistent with the approved Special Terms and Conditions (STCs).

Under the authority of section 1115(a)(1) of the Social Security Act (the Act), the following waivers of the state plan requirements contained in section 1902 of the Act are granted in order to enable Kansas to implement the KanCare Medicaid section 1115 demonstration for state plan populations and individuals eligible under the concurrent section 1915(c) waivers.

**1. Amount, Duration, and Scope of Services Section 1902(a)(10)(B)**

To the extent necessary to enable Kansas to vary the amount, duration, and scope of services offered to individuals, regardless of eligibility category, by providing additional services to individuals who are enrollees in certain managed care arrangements.

**2. Freedom of Choice Section 1902(a)(23)(A)**

To the extent necessary to enable Kansas to restrict freedom of choice of provider through the use of mandatory enrollment in managed care plans for the receipt of covered services. No waiver of freedom of choice is authorized for family planning providers.