CENTERS FOR MEDICARE & MEDICAID SERVICES
SPECIAL TERMS AND CONDITIONS
(Effective February 1, 2004)

NUMBER: 11-W-00181/8

TITLE: Montana 1115 Demonstration

AWARDEE: Montana Department of Public Health and Human Services

TABLE OF CONTENTS

I. PREFACE 2

II. GENERAL CONDITIONS 3

III. LEGISLATION 5

I. PREFACE

The following are terms and conditions for the award of the Montana 1115 demonstration waiver request. The terms and conditions have been arranged into two broad subject areas: General Conditions and Legislation.

In addition, specific requirements are attached, entitled: General Financial Requirements Under Title XIX (Attachment A); General Reporting Requirements (Attachment B); Monitoring Budget Neutrality (Attachment C); and Outline for Operational Protocol (Attachment D).

II. GENERAL CONDITIONS

1. Unless otherwise specified, where the State is required to obtain CMS approval of a submission (e.g. protocol change), CMS will make every effort to respond to the submission in writing within 30 days of receipt of the submission. CMS and the State will make every effort to ensure that each submission is approved within sixty days from the date of CMS's receipt of the original submission.

2. The State shall prepare one protocol document that represents and provides a single source for the policy and operating procedures applicable to this demonstration which have been agreed to by the State and CMS during the course of the waiver negotiation and approval process. During the demonstration, subsequent changes to the protocol which are the result of major changes in policy or operating procedures should be submitted no later than 60 days prior to the date of implementation of the change(s) for approval by CMS. The Special Terms and Conditions and Attachments include requirements that should be included in the protocol. Attachment D is an outline of areas that should be included in the protocol. Where not specified in the protocol, the State's original waiver proposal and subsequent amendments and extension requests, as modified or clarified in written responses to CMS questions, shall govern.

3. The State will submit a phase-out plan of the demonstration to CMS six months prior to initiating normal phase-out activities and, if desired by the State, an extension plan on a timely basis if the waiver is extended by CMS. Nothing herein shall be construed as preventing the State from submitting a phase-out plan with an implementation deadline shorter than six months when such action is necessitated by emergent circumstances. The phase-out plan is subject to CMS review and approval.

4. CMS may suspend or terminate any project in whole or in part at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the project. CMS will promptly notify the awardee in writing of the determination and the reasons for the suspension or termination, together with the effective date. The State waives none of its rights to challenge CMS's finding that the State materially failed to comply. CMS reserves the right to withdraw waivers at any time if it determines that continuing the waivers would no longer be in the public interest. If a waiver is withdrawn, CMS will be liable for only normal close-out costs.

5. **Evaluation of Demonstration**

A. The State shall submit to CMS for approval within 90 days from the award of the demonstration a draft design of an evaluation design. At a minimum, the report shall include an integrated presentation and discussion of the specific hypotheses (including those that focus specifically on the target population for the demonstration) that are being tested. The report will discuss the outcome measures that will be used in evaluating the impact of the demonstration during this period, particularly among the target population. It will discuss the data sources and sampling methodology for assessing these outcomes. The evaluation design must include a detailed analysis plan that describes how the effects of the demonstration will be isolated from those other initiatives occurring in the State. The report will identify whether the State will implement the evaluation, or select an outside contractor for the evaluation. CMS will provide comments on the report within 30 days of receipt, and the State will submit a final report within 30 days of receipt of CMS comments.

B. The State will implement the evaluation design, and submit to CMS a draft evaluation report 120 days prior to the expiration of this demonstration. CMS will provide comments within 60 days of receipt of the report. The State shall submit the final report prior to the expiration date of this demonstration.

6. The State will comply with:

   a. General Financial Requirements Under Title XIX (Attachment A)
   b. General Reporting Requirements (Attachment B)
   c. Monitoring of Budget Neutrality (Attachment C)
   d. Outline for Operational Protocol (Attachment D)

7. Substantive changes to the demonstration design will require submission of a formal amendment to the proposal and advance CMS approval. The State will work with CMS in amending the waiver application in the later stages of the demonstration program.

