



RE: TennCare II - Amendment 42: Block Grant

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Tennessee is a Medicaid non-expansion state that proposes to amend an existing Medicaid waiver so that the Department of Health and Human Services (HHS) would fund the Medicaid program in Tennessee with a “modified block grant.” Tennessee requests that the federal share of Medicaid funding become a limited sum that allows the state to avoid federal laws that specify eligibility, benefits covered, enrollment safeguards, delivery protections, and other core features of Medicaid. The TennCare II proposal proposes an aggregate amount of funding that cannot be reduced below a baseline amount, even if spending falls below baseline levels. In such an event, Tennessee envisions that the state could keep half of the profit and use it for “health.” The baseline is historical, rooted in an aggregate of average expenditures for eligible populations over the 2016– 2018 time period. Any new categories of beneficiaries would be introduced into TennCare II through separate funding.

No federal law permits the TennCare II arrangement. Even if law permitted such an arrangement, no federal law or policy guides the state’s radical proposal. Tennessee appears to assume that any alteration of Medicaid law is within the Secretary’s power, but this is simply not the case. We explain below that (1) the Secretary does not have authority to waive section 1903, which delineates federal funding obligations for Medicaid; (2) a block grant does not serve the legal purpose of Medicaid, to furnish medical assistance to the poor; and (3) the proposal appears to be an attempt to circumvent legal requirements. We also briefly address foreseeable harms that would result from a block grant payment structure.