



**Arkansas Department
of Health and Human Services
Division of Medical Services**



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April 14, 2006

Marguerite Schervish
Centers for Medicare and Medicaid Services
CMSO/DEHPG/Divisions of Integrated Health Systems
7500 Security Blvd., Mail Stop S2-14-26
Baltimore, MD 21244-1850

RE: No. 11-W-00116/6 (IndependentChoices) – Request to Extend and Amend

Dear Ms. Schervish:

Arkansas will soon accomplish a decade of offering consumer-directed services through the IndependentChoices Cash and Counseling demonstration. We wish to thank both the Central and Regional Offices of the Centers for Medicare and Medicaid Services (CMS) for their support and advice to the Arkansas Department of Health and Human Services, Division of Medical Services (DMS) and Division of Aging and Adult Services (DAAS) since the 1115 demonstration began in 1996. The IndependentChoices program has positively impacted many lives and has allowed person-centered planning to become a focus not only for the consumer but also for the agencies operating the IndependentChoices program.

We wish to extend the 1115 demonstration for an additional three years. This request to extend the IndependentChoices demonstration also comes with requests to amend some portions of the program. The amendment requests are a result of positive evaluation findings as well as agency experience gained from successfully operating the program for nearly 10 years.

Amendment Request:

1. **Eliminate the “New to Continuing Ratio of .41. *During the original design, the Office of Budget and Management (OMB) and others expressed concern about the “woodwork” effect. To measure the extent that this more attractive service delivery option might draw-in Medicaid eligibles who have elected not to request State Plan Personal Care, Arkansas closely monitored the number of participants who had not received prior to entertaining consumer direction. The following information and findings support this request to eliminate the “new to continuing ratio of .41:***
 - a. CMS allowed Arkansas to continue IndependentChoices without randomization on October 2, 2002. Eliminating random design offered all the ability to participate in IndependentChoices unless enrolling certain applicants without an experience with agency personal care or home and community based services

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Serving more than one million Arkansans each year

within the past twelve months would cause the New to Continuing ratio to exceed .41.

- b. Arkansas has never exceeded the ratio and eliminating the ratio would truly make consumer direction available to all.
- c. IndependentChoices program participants represent ten to twelve percent of those who choose to have their needs met through the traditional program. Everyone does not want to enroll in IndependentChoices to access cash.
- d. IndependentChoices is a good value. An average hour of care through the IndependentChoices program currently costs \$6.58. This is 52% less per hour than the traditional program. Counseling and fiscal management adds an average daily cost of \$2.42.
- e. The Medicaid program realizes significant savings for those granted an extension of benefits by the Division of Medical Services. Currently 8 program participants are receiving personal care for eight hours a day seven days a week. Instead of incurring traditional cost of \$3,356 per month these 8 program participants average cost per month is \$1,603 with an additional \$75.00 per month for counseling and fiscal services for a total average monthly cost of \$1,678 or 50% less than the cost for traditional personal care.

2. Eliminate Option 1. *One of the hypotheses of the C & C Demonstration and Evaluation Program offered participants two options to manage their cash allowance. The first option allowed individuals to report and pay payroll/employer tasks themselves (Option 1). The second (Option 2) provided a fiscal intermediary to perform these task on behalf of the participant. Arkansas is requesting that Option 1 be eliminated for the following reasons:*

- a. The initial cash and counseling design anticipated that many persons would be interested in receiving their cash allowance and independently managing all aspects of the allowance including fiscal activities. This never materialized. Fiscal services in Arkansas were provided to program participants at no cost and program participants were not interested in becoming proficient in state and federal tax laws.
- b. No more than six persons since December 1998 have selected this option.
- c. Currently only two persons who are married are Option 1 program participants.
- d. The request to eliminate offering Option 1 to future program participants does not include the two current Option 1 program participants. These two participants would be “grandfathered” allowing them choice and control to continue under Option 1 for as long as they wished to do so. If at any point either of these two participants should lose their ability to meet their responsibilities as an Option 1 participant they could choose to have their fiscal services provided by the financial management services provider.

