Laura Burr: Welcome to Dialogue4Health and today's web forum Medicaid Section 1115 Demonstration Waivers: Strategies for Protecting Access to Care. We thank the Center for Health Law and Policy of Harvard Law School and this event sponsors, the GO2 Foundation for Lung Cancer and Bristol-Myers Squibb Foundation. My name is Laura Burr and I will be running today's web forum with my colleague, Tonya Hammond.

I would like to introduce Katie Garfield. Katie Garfield is a Staff Attorney at the Center for Health Law and Policy Innovation of Harvard Law School. Katie joined the Center in 2014 and currently focuses her work on the Center's Whole Person Care initiatives, which seek to ensure access to services that address social determinants of health and health-related social needs. Katie received her J.D. from Harvard Law School and is an active member of the Massachusetts Bar.

Welcome to Dialogue4Health, Katie.

Katie Garfield: Thank you, Laura, for that introduction. Could you advance to the next slide? Thank you.

Before we dive into the substance of today's webinar I want to take a moment to step back and give you some background on our organization and the origins of this project. As Laura mentioned I'm a staff attorney for the Center for Health Law and Policy of Harvard Law School. Our center, which we shorten up to CHLPI as you hear, advocates for legal, regulatory and policy reforms for underserved populations with particular focus on the needs of low income individuals living with chronic illnesses. At the center, we work with a variety of organizations and individuals, including consumers, advocates, community-based organizations, and others to really expand access to high quality healthcare and promote more equitable and effective healthcare systems. We are also a clinical teaching program of Harvard Law School which means that we get to work with and mentor the next generation of health law and policy attorneys.

As part of our work we provide technical assistance regarding health law and policy to organizations across the United States, including the grantees of the Bristol-Myers Squibb Foundation specialty care for vulnerable populations. These initiatives seek to improve access to high quality care for individuals living with a variety of conditions such as cancer and cardiovascular disease. Through that work we have the opportunity to work with Maureen
Rigney and the lung cancer foundation, now the GO2 Foundation for Lung Cancer, on issues problematic for individuals living with chronic illness, transportation.

Today's webinar is the first in our two part webinar series. Today we will be focusing on the Medicaid Section 1115 demonstration waiver process. While we plan to also discuss transportation and in particular the Medicaid benefit of non-emergency medical transportation, as part of today's webinar, our next webinar will actually focus exclusively on that topic and its current trends, challenges and innovative strategies.

So if you are interested in that next webinar, note that it will take place on Wednesday, May 29th, from 1 to 2:30 p.m. If you are unable to attend the next webinar but want to learn more about NEMT or about the topics today, 1115 waivers, we suggest that you go to the webinar to see the issue briefs we developed on these topics. These resources displayed on the slide here are directed to advocates, patients, and healthcare providers, among others, who are interested in ensuring that low income patients coping with serious or chronic conditions have access to the transportation services they need to receive care. Again, our website can be found at www.CHLPI.org. These issue briefs cover four main topics. First an introduction to non-emergency medical transportation. Second, the current trends, challenges and innovative practices in NEMT. Third, the piece that we'll be looking at closely today, a toolkit regarding 1115 demonstration waivers and their relationship with NEMT benefits. Fourth, and examination of the broader landscape of transportation related services.

So as I mentioned, while we will discuss NEMT in our webinar today, we plan to really focus today on part 3 of our issue brief which covers the Medicaid 1115 demonstration waiver process and ways for interested individuals to get involved in that process.

Before we get started, though, I want to take a moment to introduce our partner on the project, Maureen Rigney.

Maureen Rigney is a licensed clinical social worker with GO2 Foundation for Lung Cancer, formerly Lung Cancer Alliance. Currently Director of Support Initiatives, Maureen has worked in a variety of capacities at the organization since 2005. Maureen got her Master's of Social Work Degree at Jane Addams College of Social Work at the University of Illinois at Chicago and prior to joining GO2, worked in community based behavioral health programs.

Maureen, I'll turn things over to you.

>> Maureen Rigney: Great, Katie. Thank you so much. As mentioned, I'm Maureen Rigney. I'm director of support initiatives at GO2 Foundation for Lung Cancer.

Formed through the merger of Lung Cancer Alliance and Adaria, we are transforming survivorship by extending and improving the lives of those at risk and living with lung cancer. Through our focus on public health advocacy, promoting excellence in screening and care and promoting support and education.

We understand that few issues affect people as much as lack of access to reliable transportation. This disproportionately affect, treatment adherence and have a negative impact on health outcomes. Thanks to our partnerships with the Bristol-Myers Squibb Foundation, GO2 Foundation for Lung Cancer is really excited to have worked with the Harvard Center for Health Law and Policy on the NEMT brief series and on this webinar. We thank you all for joining us today.

>> Katie Garfield: Thank you, Maureen. I think we've gotten slightly ahead of ourselves in the slides here. Laura, could we go back? Yes, there we go.

Again, thank you so much, Maureen. It has been a real pleasure working with you and the GO2 Foundation on these issues.
I want to turn to the main topic, Medicaid Section 1115 demonstration waivers. We want to get a sense of how familiar you, our participants, are with this 1115 waiver process. We will start with a short poll. You should see the poll on your screen now. Please use the polling feature that Laura described a moment ago to let us know how knowledgeable you are about 1115 waivers, specifically we are asking, would you describe yourself as: A, having no knowledge of 1115 waivers. B, having some knowledge of 1115 waivers. Or C, really being expert and very knowledgeable about 1115 waivers. So we are going to give you a moment to complete that poll. Again, it is asking if you have A, no knowledge; B, some knowledge, or C, feel very knowledgeable on this issue. I think we can probably go ahead and close the poll. Thank you again for submitting your answers. Our hope is that by getting a sense of your level of knowledge we can adjust our discussion a bit to meet your needs. Overall you'll see that our webinar is really meant to be a 101 session that will give you a lot of background about what 1115 waivers are, how you can get involved in the process, and how advocates are responding when potentially harmful waivers are approved. I will note we will also have time at the end for some Q&A where we can get into more detailed and nuanced questions about current waivers that may be moving forward in your state. Great, I just saw the results come in. It looks like the majority of people either have no knowledge or some knowledge on these issues. So that's great. That means that we are really striking the right tone here by taking you through the real 101 process. I do see that there are 7 percent that are very knowledgeable. For those of you who fall into that category we ask you to bear with us. Some of this may be review for you. But we will have that opportunity at the end to get into more details. Go to the next slide. So the slides here give you a sense of the three sections of today's presentation. As I mentioned just a moment ago we will really be starting with an introduction to Section 1115 waivers. We will turn to the topic of what you as an individual or organization can get involved when a waiver is introduced in your state and we'll end by taking a look at future challenges and how advocates are responding to some waivers in particular via litigation. Next slide. So to kick things off I'm going to turn things over to Corinne Maguire who will take us through an introduction to 1115 demonstration waivers. Corinne Maguire is a second-year law student at Harvard Law School where she performs research and policy analysis for the Center for Health Law and Policy Innovation as a clinical student. This summer Corinne will be working as a summer associate at Ropes & Gray LLP. Prior to attending Law School, Corinne received her BA from Harvard College. So I'll turn things over to Corinne now.