III. LEGISLATION

1. a. All requirements of the Medicaid program expressed in law not expressly waived or identified as not applicable in the award letter of which these terms and conditions are part, shall apply to Montana's demonstration. To the extent the enforcement of such laws through regulations and official policy statements issued by a Center director and/or Associate Regional Administrator or higher would have affected State spending in the absence of the demonstration in ways not explicitly anticipated in this agreement, CMS shall incorporate such effects into a modified budget limit for the demonstration. The modified budget limit would be effective upon enforcement of the law, regulation, or policy statement. CMS will have two years after the waiver award date to notify the State that it intends to take action. The growth rates for the budget neutrality baseline, as described in Attachment C, are not subject to this special term and condition. If the law, regulation, or policy statement cannot be linked specifically with program components that are or are not affected by the demonstration (e.g., all disallowances involving provider taxes or donations), and if CMS and the State working in good faith to ensure State flexibility in deciding where the appropriate modifications should occur, do not agree within 90 days to establish an alternative methodology for revising the without waiver baseline, the effect of enforcement on the State's budget limit shall be proportional to the size of the demonstration in comparison to its entire Medicaid program (as measured in aggregate medical assistance payments).

   b. The State shall, within the time frame specified in law, come into compliance with any changes in Federal law affecting the Medicaid program that occur after the date of the award letter. To the extent that a change in Federal law, which does not exempt State section 1115 demonstrations, would affect State Medicaid spending in the absence of the waiver, CMS shall incorporate such changes into a modified budget limit for the demonstration. The modified budget limit would be effective upon implementation of the change in Federal law, as specified in law. If the new law cannot be linked specifically with program components that are or are not affected by the demonstration (e.g., laws affecting sources of Medicaid funding), the State shall submit its methodology to CMS for complying with the change in law. If the methodology is consistent with Federal law and in accordance with Federal projections of the budgetary effects of the new law in Montana, CMS would approve the methodology. Should CMS and the State, working in good faith to ensure State flexibility, fail to develop within 90 days a methodology to revise the without waiver baseline that is consistent with Federal law and in accordance with Federal budgetary projections, a reduction in Federal payments shall be made according to the method applied in non-waiver States.

   c. The State may submit to CMS an amendment to the program to request exemption from changes in law occurring after February 1, 2004. The cost to the Federal government of such an amendment must be offset to ensure that total projected expenditures under the demonstration do not exceed projected expenditures in the absence of the demonstration (assuming full compliance with the change in law).

ATTACHMENT A

General Financial Requirements Under Title XIX

1. Montana will provide quarterly expenditure reports using the Form CMS-64 to report total expenditures for services provided under the Medicaid program, including those provided through the demonstration under section 1115 authority. This project is approved for expenditures applicable to services rendered during the demonstration period. The CMS will provide Federal Financial Participation (FFP) for allowable demonstration expenditures only so long as they do not exceed the pre-defined limits that are established in accordance with Attachment C (Monitoring Budget Neutrality).

2. a. In order to track expenditures under this demonstration, the State will report demonstration expenditures through the Medicaid and State Children's Health Insurance Program Budget and Expenditure System (MBES/CBES), following routine CMS-64 reporting instructions outlined in Section 2500 of the State Medicaid Manual. All expenditures subject to the budget neutrality cap will be reported on separate Forms CMS-64.9 WAIVER and/or 64.9P WAIVER, identified by the demonstration project number assigned by CMS (including the project number extension, which indicates the demonstration year in which services were rendered or for which capitation payments were made). For monitoring purposes, cost settlements must be recorded on Line 10.b, in lieu of Lines 9 or 10c. For any other cost settlements (i.e., those not attributable to this demonstration), the adjustments should be reported on lines 9 or 10.c, as instructed in the State Medicaid manual. The term, "expenditures subject to the budget neutrality cap," is defined below in item 2.c.

   b. For each demonstration year, separate Form CMS-64.9 WAIVER and/or 64.9P WAIVER will be submitted reporting expenditures for individuals enrolled in the demonstration. Complete separate forms for demonstration enrollees as - *Able-bodied adults*. The sum of the quarterly expenditures for all demonstration years will represent the expenditures subject to the budget neutrality cap (as defined in 2.c.). The procedures for the reporting these expenditures will be described in the Operational Protocol (see Section II.2 and Attachment D).