3. Increase Cap - *Arkansas proposes to increase the approved participant limitation from 3,500 to 5,500 for the following reasons:*

Arkansas' approved Operational Protocol limits participation to no more than 3,500 active IndependentChoices program participants at any given time. Arkansas wishes to amend and raise the limitation to no more than 5,500 active participants at any given time. The program has grown by word of mouth, but DAAS is beginning a media campaign to make Arkansans more aware of programs offered by DAAS. This campaign along with the first generation of baby boomers turning sixty years of age in 2006 could have many favoring a health care delivery system that offers choice and control.

4. New Provider Manual – *Arkansas proposes to differentiate consumer directed personal care from the traditional personal care program by developing a separate provider manual and policy:*

Since inception, the IndependentChoices program fell under the Medicaid Personal Care provider manual. There are many policy and philosophical differences between traditional personal care and consumer-directed personal care. Arkansas would like to create a separate and distinct policy manual for IndependentChoices built on the principles of consumer direction. We would use the CMS approved Operational Protocol and contract requirements for support services as the foundation for the new provider manual.

5. Reassessments - *Arkansas proposes to revise the reassessment time frame from 180 days to annually for the following reasons:*

The Division of Aging and Adult Services operates three Home and Community Based Services (HCBS) waivers. Policy within the approved waivers allow for annual reassessments. The annual reassessments have posed no health and safety risks for a nursing home comparable population. An interim reassessment is available to anyone experiencing diminished functional ability or loss of a primary informal caregiver. Since this more fragile waiver population has experienced no adverse effects from the annual reassessment, the IndependentChoices program requests permission to amend the need for a reassessment from every 180 days to an annual reassessment. An interim reassessment may still be performed due to a decrease in functional ability or loss of an informal caregiver. Arkansas wishes to continue with two in-home visits annually as well as monthly or quarterly monitoring of program participants.

6. Changes in “Core Service” Definitions – *to clarify financial reporting:*

- a. When IndependentChoices was first approved, CMS identified a group of Core Services that were required for financial reporting to test whether the provision of an allowance would decrease the need for other in-home services. Even though personal care is the only service offered under the IndependentChoices

demonstration, CMS required financial reporting on the CMS-64 for these services:

- Ambulance
- Durable Medical Equipment/Oxygen
- Home Health Services
- Non Emergency Transportation
- Personal Care
- Targeted Case Management
- Home and Community Based Waiver Services
- Hospice

- b. The inclusion of these core services, particularly the Home and Community Based Services, has created problematic reporting issues between the 1115 64 forms and the 1915(c) 372 forms. This has caused a dilemma as HCBS services were being reported as a core service on the 64 and also reported on the 372. This has been a cumbersome process for DMS and for CMS as well as we try to reconcile the reports.
- c. The exclusion of these services as “core services” for the IndependentChoices participants would not prohibit an IndependentChoices participant from receiving any of these services for which they qualify through the Arkansas Medicaid program.

7. Add new services - Arkansas requests adding attendant care and companion services as IndependentChoices services in addition to personal care:

- a. The addition of attendant care and companion services in addition to personal care will provide more flexibility for the individual participants to meet needs based on their MDS-HC assessment. A positive outcome of the evaluation showed IndependentChoices decreased the need for nursing home care. Participants who meet the nursing home level of care were able to stay home, as well as individuals leaving the nursing home and entering IndependentChoices showed medical improvement by returning home. Adding attendant care and companion services will enhance the ability for these individuals to remain at home. These three services will not overlap or duplicate in the IndependentChoices program and will not duplicate other State Plan or waiver services. While attendant care and companion services may include similar tasks, by definition they are not duplicative. The definitions below are definitions existing in a current 1915(c) waiver or a new 1915(c) application soon to be submitted to CMS.
 - **Attendant Care** – the provision of assistance to a medically stable and/or physically disabled person to accomplish those tasks of daily living that the person is unable to complete independently. The required assistance may vary from actually doing a task for the person, assisting the person in

performing the task him/herself or providing safety support while the person performs the task. Housekeeping activities that are incidental to the performance of care may also be furnished.

- **Companion Service** - Non-medical care, supervision and socialization, provided to a functionally impaired adult. Companions may assist or supervise the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on nursing care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the individual. This service is provided in accordance with a therapeutic goal in the plan of care, and is not purely diversional in nature.