>> Corinne Maguire: Thank you so much for that introduction, Katie. So to help begin to understand 1115 demonstration waiver process, we are going to give a brief overview of what Medicaid is and what its structure looks like. It looks like some of you are already familiar with Medicaid we want to make sure everybody is on the same pain. For those of you who are familiar we may be able to answer questions more specific questions later on in this seminar. To begin with, what is Medicaid? The Medicaid program is the largest health insurance program in the U.S., covering millions of individuals and families. It covers many people with disabilities
and complex needs, and has been vastly important to innovation and improvement in healthcare delivery and payment systems. The Medicaid statute is a specific part of the Social Security Act. Originally Medicaid was intended to be a medical assistance supplement for people receiving welfare. The Medicaid program has been expanded by Congress and states to address gaps in the health insurance system. Overall the goal of Medicaid is to help states provide medical assistance to residents whose income and resources are insufficient to meet the cost of necessary medical services. So who does Medicaid currently cover? Today Medicaid covers a broad population, including pregnant women, children with parents who are both working, and jobless families, children with diverse physical and mental health conditions, and poorly elderly and disabled Medicare beneficiaries. It is crucial for the most vulnerable populations in ensuring access to care. As of 2018 Medicaid covers more than 72 million people, which is around one in five of the U.S. population. It covers more than two in five children as well as 40 percent of all births. It also covers around four in nine persons with disabilities and one in five Medicare beneficiaries. It excluded most elderly adults, but in 2014 the Affordable Care Act expanded Medicaid for a program for people under 65 years with an income at or below 138 percent of the federal poverty line. Each state can decide whether to adopt this Medicaid expansion. How does Medicaid work in practice? Medicaid is a state and federal partnership with states largely administering their own programs within federal guidelines. These guidelines set up mandatory and optional benefits. Mandatory benefits are exactly what they sound like. States are required to provide benefits under federal law. NEMT is one example of a mandatory benefit. States have the choice to cover optional benefits such as dental care. There is enormous variation state to state in how each state's program is administered. This variation arises because although states operate within federal guidelines, they retain broad flexibility which resulted in significant variation in eligibility, benefits, and provider policies from state to state. We will turn to how states generally operate their Medicaid programs. They can operate their programs in two case, under state plan or waiver. States usually use the two mechanisms in conjunction with one another. A state plan is something that all states have. It is an agreement between the state and federal government that describes the structure and administration of the state's Medicaid program, which includes details on eligibility, covered benefits and provider payments. Although state plans vary, all state plans must follow the basic rules established in the Social Security Act and Medicaid regulations. In contrast, if a state wants to make a change to the Medicaid program that would violate federal Medicaid requirements it must apply for a waiver. Each waiver is referred to by the section of the Social Security Act in which it appears, and each has its own legal requirements and limitations. States can use waivers to achieve different goals in their Medicaid program. Today we will focus specifically on 1111 demonstration waivers, which is a flexible type of Medicaid waivers. So what is an 1115 demonstration waiver? As I mentioned, 1115 demonstration waivers are the most flexible categories, giving the states latitude in approaching how to administer and pay for services. Under the 1115 waiver authority, the Secretary of Health and Human Services has the discretion to waive certain rules and requirements of Medicaid. As a result, states can use 1115 demonstration waivers broadly to restructure the entire Medicaid programs as well as narrowly to provide targeted services to certain populations.
In order for a waiver to be approved it must meet certain federal requirements. So while not set in statute or regulation a long-standing component of 1115 demonstration waivers policy is that waivers must be budget neutral for the federal government, which means the federal government cannot be expected to pay more to support the state's Medicaid program under the waiver than it would if the waiver did not exist. The Affordable Care Act made 1115 demonstration waivers subject to new rules about transparency, public input and evaluation. We are going to talk a lot about this in the webinar later on in a lot more detail, but the Affordable Care Act created all sorts of new rules that allowed individuals on the ground to have input into the 1115 demonstration waivers process.

States receive waiver approval for a five-year period after which they can ask for an extension. Ultimately the Secretary of Health and Human Services is the final decision maker and has the power to approve or deny any 1115 demonstration waivers. While the Secretary's authority is broad, it is not limitless. There are certain things in Medicaid that can and cannot be waived under 1115 waiver authority.

So what is waivable under the 1115 demonstration waivers? The Secretary has the authority to waive a state's compliance with federal requirements within Section 1902 of the Medicaid statute. Section 1902 includes many core Medicaid requirements but not all of them. For example, one key provision of Section 1902 is statewideness. Statewideness means if you offer a benefit in one part of the state it must be the same across the entire state. The state cannot provide a certain benefit in one city but decline to provide it in another. The waiver of statewideness can thus limit the geographic area and allow the state to test a new program and provide tailored benefits.

That's because of the requirements only under Section 1902. Requirements outside of Section 1902 cannot be waived under the 1115 demonstration waivers. For example, one Medicaid provision requires Medicaid programs to typically cover all prescription drugs. However, because this provision doesn't fall within Section 1902 it cannot be waived by 1115 demonstration waivers.

Additionally, the Secretary's discretion to waive any Section 1902 requirement is limited by the fact that proposed changes must be part of an experimental pilot or demonstration project which in the judgment of the Secretary is likely to assist in promoting the objectives of the Medicaid program. These objectives include providing health coverage to location individuals. Anything that is not related or gets in the way of this would not be allowable under 1115 demonstration waivers.

We are going to talk more about these limitations in Part 3 of our webinar as the requirements become important when we get to litigation because it helps to form the basis of legal challenges. Now I'm going to turn to how these challenges have been historically and currently used by states. States can use demonstration waivers for a variety of purposes, including to expand coverage for adults otherwise excluded, to make changes in benefits and cost sharing not otherwise allowed, and to implement changes in the Medicaid delivery and payment system. They can also use narrower 1115 demonstration waivers for initiatives focused on specific populations or services such as for people living with HIV.

Historically states have used the 1115 demonstration waivers to expand access to Medicaid. More recently, though, we have seen a change in waiver use. Instead of looking to expand Medicaid coverage, some states have developed a more restrictive approach to 1115 demonstration waivers. Specifically, some states have applied for waivers that would either reduce overall Medicaid eligibility or would limit access to specific services.
We will be looking at both of these trends in the webinar today by using examples of waivers that reduce overall Medicaid requirements by implementing work requirements as well as limiting access to NEMT. These trends are particularly concerning because the current administration has shown an interest in actively encouraging states to establish both of these restrictions.