   c. For the purpose of this section, the term "expenditures subject to the budget neutrality cap" will include all Medicaid expenditures on behalf of individuals who are enrolled in the demonstration. All expenditures that are subject to the budget neutrality cap are considered demonstration expenditures and will be reported on Form CMS-64.9 WAIVER and/or 64.9P WAIVER.

   d. Premiums and other applicable cost sharing contributions from enrollees that are collected by the State from enrollees under the demonstration will be reported to CMS on the CMS-64 Summary Sheet on Line 9.D., in order to assure Medicaid is properly credited with premium collections.

e. Administrative costs will not be included in the budget neutrality limit, but the State must separately track and report additional administrative costs that are directly attributable to the demonstration. All administrative costs will be identified on the Forms CMS-64.10 WAIVER and/or 64.10P WAIVER.

f. All claims for expenditures subject to the budget neutrality cap (including any cost settlements) must be made within 2 years after the calendar quarter in which the State made the expenditures. Furthermore, all claims for services during the demonstration period (including any cost settlements) must be made within 2 years after the conclusion or termination of the demonstration. During the latter 2-year period, the State must continue to identify separately waiver expenditures related to dates of service during the operation of the 1115 demonstration on the Form CMS-64 in order to properly account for these expenditures in determining budget neutrality.

g. The procedures related to this reporting process, report contents, and frequency must be discussed by the State in the Operational Protocol.

3. a. For the purpose of calculating the budget neutrality expenditure cap referenced in Attachment C, the State must provide to CMS on a quarterly basis the actual number of eligible member/months for the Able-bodied adults as defined below. This information should be provided to CMS in conjunction with the quarterly progress report referred to in Attachment B. If a quarter overlaps the end of one demonstration year (DY) and the beginning of another, member/months pertaining to the first DY must be distinguished from those pertaining to the second. (Demonstration years are defined as the years beginning on the first day of the demonstration, or the anniversary of that day.) Procedures for reporting eligible member/months must be defined in the Operational Protocol (see Section II.2 and Attachment D).

b. The term, "eligible member/months" refers to the number of months in which persons are eligible to receive services. For example, a person who is eligible for 3 months contributes three eligible member/months to the total. Two individuals who are eligible for 2 months each contribute two eligible member months to the total, for a total of four eligible member/months.

4. The standard Medicaid funding process will be used during the demonstration. Montana must estimate total matchable Medicaid expenditures on the quarterly Form CMS-37. In addition, the estimate of matchable demonstration expenditures (total computable/federal share) subject to the budget neutrality cap must be separately reported by quarter for each federal fiscal year on the Form CMS-37.12 for both the Medical Assistance Program (MAP) and Administrative Costs (ADM). CMS will make Federal funds available based upon the State's estimate, as approved by CMS. Within 30 days after the end of each quarter, the State must submit the Form CMS-64 quarterly Medicaid expenditure report, showing Medicaid expenditures made in the quarter just ended. CMS will reconcile expenditures reported on the Form CMS-64 with Federal funding previously made available to the State, and include the reconciling adjustment in the finalization of the grant award to the State.

5. CMS will provide Federal Financial Participation (FFP) at the applicable Federal matching rate for the following, subject to the limits referenced in Attachment C:

   a. Administrative costs, including those associated with the administration of the demonstration.
   b. Net expenditures and prior period adjustments of the Medicaid program that are paid in accordance with the approved State Plan.
   c. Net medical assistance expenditures made under Section 1115 demonstration authority, including those made in conjunction with the demonstration.

6. The State will certify State/local monies used as matching funds for the demonstration and will further certify that such funds will not be used as matching funds for any other Federal grant or contract, except as permitted by Federal law.

ATTACHMENT B

General Reporting Requirements

1. a. Through implementation, the State will report on its progress in a series of quarterly conference calls with the CMS project officer, and will develop a detailed agenda prior to each call. Subsequently, the State will submit quarterly progress reports (including appeals and grievances), which are due 60 days after the end of each quarter.

   b. The reports should include a brief narrative of events occurring during the quarter that will affect access to health care, enrollment, member months, financial viability, or other key operational areas. The report should also include proposals for addressing any significant problem areas.