- b. Utilizing a consumer directed approach; each person that elects to receive attendant care services must agree to and be capable of recruiting, hiring, training, managing, terminating and approving payment through the submission of service logs/timesheets for their attendant.
- c. Arkansas has one approved 1915(c) HCBS Waiver – Alternatives for Persons with Physical Disabilities that includes Attendant Care as a waiver service. Policy allows Attendant Care in addition to state plan personal care services as long as it is not a duplication of service. Arkansas is in the process of modifying the definition of Attendant Care for one of its 1915 (c) HCBS waivers to include the workplace. The IndependentChoices program would like to allow the workplace as a setting to receive personal care too.
- d. Arkansas will in 2006 submit a new waiver application and request amendments to an existing 1915(c) HCBS waiver asking to add Companion Service as a waiver service.

8. Use a New Assessment Instrument for a Diverse Population - *Arkansas proposes to perform standardized assessments using a new, more appropriate instrument for the following:*

- a. Currently there are 1,383 active IndependentChoices participants. Those 1,383 participants can be described in the following way:
 - 1,155 participants or 84% of the active participants receive 14.75 hours of personal care or less per week. Anything above 14.75 hours per week requires an extension of benefits from Medicaid.
 - 153 participants or 11.06% receive more than the Medicaid benefit limit of 14.75 hours of personal care per week. Yet the cost for these services does not exceed the cost of the traditional personal care benefit limit of 64 hours per month at \$13.84 per hour or \$885.76 per month.

- 75 participants or 5% of the active participants receive an extension of benefits that is greater than the cost of 64 hours of traditional personal care a month.
 - b. As stated before, there are IndependentChoices participants who would meet a nursing home level of care and also those who have left a nursing home and are having their needs met through the IndependentChoices program.
 - c. To better assess and serve this population, Arkansas requests to use the Minimum Data Set – Home Care (MDS-HC) as the assessment instrument. The MDS-HC is a standardized, minimal assessment tool for clinical use. Use of the MDS-HC lays the groundwork in the form of Client Assessment Protocols (CAPs). These CAPs trigger results in identifying individual needs of each participant. The CAPs assist in problem identification, identification of problem causes and associated conditions, and specification of necessary care goals and related approaches to care.
 - d. Arkansas will include the results of the CAPs in its quality management plan for IndependentChoices. The ability to identify individual health risks and to communicate individual needs during in-home visits, while performing monthly or quarterly monitoring, gives the DAAS the ability to implement policies that are person-centered addressing individual or groups of people with specific health needs. DAAS will use evidentiary data (CAP triggers) to determine who is in need of critical monitoring each month. Use of the MDS-HC and utilizing the CAP triggers will identify persons who may require more frequent monitoring.
 - e. Additionally the CAP triggers will serve as an excellent opportunity to educate the participant, representative, workers or family members on potential health issues as a result of the individual CAP triggers set by the MDS-HC assessment.
 - f. In addition to the CAP triggers, the MDS-HC assessment will classify participants into Resource Utilization Groups (RUG) RUG-III. The MDS-HC uses seven measures of Instrumental Activities of Daily Living (IADLs), describing higher level integrative functioning, such as shopping, managing medications, meal preparation, ordinary housework, managing finances, phone use and transportation. The MDS-HC assesses the IADL strengths along with the Activities of Daily Living (ADLs) toileting, eating, transfer and bed mobility to provide distinct definition of the personal care user. Altogether the MDS-HC covers nearly 300 individual items in describing strengths and needs of home care clients.
 - g. The results of each MDS-HC will identify the individual needs of program participants.
- 9. DAAS as Counselors - Arkansas proposes to use DAAS IndependentChoices staff to provide consumer-directed counseling supports for the following reasons:**

- a. Since August 2003, the DAAS has supported the cost of continuing the IndependentChoices program by providing the counseling services for sixty counties in Arkansas using state staff. DAAS' budget supported the payroll cost of additional Registered Nurses and counseling staff. During this time Arkansas was able to experience first hand the day to day operation of providing counseling services. This provided invaluable insight in ways to evaluate and implement quality improvement measures for the day to day operation of the program. Many improvements were made and shared with the contractor in Eastern Arkansas who also adopted many of these improvements. Due to this experience, Arkansas requests that IndependentChoices be allowed to provide counseling either by DAAS staff or a contracted entity.
- b. The DHHS Director and Deputy Directors support the IndependentChoices program and have secured vacant positions that can be reallocated to DAAS to support the work of DAAS IndependentChoices staff.
- c. Arkansas shared all aspects of providing counseling and fiscal services with the new Cash & Counseling states in the spring and summer of 2004. It was a positive orientation experience for the new states.