Throughout the rest of the webinar we are going to provide you with the tools and strategies to respond to these trends in the states. Before we do, I will provide a little bit of background on NEMT and work requirement restrictions.

First, NEMT. As we will discuss a lot more in the next webinar, challenges in the administration of NEMT as well as budgetary and political pressures have led many states to re-examine their Medicaid programs and explore new ways to contain costs.

While some states are looking at innovative new partnerships and structures to improve program efficiency and reduce use of high cost services, other states have been using 1115 demonstration waivers to reduce or eliminate access to NEMT services for certain populations. That poses a threat to both access to care and health outcomes. Currently Indiana, Iowa and Kentucky have recently had waivers approved that limit access to NEMT services. Similar pressures and trends have led states to propose waivers that would impose work requirements.

For those of you who may be unfamiliar with work requirements, that means that Medicaid beneficiaries need to work a certain amount, such as 80 hours a month, in order to continue to receive Medicaid benefits.

In January 2018, the Centers for Medicare and Medicaid Services announced the support for the imposition of these new work requirements by issuing new guidance for state waiver proposals that would impose work requirements as a condition of state Medicaid eligibility.

However, many work requirements will result in significant coverage losses for location individuals, especially for those with chronic illnesses and disabilities. A Kaiser Family Foundation analysis shows that if work requirements were imposed nationwide, disenrollment rates would range from 1.4 to 4 million people among the 23 million non-elderly Medicaid adults.

Recent state examples have proven the statistic true. In June 2018 Arkansas implemented work requirements for its Medicaid expansion population and so far an estimated 17,000 Medicaid beneficiaries have lost coverage.

As you can see on the map in this slide, there are a number of states which currently have approved or pending waivers with work requirements. As of April 2019, nine states' 1115 demonstration waivers with work requirements have been approved. Additionally, six state waivers are still pending.

As you will hear more in the webinar, Kentucky and Arkansas have come up in the news a lot because the work requirements have been set aside by federal court. Another challenge is pending in New Hampshire. We will discuss this a lot more later on in the third part of the webinar.

Interested individuals can play a key role in pushing back against states looking to restrict NEMT services or impose work requirements. I'm now going to turn it back over Katie who will go over concrete ways for you to be involved in the 1115 demonstration waiver process.

>> Katie Garfield: Excellent. Thank you so much, Corinne. As Corinne mentioned, for this next section I am going to step in and talk about how you as individuals and organizations can get involved in the 1115 process. Either to promote changes that would benefit the population you work with or to push back against changes that can harm the population. I should note at the
outset we are mostly focusing on restrictions on NEMT, the imposition of work requirements because we have seen these as a trend recently. I would be remiss if I didn’t opinion out there are innovative uses of 1115 demonstration waivers that are happening. As we will get into in the Q&A session, states are looking at the use of 1115 waivers to address things like health determinants and social needs which giving their Medicaid program broader ability to address needs like food insecurity, housing insecurity, transportation, all of these things under 1115 waivers.

So I just wanted to highlight there are sorts of rays of sunshine out there and that everything that I will be saying about your ability to get involved in this process would allow you both to respond to restrictions that you don’t agree with as well as to promote some of the innovative proposals that could help the populations that you work with most.

So now we will be taking a sort of step-by-step walk through the section 1115 waiver application process and the opportunities that it affords you for response.

So federal law and regulations establish transparency requirements that create a series of opportunities for individuals and organizations to place public pressure on state and federal policymakers to change or eliminate potentially harmful provisions from a proposed demonstration waiver before it is approved by CMS or as I said to include the inclusion of helpful provisions in these waivers.

This slide outlines the opportunities at the state and federal level. As you can see, the orange boxes here highlight where you can get involved. So first, let’s look at the state level requirements.

Federal regulations require states to publicize the waiver application and to provide individuals and organizations with an opportunity to comment on that application either to create or to extend an 1115 waiver demonstration project. Specifically, stakeholders must have an opportunity to review the 1115 waiver application, submit written comments, and participate in public hearings before the State can submit its application to the federal government. We’ll talk in a lot more detail about each of those requirements in the upcoming slide.

Once the State has then met those requirements it can submit the 1115 waiver application to the federal government for approval. Specifically to the centers for Medicare and Medicaid services or CMS. The submitted waiver may look different from the one that you commented on because the State should have considered your comments and potentially changed their proposal to address them.

In fact, when submitting its application to CMS, the state must actually describe the concerns raised by stakeholders during the comment period and how the state considered those concerns in the application it submits to the federal government. Then when the application reaches the federal government, the federal regulations require CMS to provide stakeholders with the second opportunity to review that new updated application and provide written input. Only then can the secretary of Health and Human Services approve or deny the 1115 demonstration waiver application.

Now let’s take a closer look at the points in the process where you and your organizations can actually get involved and have a say. First, there are public hearings. You can attend a public hearing as one way to get involved in this process. As I mentioned before, a public hearing is part of the process that the state must go through before submitting the waiver application to the federal government. Specifically, states actually have to hold at least two public hearings to seek input on the 1115 waiver application. Interested individuals can attend those hearings and provide oral testimony explaining why they support or oppose the policies in the proposed waiver.
The timing of these hearings specifically the hearings must be held at least 20 days before the state submits the waiver application to CMS. Additionally, it is really important that these hearings be accessible to individuals across the State. So specifically, federal regulations require the hearings to be held on two separate dates and in two separate locations. Additionally, the state must allow stakeholders to participate via phone or web conference for at least one of the hearing, or somehow otherwise demonstrate that the hearings are accessible to stakeholders across the State. So what that means is that generally there should be a way for you to attend at least one hearing, at least electronically, no matter where you are located in the State. Then we have the written comment period. In addition to the public hearings at the state level, you can also participate by submitting written comments. So stakeholders have an opportunity to submit written comments two times, both at the state level and then at the federal level once the State has submitted its application. So the state must accept written comments for a period of at least 30 days and must allow comments to be submitted in hard copy or electronic format. Similarly, once we get to that federal level process, CMS must accept written comments again for at least 30 days and must allow comments to be submitted in hard copy or electronic format. CMS also must have these comments published online. You can actually go online and see what other groups have said about this waiver. Then finally, the state and federal government must review and consider the comments that they've received and at the state level really kind of highlight and respond to these comments in their final application. So what does that mean? So say you hear that there's an 1115 waiver proposal being considered in your state and you want to be part of the process. You want to respond. How do you find all the important details you need to know about the waiver when the hearings are, what the process for submitting comments, where do you go? First, at the state level the first place you would go would be the website for the state agency that runs your Medicaid program. Depending on your state, these may have different names. They might be called something like executive office of Health and Human Services, Department of Health and Human Services, Department of Health. You just have to do a bit of Internet searching to find out what the name of your state Medicaid agency is. So once you find their website, you would go there because the state must publish information regarding the application, hearings, and comments process either on the actual main page of their public website or provide a readily identifiable link on that main page to a separate page. So you should be able to find this information fairly easily. Here you can see an example from one state's website. This is South Carolina. To anybody on the call from South Carolina, there you go. Additionally, the State has to take other states to promote this information. So the state must use additional mechanisms such as an electronic mailing list to notify interested parties of the demonstration application. So to learn more about signing up for those types of mailing lists in your state, again you would be visiting the website for your state Medicaid program or contact your state agency directly to ask about those mailing lists. One of the key ways here at CHLPI, we try to stay up on these things, to stay in contact with local organizations that are interested in following these things, like local healthcare advocacy organizations or coalitions. Those groups also have mailing lists where they may alert you to these types of activities or give you guidance about how to access the sort of Medicaid agency mailing list.
Finally, the State also has to technically publish a public notice of the application in the state's administrative record, and widely circulated in newspapers. But we know that's probably the least likely way you will access these materials. Again the state agency website is the first place to go.