2. The State will submit a draft annual report, documenting accomplishments, project status, quantitative and case study findings, and policy and administrative difficulties no later than 120 days after the end of its operational year. Within 30 days of receipt of comments from the Center for Medicaid and State Operations (CMSO), a final annual report will be submitted.

3. At the end of the demonstration, a draft final report should be submitted to the CMS project officer for comments. CMS's comments should be taken into consideration by the awardee for incorporation into the final report. The awardee should use the CMS, ORD's Author's Guidelines: Grants and Contracts Final Reports (copy attached) in the preparation of the final report. The final report is due no later than 90 days after the termination of the project.

ATTACHMENT C

Monitoring Budget Neutrality

The following describes the method by which budget neutrality will be assured under Montana's 1115 demonstration. Montana will be subject to a limit on the amount of Federal title XIX funding that the State may receive on selected Medicaid expenditures during the waiver period. This limit is based on the estimated cost of serving the currently eligible population (as defined below) in the absence of a demonstration. The product of the cost estimate and the applicable Federal Medical Assistance Percentage (FMAP) will constitute the limit on the amount of Federal financial participation (FFP) that the state may receive. The following section describes the method for calculating the expenditure limit.

For the purpose of calculating the expenditure limit, separate budget estimates will be calculated for each demonstration year (DY) and then added together to obtain an expenditure estimate for the entire waiver period. The Federal share of this estimate will represent the maximum amount of FFP that the State may receive during the 5-year waiver period (February 1, 2004, through January 31, 2009). For each Federal fiscal year, the Federal share will be calculated using the FMAP rate for that year.

Annual budget estimates will be the sum of separate costs projections for the Medicaid enrollment group (MEG) of beneficiaries currently participating in the demonstration. The MEG under the demonstration is: "Able-bodied adults."

Montana will be at risk for the per capita cost (as determined by the method described below) for current eligibles (as defined by MEG above). By providing FFP for all current eligibles, Montana will not be at risk for changing economic conditions. However, by placing Montana at risk for the per capita costs for current eligibles, CMS assures that the demonstration expenditures do not exceed the level of expenditures had there been no demonstration.

Budget neutrality will be determined on a five-year basis rather than on an annual basis. Any savings from budget neutrality may only be applied to an eligibility expansion or to offset demonstration costs in excess of the budget neutrality caps during this period. The State must submit for CMS approval any waiver amendments requesting an expansion.

Calculation of the Expenditure Limit

The method for calculating the expenditure limit for the demonstration follows. For each year of the demonstration, the estimated cost of serving Able-bodied adults, will be calculated by multiplying the actual number of eligible months for Able-bodied adults (as reported by the state under Attachment A, 3.a.) by the estimated per member/per month (PMPM) cost, which are given in the table below. By this method, a cost estimate is obtained for each year of the demonstration. At the end of the demonstration period, the Federal shares of the annual estimates will be calculated, using the FMAP rates applicable to each year. The sum of the annual Federal shares will be the limit on the amount of FFP that the state may receive during the demonstration period.

Estimated PMPM Cost

Montana currently operates a Welfare Reform demonstration entitled "Families Achieving Independence in Montana" (FAIM) which includes an element addressing Medicaid services for Able-bodied Adults. This 1115 demonstration project will continue the title XIX portion of the old demonstration in the same manner (i.e. the same targeted population, the same benefit package).

To determine base year, without-waiver costs, Medicaid costs and estimated savings generated by the abbreviated FAIM benefit package were used to determine a base year cost. Actual FAIM costs from State fiscal year (SFY) 2002 (July 1, 2001-June 30, 2002) were combined with an estimated cost differential for services available in the Medicaid state plan package but not available under the FAIM benefit package (FAIM savings). Base year costs for FAIM savings is SFY 1998 (the last year of actual costs available reported by the State for this population). FAIM savings were trended forward at each annual President's budget growth rate from FFY 1999 to FFY 2002.

The base year for estimating PMPM costs for Able-bodied adults in the absence of the demonstration will be SFY 2002 costs for both services in the benefit package and service savings estimates. The SFY 2002 base year PMPM is $239.73, which comprises $215.53 for the demonstration benefit costs and $24.20 for estimated savings. This base year cost was trended forward to demonstration year one by using a monthly equivalent of the FFY 03 annual President's budget growth rate of 8.6 percent for 19 months.