Other Requests:

1. 1115 vs. 1915(c) Waiver

Arkansas wishes to continue operating the program as an 1115 Research and Demonstration Waiver for its ability to make payments prospectively, provide cash to participants, waiving of provider agreements, and direct payment to providers.

2. Budget Neutrality - we propose including '07, '08 and '09 Demonstration Years with increased monthly trend amounts.

Arkansas DAAS and CMS worked extensively together during DY03 to measure budget neutrality based on receipt of consumer-directed services and not by random assignment. Arkansas and CMS analyzed the data to arrive at budget neutrality based on a trended Monthly per Person Cost (MPPC). The trend became effective October 2001. Arkansas wishes to continue with the trended MPPC rates established by CMS and establish these rates for Demonstration Year 2007, 2008 and 2009 to continue at the same rate of increase as established by CMS.

Demonstration Year	Trended Monthly per Person Cost
DY 2007	\$1,022
DY 2008	\$1,073
DY 2009	\$1,126

3. Arkansas Designation as an “Independence Plus” State - *Since CMS has designated Arkansas as an Independence Plus program, we request this designation remain in effect. The following information supports that request:*

- a.** Arkansas is designated as an “Independence Plus” state as we are person-centered in our approach to offering the IndependentChoices program.
- b.** Program participants with complaints are afforded access to an Ombudsmen who represents Home and Community Based Services waiver recipients (including IndependentChoices participants) as in the same capacity as does the LTC Ombudsmen program.
- c.** The IndependentChoices program works with participants to establish an individual budget. Developing the Cash Expenditure Plan or budget always begins with “What is important to you” in using your allowance.
- d.** The IndependentChoices program offers counseling and fiscal services as support services to IndependentChoices participants. There is no additional charge to the participant for these services.
- e.** Arkansas Quality Management Plan uses a combination of resources to promote quality. Experienced well trained nurses perform assessments to measure a participant’s need for personal care. The nurse will communicate with the physician and other health professionals as needed. The overall goal is to seek authorization that neither under serves nor over serves the individual needs of the participant. The IndependentChoices program monitors the use of the allowance and the performance of its contractors by receipt of quarterly reports and makes monitoring visits with these contractors no less frequently than semi-annually. Program participants are afforded monthly and quarterly monitoring and semi-annual home visits. All program participants have access to a toll-free number to contact DAAS, or a counseling or fiscal contractor. Arkansas developed a database and uses it extensively to monitor program outcomes. In 2006 Arkansas will have available an interactive web-based - DAAS HOMECARE Website for use by program participants, contractors, DAAS and DMS staff. The website will encompass all facets of the program. Staff from the Home and Community Based Ombudsmen program will also have access to this website.
- f.** Arkansas strives to offer a program that measures quality through the eyes of the program participants. We can not always oblige every request from a participant but we can always listen and consider.

Arkansas wishes to continue all waivers approved in the original waiver request. Arkansas will work with CMS to amend the Terms and Conditions to reflect all changes supported by CMS. DMS will administer the IndependentChoices program per CMS approval of Arkansas Operational Protocol. Arkansas will begin work on revising its Operational Protocol upon CMS direction.

Arkansas looks forward to discussing these requests with CMS. If there are any immediate questions you may have please feel free to address those concerns to Debbie Hopkins (501) 682-

8303 or you may e-mail Debbie at debbie.hopkins@medicaid.state.ar.us. She will coordinate with others within the Division of Medical Services and those within the Division of Aging and Adult Services to address any CMS concern.

Sincerely,

Roy Jeffus
Director