Next, once the application has proceeded from the state to the federal government, the question becomes how do you access information there? So the first place you would go to get involved in the federal process is the website for the Centers for Medicare and Medicaid Services, so CMS must publish the state's 1115 waiver application materials and information on the process for submitting written comments on its website. Specifically to learn more about pending waivers you would visit the state waivers section of Medicaid.gov. And we will talk a little bit more about that later on.

Finally like states, CMS also has to notify interested parties through a mechanism such as electronic mailing list that CMS will create for this purpose. These mailing lists definitely exist, this is another great way that we learn about activity at the federal level. So you can visit the CMS email updates page at CMS.gov to get on relevant mailing lists.

So let's assume that you have heard that your state is considering submitting an 1115 waiver. You've gone to your state agency website and found the relevant materials. Now you want to get involved by attending one of the two in-person hearings. What would you do to prepare?

First, we would encourage you really to educate yourself as much as possible in advance. So the state Medicaid agency at that meeting might provide information on the waiver. So they might have a slide deck. They might talk through it. You will be able to learn some things in the meeting itself. However, it is still helpful to learn as much as you can in advance. You can come to the meeting prepared to respond or ask questions about the proposal. To prepare, use any waiver materials that are posted on the state's website or again contact your local sort of healthcare advocacy organizations who would also be analyzing that waiver and sort of thinking through it.

Additionally, it is helpful to encourage others to attend hearings. So if you are familiar with other individuals or organizations that are going to be affected by this proposed waiver, it is really encourage them to attend the hearing and share their stories or concerned. I would say testimony from individuals who will be impacted by the waiver will be particularly persuasive and engaging more voices will make the process more fair.

You want to talk about what the talking points. The state should provide you with opportunities to ask questions or provide oral testimony about the proposal. You might want to think about what those might be in advance.

The next slide we are going to talk a bit about how you would develop those talking points. We will also go through some concrete examples focused on non-emergency medical transportation and work requirements later in the webinar.

So on this slide you are going to see some things that you can keep in mind while developing your talking points for a public hearing. First you want to think about how you would introduce yourself and your connection to the issue. At the start of your testimony be sure to introduce not only yourself but also how you, your organization or your work is connected to the issues in the waiver or the Medicaid program more generally.

So, for example, do you work with populations that are going to be particularly impacted by the proposed waiver? Highlighting this connection is going to give additional weight to your comment. However, I should really note here if you are just an interested individual with no expertise, you should still give testimony. There are no special qualifications to speak at a public
hearing. Your voice is important. That remains true for the written comments as well. There are no requirements regarding what background you have to have to comment on and provide your opinions on a particular waiver.

So then when you are developing your talking points, also be prepared to be brief. Hearing organizers may limit the amount of time each individual has to speak. So you want to be able to hit the highlights of the points you would like to make as quickly as possible. Often times there is a time limit that is something like five minutes.

What are the types of things you want to touch on in your talking points? First, if this is a waiver that you are opposing, you want to highlight the potential harms associated with that waiver. Highlighting harms or unintended consequences can be very persuasive. You might talk about how the waiver will limit access to care, how it might impact healthcare outcomes, impact costs and how it might impact other broader policy priorities of the state and or federal government.

Again we will go over specific examples of these points later in the webinar, as you might talk about specific harms by imposing work requirements or restrictions on NEMT.

Additionally I want to note that you can highlight any benefits of the waiver if there are parts of the waiver you really agree with that you think will really help the populations you serve. It is important to point out what you do like about the waiver so that that piece gets implemented.

When you are thinking about talking about things that you find particularly harmful or beneficial, it is helpful to use compelling data or examples.

For example, our non-emergency medical transportation issue brief provides an overview, an entire chart of several studies that note the impact of transportation on health outcomes and costs. Those types of statistics are great to be able to cite in your comments that we'll talk about later on or if you have time in the brief talking point in the hearing, we'll talk about them there. If you work with other populations, think about researching whether studies are available that highlight the specific impact of the waiver on those groups of.

As we will discuss in the next webinar and in our issue brief series there are often a variety of ways that states can improve Medicaid without taking on some of these more restrictive practices. In that case you might want to propose alternatives where appropriate.

Finally, you might consider submitting a written version of your testimony. If the hearing is really well attended or time limits are placed on oral testimony you might not be able to present all of your talking points in person. While you are going to have the opportunity to submit written comments, you could also submit a written version of the testimony that you plan just for additional impact.

So now we've just talked through what you think about when developing talking points for a hearing. Now let's turn to written comments and what you ought to be thinking about when you are developing a written comment. As I mentioned earlier you'll have two opportunities to submit written comments in the 1115 waiver process: Once to the state agency that is preparing the waiver, and once to CMS as it considers whether or not to approve the waiver.

It is important for you to consider submitting comments at both the state and federal level, as the comments will be considered at both stages by different decision makers.

What do comments look like? Comments are generally submitted in the form of a letter. The letter can be addressed to the relevant agency. So your state Medicaid agency or CMS or the leadership of that agency. And what do you think about when you are developing your comments? Well, a lot of the same strategies that I just walked through for developing your
talking points for our hearing apply in this context as well. You your hearing talking points are probably going to hit on the same basic issues and themes that you will cover in more detail in your comments.

As you are hearing talking points, your written points will want to first introduce yourself and or your organization and your connection to the issue if there is a specific connection to note. Second, highlight the potential harms or benefits of the waiver. And third, again using compelling data or examples to reinforce your arguments.

What is a bit different about written comments from developing hearing talking points? One benefit of written comments that they can be longer and more detailed than hearing testimony. This means that you can add weight and details to your comment by doing things like providing footnotes to citations and active hyperlinks to encourage hearing on the figures to review relevant resources.