Projected per member/per month cost by eligibility and expenditure category for DY 1 and beyond are calculated by inflating the base year costs by 7.7 percent annually. The resulting PMPM budget neutrality caps are as follows:

Eligibility Category	DY 1 PMPM	DY 2 PMPM	DY 3 PMPM	DY 4 PMPM	DY 5 PMPM
Able-bodied adults	$294.21	$316.87	$341.27	$367.54	$395.84

How the Limit Will Be Applied

The limit calculated above will apply to actual expenditures, as reported by the State under Attachment A, 1. If at the end of the demonstration period the budget neutrality limit has been exceeded, the excess Federal funds will be returned to CMS. No new limit is placed on FFP that the state may claim on expenditures for recipients and program categories not listed. If the demonstration is terminated prior to the 5-year period, the budget neutrality test will be based on the time period through the termination date.

Should any demonstration year contain less than a full 12 months, a monthly trend rate based on the annual rate shall be applied to the partial year to develop budget neutrality caps for the period. The formula for this monthly equivalent is: $(1 + \textit{growth rate})^{1/12}$.

Expenditure Review

Should the State fail to include the appropriate Form CMS 64.9 WAIVER reports separately identifying all demonstration expenditures with its Quarterly Expenditure Report as required by Special Terms and Conditions of Attachment A, the State will be out of compliance with these Special Terms and Conditions.

CMS shall enforce budget neutrality over the life of the demonstration, rather than on an annual basis. However, no later than six months after the end of each demonstration year, CMS will calculate an annual expenditure target for the completed year. This amount will be compared with the actual FFP claimed by the State under budget neutrality. Using the schedule below as a guide, if the State exceeds the cumulative target, they shall submit a corrective action plan to CMS for approve. The State will subsequently implement the approved program.

Year	Cumulative Target	Percentage
Year 1	Year 1 budget neutrality cap plus	8%
Year 2	Years 1 and 2 combined budget neutrality cap plus	3%
Year 3	Years 1 through 3 combined budget neutrality cap plus	1%
Year 4	Years 1 through 4 combined budget neutrality cap plus	.5%
Year 5	Years 1 through 5 combined budget neutrality cap plus	0%

Questions and Answers for Approval of the State of Montana's Amendment to its Section 1115 Medicaid Demonstration

Q. What does this amendment do?

A. This amendment corrects a technical error contained in the budget neutrality section (Attachment C) of the special terms and conditions that were approved on January 29, 2004. Originally the base year cost was trended forward to demonstration year one by using a monthly equivalent of the Federal fiscal year 2003 annual President's budget growth rate of 8.6 percent for 18 months, instead 19 months should have been used. As shown below, this change has affected the PMPM costs.

	Eligibility Category	DY1 PMPM	DY2 PMPM	DY3 PMPM	DY4 PMPM	DY5 PMPM
Original	Able-Bodied Adults	$292.20	$314.40	$338.93	$365.03	$393.13
Amended	Able-Bodied Adults	$294.21	$316.87	$341.27	$367.54	$395.84

Q. Why is the State making this change?

A. This change is being made to correct a technical error. Originally, 18 months of trend rate was used to span the base year to DY1, but 19 months of trend rate should have been used.

Q. How many enrollees will this amendment impact?

A. None.

Q. Why is the Department recommending approval of this amendment?

A. The Department is recommending approval because the Department agrees with the technical correction.

Q. What is the effective date for the amendment?

A. This amendment is effective retroactive to February 1, 2004, the beginning of the demonstration.

Q. How does this amendment affect the State's budget neutrality agreement?

A. This amendment will increase projected savings under the budget neutrality agreement.

ATTACHMENT D

Outline for Operational Protocol

The protocol is a stand-alone document that reflects the operating policies and administrative guidelines of the demonstration. The State shall assure and monitor compliance with the protocol. Areas that should be addressed in the document include:

1. organizational and structural configuration of the demonstration arrangements
2. benefit package
3. Medicaid eligibility process
4. eligibility simplification
5. administrative and management system
6. financial reporting

CMS review and approval of the protocol will be consistent with the waivers granted and the proposal, as amended by the questions and answers submitted by the State.