

# TOP 6 POTENTIAL STICKING POINTS IN THE WAIVER REQUEST

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## Waiver request

## Potential reasons for non-approval

1. Advisory Commission
  - CMS may want to retain final approval rights before TN makes major programmatic changes
2. Drug formulary design ("C" drugs to be off-formulary)
  - CMS has not waived formulary provision for any other states
3. Waiver from emergency services requirements to avoid appeals on limits based on emergency services
  - CMS has not granted it to other states and would likely face heavy public backlash
4. Elimination of drug classes
  - Novelty of request and strong resistance from pharmaceutical manufacturers embedded in federal legislation
5. Hard six-script prescription drug limit
  - Even for the expansion class, CMS may require some "medically necessary" exception process and/or appeals
6. Level of cost-sharing for the expansion population without an OOP-maximum
  - Recent federal litigation regarding above nominal cost-sharing for any population
  - Majority of other states with mandatory copays have an out of pocket maximum

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# ALTERNATIVE STRATEGIES TO ADDRESS POTENTIAL CMS STICKING POINTS

State savings (FY08)

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Waiver request	State savings (FY08)		Potential alternative strategy
	Total	Net	
1. Advisory Commission	TBD	TBD	<ul style="list-style-type: none"> <li>Entire CMS strategy may require a ground-up redesign</li> <li>Reduce pharmacy limit for the expansion population and/or a limit on the number of branded prescriptions for all categories</li> <li>Institute an OOP max for Group 2 population</li> </ul>
2. Drug formulary design	310	TBD*	
3. Waiver of emergency services requirements**	TBD	TBD	
4. Elimination of drug classes	115	TBD***	
5. Hard six-script drug limit**	TBD	TBD	
6. Copays without an OOP Max	N/A	N/A	

\* Little initial impact but potentially total loss of savings if challenged in court

\*\* Loss of savings depends on what you believe would happen around appeals

\*\*\* Largely depends on what happens with Griev

# FEW, IF ANY, STRATEGIES REMAIN TO INCREASE SAVINGS

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Limitation(s)

1. Limits
  - Expose the core population to limits
  - Reduce the pharmacy limit for the expansion population
  - Moderate: CMS' 92% impact test
  - Minimal: CMS approval
2. Cost-sharing
  - Expose the Group 1 core population to copays
  - Institute premiums for Group 1
  - Increase premiums for the optional populations (2 & 3)
  - Severe: Would have to be nominal and non-mandatory
  - Minimal/moderate: Appropriate levels of cost-sharing would be low; CMS has more approval flexibility here
  - Moderate/severe: already tiered to income
3. Benefits
  - Eliminate optional benefits
  - Moderate/severe: most remaining optional benefits fall into the last-resort category (e.g., LTC)
4. Eligibility
  - Eliminate certain expansion categories
  - Severe: absolute last-resort from a policy perspective

To date, we've focused our efforts on setting public expectations around local consent decrees - but not potential fallout from CMS negotiations

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