However, you have to sort of balance that. If your comment starts getting very long it could also mean that the reader could lose track of the key points you want them to take away from your letter. You are also going to want to think about ways to highlight the key points so they are easy for the reader to understand and remember.

Some strategies to consider include summarizing key take aways at the outset. If your comment letter is going to be longer than a couple pages we find it somewhat helpful to summarize your key take aways or in several bullets in your introduction and go into more detail in the body of the letter.

Second, really think about the organization of the letter and how you can use it to highlight your key take aways. For example, you can separate out each of your core arguments and use a bold header at the start of each section to highlight what your key take-away is for that argument.

So what does this all look like in practice? On the next two slides we are going to give you some examples of the types of points you might include in your hearing talking points or written comments when responding to a waiver that is trying to restrict access to non-emergency medical transportation or impose work requirements.

So first let's look at what you might say about a restriction to non-emergency medical transportation. Here you can see we've got sort of three topics that we might want to address. First, how the NEMT waiver would limit access to care. How it would impact healthcare outcomes and costs. How it might undermine other policy priorities. How might the NEMT waiver limit access to care? You might highlight that low income individuals are particularly likely to encounter transportation barriers and without transportation these individuals could lose access to valuable medical care. You might connect it to the idea of the outcome of mental health costs.

Transportation services are cost saving when used to connect patients to care for a number of common chronic conditions such as asthma, heart disease, diabetes. Again when we are removing access to that transportation, we could see poorer health outcomes across those groups and higher healthcare costs.

Finally, thinking about how NEMT could undermine other policy priorities, you might note how this would undermine the state's ability to assure equitable access to care. These are very brief bullets, things that you could fill out in much more detail in your comments.

Here we see similar examples for work requirements. So thinking about how work requirements will result in a substantial loss of coverage. For example, an abundance of studies pointing to the research, pointing to concrete examples, an abundance of research shows that Medicaid work requirements results in significant worse results for individuals especially those with chronic.
You can highlight how it impacts, work requirements have a negative impact, by increasing the likelihood of being uninsured and decreasing access to care. Thinking about the point that Corinne raised earlier, the fact that 1115 waivers really are not -- they are meant to support the core purposes of the Medicaid program. So you might think about whether or not the proposal, in this casework requirements, would violate the core purpose of Medicaid. Here the example is the 1115 waiver cannot be approved because work requirements violate the core purpose of Medicaid, which is to furnish medical assistance to low income individuals. Again, all of these points both on NEMT and work requirements are just the starting point. There's a lot of great materials out there from other organizations that you can look to in developing talking points and comment letters from the perspective of non-emergency medical transportation we have an entire sort of abbreviated sample letter in our issue brief that you can find on our website. Then there's a lot of other organizations out there that also provide template letters, template talking points, links to various studies. For example, families USA puts out a lot of great material on these topics. Additionally, remember that the federal government has to publish all comments online. That means that if your state is considering a proposal that looks very similar to shotgun else another state has looked at, you can actually look at comments about that similar waiver proposal online and see if there are points that you would also want to highlight in your own comments. Okay. So you have your comment written and you are ready to submit. What are some of the ways you can really amplify your message? Here think strength in numbers. There are a number of ways that you can work with other individuals and organizations to make your own voice speak louder. First, you can encourage sign-ons. So to strengthen the impact of your comments, consider asking other organizations or individuals to sign on to your letter to show that they agree with the recommendations that you are making. You can also encourage additional comments submissions. You can encourage other individuals or organizations to submit their own comment letters on similar topics to reinforce the message. And then finally, if you have the capacity to do so, consider creating template letters for others. These can be extremely useful in amplifying your message. Keep in mind, though, that it is really about quality, not quantity here. If you are going to encourage others to use a template letter, you want to encourage them to customize it rather than copying and pasting your exact same message. Finally, thinking logistically, how do you actually submit your written comments? The process to submit your comment is going to be a bit different at the state level versus at the federal level. So during the state process, you want to look at the waiver itself that will tell you how to submit it. Often there is a link on the state Medicaid's agency's website to submit or an address to mail or email address that you can send your comments to. The first place to go is the state Medicaid agency website. Look there, look at the waiver materials they provide. They should have instructions how to submit. At the federal level, CMS must publish the state's 1115 waiver application materials and information on the process for submitting written comments on the CMS website. You can find a list of state waivers on Medicaid.gov. You can sort of see that process of how to find it here on this slide. So I'm going to direct you to the slide to look at the first arrow on the top. These are what you need to click on to get you to the state waiver list. You go to Medicaid.gov and under the Medicaid tab, click section 1115 demonstration waivers and go to the state waiver list. Then you are able to actually filter results by state and by status of the waiver. So specifically you would want to bring up the 1115 waivers in your state, which will take you to a separate
page and then you will want to look at the pending applications. With pending applications you should be able to find a link that says to view and submit compensates. I know that's sort of a long process, but if you sort of look at this slide it sort of walks you through what are the various steps that you can take to actually get to it. Ultimately you want to get to the point where it says view and submit comments and you will be able to do it there.

If you think that your state is going to be submitting an 1115 waiver you might also just play around on the Medicaid.gov website a little bit to get yourself familiar with it so it's easier once you come to the point where you do want to submit comments.

Finally, what happens next? Once you submitted your comments, they are reviewed and considered at the state level and then your comments to the federal government are considered at the federal level.

As I mentioned earlier, states have to include a summary of comments and how those comments were considered once they submit their 1115 demonstration waiver application. CMS must also publish the comments it receives online and review and consider all comments submitted when making their final decision.

Ultimately we want you to remember that your comments really do matter to this process. States have definitely made changes to their waivers and the federal government has denied or approved waivers in part due to public comments. It does happen. It does matter. Even if no changes are made, your comments still become part of what is called the administrative record. As you'll hear in the next portion of this webinar, those comments can be used if lawsuits are brought challenging the secretary's authority to approve certain waiver provisions.

For example, if an agency is sued about the regulations, courts look to see if the agency considered the comments. If the agency did not, the rule may be sent back to the agency. We are talking a little bit about rules there, but the same idea applies to 1115 waivers. As my colleague Phil is going to discuss more later, comments play exactly that big role in a federal court decision that recently rejected Kentucky's 1115 demonstration waiver with work requirements.

So that should give you a detailed overview of how the Medicaid 1115 waiver process works. I know it is a lot of information, but you will have access to a recording and these slides. And to our issue brief which will all be available for you to consult as you are going through this process.

Next I'm going to turn things over to my colleague, Phil Waters, who will highlight another potential threat to NEMT in particular and give you a deeper sense of how comments have played a major role in recent lawsuits regarding some 1115 waivers.

Phil Waters joined the Harvard Law School Center for Health Law and Policy Innovation in October 2016 as a Clinical Fellow. Phil received his J.D. from the University of North Carolina School of Law, and is an active member of the North Carolina State Bar. Phil regularly tracks Medicaid waivers for their impact on the chronic illness and disability communities and authors comments in response to waiver applications.

Phil?

>> Phil Waters: Thank you for that introduction, Katie, and that background as well.

So as Katie mentioned we just want to touch on a couple other issues in this final section of the webinar that folks interested in the 1115 demonstration waiver process and NEMT might want to pay attention to.
So first is the use of the Notice of Proposed Rulemaking process as a way to potentially eliminate the need for an 1115 waiver to eliminate a bill. Katie talked about the litigation we are seeing right now surrounding waiver approvals specific to work requirements.

So there has been, we will get into a bit more detail about this shortly but there has been some indication that the rulemaking procedure at the federal level might be used in the very near future to alter certain aspects of Medicaid that may impact 1115 waivers and NEMT. So this site here is to give you a sense of how the rulemaking process goes, to give you a sense of where you might be able to get involved throughout that process.

Just as background, rules are just government statements that either carry out or explain law or policy, or describe an agency’s organization or procedures. There is a place called the unified agenda which is how agencies announce future rulemaking activities understand update the public on completed and pending regulatory actions. The unified agenda is online at agencies.gov. Agencies have to post this in the Federal Register which we will discuss in a few minutes.

Notice of Proposed Rulemaking is a proposed rule when an agency wants to add or change a rule and this will be published on regulations.gov and as well as in the Federal Register. Importantly like the 1115 waiver process, there are opportunities for the public to post comments for 60 to 90 days which we will discuss more coming up. Similarly to the 1115 waiver application process, the agency trying to change their rules is required to consider, review and respond to the public comments they received before approving a final rule and publishing it for the public.

As I mentioned the administration has indicated recently that there may be plans to propose a rule change that would change the status of the NEMT benefit. So we mentioned at the ing of the webinar that we plan to discuss NEMT more generally in more detail in the next webinar. For now it is important to remember that NEMT right now is designated as a mandatory Medicaid benefit. So states if they would like to can he that need to seek an 1115 waiver process application to eliminate or restrict NEMT. However, the administration has indicated in both the 2019 and 2020 budget proposal as well as the unified agenda that they plan to propose a rule change that would change the status of the NEMT benefit from mandatory to optional. So this would make it far easier for states that want to eliminate or limit the NEMT benefit to do so.

Under the current scenario if a state wants to do that, they have to seek a waiver through the 1115 waiver process which had all those opportunities for notice and comment. However, if this rule change goes into effect, if states wanted to eliminate or change the NEMT benefit across the entire state plan they need only to seek a State Plan Amendment which often provides for far fewer opportunities for stakeholders to comment or influence the process and is not subject to the same transparency requirements as 1115 waivers.

So we are expecting this rule sometime in this month, in May, as indicated by the date listed on the website. You can see on the slide here. You can see we’ve highlighted where it says May 00. So could be any time in May. It is important to note that some groups seeing this have already started to respond. There is already a sign-on letter addressed to the House labor health and huh services subcommittee currently being circulated as well as letters from other major healthcare organizations like families USA. These letters are asking for the subcommittee to include legislative language in the House appropriations bill that would prevent implementation of this rule change that would make the NEMT benefit optional instead of mandatory.

So as we mentioned earlier, there are always opportunities throughout the rulemaking process for individuals to get involved. But you have to know about the rule can he first before you can get involved. How do you watch for proposals to change federal regulations? As we mentioned
changes to federal regulations have to go through the notice and comment process that is similar to the same process in 1115 waiver application. So this really means that the federal government must alert the public to the proposed change first and allow stakeholders to submit comments in response.

And so as I mentioned before, proposed rule changes to federal regs will generally be posted in the Federal Register. You can find those notices of proposed rulemaking online at www.federalregister.gov also listed on slide for you. It might be helpful for you to join mailing lists for healthcare provider or advocacy groups that are interested in NEMT or 1115 waiver applications. As they might distribute helpful alerts and advice regarding relevant proposals. So, for example, you can describe to the CHLPI newsletter which is called healthcare in motion, or Google that, the first hit that will come up. That is our digest of updates, action words and advocacy tools that address the healthcare policy landscape. On the Federal Register you can set up a customized email alerts for various subject key words. If you put in non-emergency medical transportation as one of those key words, it would alert you if a proposed rule change happened.

So how to respond to the proposed change? The document, the Notice of Proposed Rulemaking will contain information on how to submit comments on the proposed changes. In drafting a comment letter you can use many of the same strategies and talking points we talked about and how to respond to an 1115 waiver proposal. The document will also say how long the public comment period is open for. Again usually a 30-day period, sometimes up to 60 or 90 days. You submit your comments through regulations.gov. It links through on the Federal Register itself as well.

To give you a quick sense of what that looks like we've included a quick screen shot of what federalregister.gov looks like. To search for a proposed rule change when you hear about this coming through an email alert from healthcare in motion or from the Federal Register, you want to go to the Federal Register and find the search bar. Once you've found the search bar type in the relevant paroled rule you are can looking for. In this case if a rule change came down for NEMT, you would look for something like Medicaid non-emergency medical transportation. On the left side you can filter with the tool on the page and filter by publication date. In the last 30 days if you are looking for something recent or filter by type. Here we would be searching for a proposed rule, allowing you to comment and filter by the agency that is trying to change their proposed rule. In this case in an NEMT rule that would be put forth by the Department of Health and Human Services or within them, the Centers for Medicare and Medicaid Services.

If commenting and all this public engagement doesn't produce the desired change, as lawyers we always like to talk about our favorite thing which is litigation. There are always opportunities after public comments to sort of, you know, come across the result take you would like and so we wanted to talk about, touch on two litigation efforts focused on the use of demonstration waivers to implement work requirements. And two cases in particular, one in Kentucky and one in Arkansas.

So in the Kentucky case, that case is Stewart v. Azar. In January of 2018 Kentucky got approval through the 1115 waiver process to implement a work requirement of 80 hours a month for folks to stay involved in their Medicaid program. In June of 2018, U.S. district judge vacated that approval and halted the implementation on that, sending the waiver request back to CMS for review. CMS sort of subsequently reapproved that waiver after holding it open again for public comments. And just as recently as March 2019 that same judge again vacated the second approval of the work requirement waiver again.
It is important to note that the judge held that CMS did not adequately consider whether the waiver program would help furnish medical assistance for its citizens which as Corinne mentioned earlier is the central objective of the Medicaid program and one of the limits on the 1115 waiver authority.

Importantly to note is that in that case, in Judge Boasberg's ruling, the public comments were a pivotal part of the decision. In the first ruling the judge discussed extensively about how the vast majority of public comments submitted voiced concerns that Kentucky's waiver would significantly reduce low income people's participation in health coverage programs. In the most recent ruling this March, public comments again played a significant role in discussing how the government can't avoid addressing the coverage loss that Kentucky stated they would find, the judge also stated that it is especially true where so many commenters detailed the widespread nature of coverage loss and predicted its devastating effects including the destructive effects on coverage gaps for people living with chronic illnesses.

And then in the Arkansas case, Gresham v. Azar, the same judge, Judge Boasberg handed down a ruling similar to the Kentucky case. In Arkansas, unfortunately the work requirements had been I am implement the. Close to 17,000 individuals had been disenrolled due to noncompliance with the work requirement. Just as in the Kentucky case, the same judge struck down the approval of Arkansas' work requirement waiver under 1115. Again by referencing public comments. The opinion states things like not only did the government fail to address whether coverage loss would occur as predicted they also ignored that commenters predicted that such loss would happen. Comments did play a pivotal role in the court decisions that had real effects. We unfortunately have seen that the administration plans to appeal both of those rulings and indicated that they will continue to approve 1115 demonstration waivers as they are submitted. On appeal those comments will be part of the administrative record and we are confident that things will happen favorably.

We also wanted to mention very quickly that there is another case pending in New Hampshire along the same lines. As a bit of a ray of sunshine it is nice to note that as a result of these cases and some of the stuff that has come out of the decisions, states seem to have been slowly backing off or slowing down due to the result of these. However, there are still states actively considering and applying for more waivers for work requirements. So public compensates again are going to be crucial.

So if you are still not sure where to look for information or where to start it is always helpful to consult with others and see what others are doing. There are numerous local and national organizations that have updated and other, on 1115 waivers, future rulemaking that include Medicaid, those include Center for Health Law and Policy, families USA or NHeLP, community catalyst and many others. You don't have to start from scratch. Many of these organizations have talking points, studies and data you can cite, comment and template letters that you can use in developing both your written comments and public testimony. So we hope this has been helpful.

I'm going to transfer it back over to Katie now to take a few questions.

>> Katie Garfield: Great. As a quick reminder for the Q&A portion of our program here, as Laura mentioned at the outset, at the bottom of your screen there is a button that you can click with the three dots. You want to click it to open the Q&A panel. Then you are going to type your question into the Q&A box. Make sure that you select "ask all panelists" so that all the panelists can see it and click send. That is the process for Q&A.
And as I wait to see if additional questions come in here, I think we will start with some of the questions that some of you sent in during your registration in advance.
First, one of the participants asked the question: The state of Wyoming and tribes of the wind river Indian reservation have had an 1115 demonstration waiver languishing with CMS for years now, never approved, never officially denied. Do you see any progress in seeing timely reviews? This raises an interesting point. Phil, do you want to talk about the time limits associated with 1115 waivers?
>> Phil Waters: Sure. The time limits associated with the 1115 waivers are on the transparency side of the government. So you know, the State has to hold their public comment period for 30 days. When they submit to CMS, CMS actually has -- the federal government has 15 days to certify to the state whether or not the application has been completed in a manner that allows them to process and review or if they have to go back and add more information.
Apart from that, CMS has to wait at least 45 days before it can approve a waiver. Other than that there is no sort of maximum time in which they can take to consider a waiver. All of the statutory authority under section 1115 is permissive in Medicaid. It sort of allows the government to do something. It does not mandate them to do anything.
Unfortunately in the context of a waiver that is still languishing, there is really no formal legal mechanisms to make that move forward. There is something to be said about putting public pressure, but on the legal side there is sort of no requirement that the government act in any sort of minimum time frame.
>> Katie Garfield: Great. Thank you, Phil.
Another participant asked: Do any 1115 or 1915(b) waivers address community-based care coordination? If so can you briefly explain how?
This I would say yes. When I think about community-based care coordination, the group that comes to mind for me are community health workers or other navigators or care coordination specialists. A number of 1115 waivers really going back to that comment I made earlier about the fact that there are some 1115 waivers out there right now that are doing exciting innovative things, community health workers and other types of navigators are often showing up in 1115 waivers in helpful ways.
So some waivers will specifically mention and require the use of these types of individuals. For example, New Mexico has an 1115 waiver that really requires the use of community health workers. Other 1115 waivers out there right now create new types of funding streams that can be used to support these types of services. These funding streams might be actual sort of buckets of funding. They might be alternative payment models that give healthcare providers sort of more flexibility to pay for these types of services. Or they might be sort of shared savings models. A lot of times you hear about accountable care organizations, groups of healthcare providers, physicians, hospitals, et cetera, that come together to be responsible for care for a certain group of patients. Generally in those models if they achieve cost savings and meet their quality requirements they often get to share in those savings with the state or with the managed care organizations they are working with. A lot of times they can sort of redirect the money they get from those savings to pay for things like additional care coordination.
To give you a couple examples of those types of things, in Massachusetts we currently have an 1115 waiver that is being implemented that creates a new funding stream called flexible services funding. Some of that funding is meant to be used by our accountable care organizations to address health-related social needs, particularly needs for supports around nutrition and housing.
Something that could be used, it could be used in that context is for community health workers connecting people to those services.

Similarly, Oregon’s community-based services, a sort of ACL, create ways that funds can be used and directed towards the support of community health workers. So I think that is definitely a positive trend we are seeing right now that 1115 waivers are being used to think about how do you manage care better, particularly for complex and chronically ill individuals. So there are lots of good examples of that out there. For the person who asked this question, I would also highlight there is a great new article out in Health Affairs that came out this month in the May 2019 Health Affairs that takes a close look at what California and Oregon have done in their 1115 waivers. It highlights some of the care coordination aspects of that. I recommend that you take a look at that.

Then next we had a question asking how to help those in need advocate with state legislation. So I think this raises a really interesting point that we ought to talk through here. That is the connection between state legislation and the Medicaid waiver process. So Phil, could you talk a little bit about how state legislation has impacted 1115 waivers?

>> Phil Waters: Sure. So depending on what state you are in, your state constitution may or may not authorize the governor through their Department of Health to seek a waiver themselves. Some states have passed specific legislation that has directed the Department of Health and Human Services within a state to apply for some of the waivers that we are seeing now. So, for example, some of the work requirements waivers in particularly southern states like South Carolina have been at the direction of actual legislation. However, on the sort of question asked was how can you support advocacy on that side? We have also seen some positive legislation, mostly in response to this trend of more work requirement waivers being sought. For example, Illinois passed last session a measure that would have prohibited their administration from seeking a work requirement waiver. That measure sort of passed through their legislature but was unfortunately vetoed by the governor, but it serves as legislation that folks who are interested in protecting healthcare access could advocate for, to protect against some of these things.

>> Katie Garfield: Great. The important point there is when you are trying to make change in your Medicaid program you might want to think carefully about what the sort of more receptive body for that. If you are trying to create sort of innovative change and you are a Medicaid agency is interested in that work, it may make the most sense to drive innovation directly through the waiver process. If your Medicaid agency is not so interested in that or is trying to take more restrictive steps through 1115 waivers, you can look to your state legislature and see whether or not there is a role they can play in preventing 1115 waivers you disagree with or in promoting innovation through 1115 waivers. Good point there, the role of the state legislature.

Another question that has been asked is: Is there anything to share on states that are currently considering the 1115 waivers such as Alaska? Can you share what this may look like? Are there any updates?

Phil, I think you have been following some of these recent waivers.

>> Phil Waters: Sure. So this is sort of the next trend after work requirements take we are seeing is this push to use the 1115 waiver process to apply for a block grant of the Medicaid program. So we are seeing a slight version of this in Utah right now. Utah through its 1115 waiver process, helpful to note at the direction of state legislature. Again how the state process and the legislature overlap. Utah thought and recently -- sought and recently got approval for a partial expansion of their Medicaid program. That means instead of taking the ACA's expansion
of all adults up to 138 percent of the federal poverty level being eligible, Utah is saying only up to 100 percent. Not only was it a partial expansion, but they secured an enrollment cap for that population. This is a preliminary step we are thinking the next thing they apply for is to ask the government to apply for a block grant. That means in contrast to the sort of current entitlement structure of Medicaid where the federal government is required under statute to match a certain percentage of any health expenditures for the Medicaid program, a block grant would sort of give the state a single pot of money to care for their Medicaid enrollees. So Alaska comes in in this discussion in that their governor has signaled that he wants to be one of the first to ask the Trump Administration for a block grant in the Medicaid program through the 1115 waiver process. Tennessee is I think just now passed some legislation that would direct the governor to seek that kind of a block grant waiver.

So in the way of status of all this, nothing has been submitted yet. There are no sort of hard proposals out there yet. But it looks like Alaska and Tennessee may be the first out of the gate to ask for that sort of thing.

>> Katie Garfield: Thank you, Phil. We also received a question asking us how do you envision the role of the safety net in the context of these troubling trends? In what system has the -- systems has the balance been the provision of equitable care and -- effectively, what models can we look to? This is a fairly broad question and can go in a number of directions. I think I'll take it in a direction that I find particularly interesting in my work, the role of social determinants and health related social needs in 1115 waivers. Recently as I mentioned earlier on the webinar, we do see a trend towards states being more and more interested in thinking about the ways that health related social needs, social determinants, things like food, housing, built environment, interpersonal violence, education, all of these sort of outside factors, the role that they have in impacting your health. And as we're thinking about that we are seeing that start to show up in the 1115 waivers. States are getting more and more interested in trying to think about how can they impact those issues through their Medicaid programs.

In particular, we have seen a focus towards issues like nutrition and housing. So an example of this is here in Massachusetts, as I mentioned earlier, we have an 1115 waiver that is being implemented now. That created a system of accountable care organizations. These accountable care organizations are starting in January of next year, going to have a new stream of funding that they can use to address health related social needs, specifically knew contributory negligence needs and housing needs.

So they essentially have a new pot of money that they can direct towards certain individuals in their patient population to headache sure that they are receiving sort of adequate food, the 52ed that they need to address their health conditions, and also to provide sort of housing supports. That is an example of building thoughts about the safety net and other needs into Medicaid 1115 waivers.

Similarly there is a waiver that was recently approved out of North Carolina that also takes a really close look at social determinants and health related social needs. So that waiver is sort of earlier in the process. We don't exactly know what that is going to look like at the end of the day. Right now it looks like they are going to be having these healthy opportunity pilots that are going to target things like transportation, nutrition, housing, those things in the patient populations.
Lastly I would highlight Oregon as an example of early innovator in this space with their coordinated care organizations that created new ways to use funding to address some of these issues. Again, I point you to that recent health affairs article.
And then I think in may be -- let's see.
So this one, we have a question here. This may be connected to your previous question, Phil, but I'll direct it to you in case you have anything you want to add. Section 1115 used as a spring board for a modified Medicaid expansion such as state attempts to adapt the Oklahoma section 1115, insure Oklahoma plan where consumers pay 4 percent of household premium monthly. This seems to be a question about how states have used sec 1115 waivers to create modified versions of Medicaid expansion.
Phil, do you want to add anything on that point at all?
>> Phil Waters: Sure, I'll just add that because 1115s have to be approved by the secretary, some of the policy priorities about what gets approved and what gets reviewed can shift based on the administration. And so it was the case that under the Obama Administration they were fairly clear that they did not want to use the waiver process to do a modified ACA expansion partially because they thought you could just expand. Also because part of the response to the situation I described in Utah with the partial expansion is, that doesn't come with the enhanced funding that comes with the ACA expansion. It's a regular match from the federal government. So you are essentially spending more money to cover fewer people.
That is not to say that there have been no expansions that have been done through 1115. I think there are a couple examples that I can't remember off the top of my head where they essentially did the same thing as the ACA expanse but wanted to administer in a slightly different way. Sometimes folks have done or have proposed a modified expansion where the folks above 100 percent of the poverty line get fully subsidized coverage but it is on the ACA market exchange instead of through the Medicaid program. It is possible but colored by the current administration.
>> Katie Garfield: Thanks, fill. We have a couple of questions coming in here. I think we are almost up against time. I know that I do have to hand things back to Laura in just a moment for some final housekeeping points. But let's see. I will just see if there is anything on -- a couple of questions that have come in that we can address really, really quickly. There is a question about, how state public health and local public health requirements result in 1115 waivers? I can't quote specific examples, but this is something that can come up in 1115 waivers thinking about how you work with other sister agencies or even sort of community-based organizations, built into these waivers. I think in particular I would have to go back and look, but I believe the California 1115 waiver may have done some of this. Again, they are one of the ones highlighted in that recent health affairs article. That might be a place to go look if you are interested in finding that out.
I know that here in Massachusetts, that the sort of public health department has played at least some role in our thinking through the implementation of our current state waiver as I mentioned earlier there is a lot of thinking about social determinants of health and relevant social needs that our public health department has been a leader on for years and years. So I know there's a role that they are playing there, at least in thinking through the implementation of some of these pieces.
So I do think that there is sort of indirect or direct roles that public health can play in 1115 waivers. I apologize, I don't have a lot of great specific examples off the top of my head.
Unfortunately, I know we do have a couple other questions but I think I need to turn things over to Laura to close us out.

>> Laura Burr: Thank you so much, Katie. Thanks so much for the presentation, all of you, Katie, Maureen, Corinne and Phil. Also thank you to the Center for Health Law and Policy of Harvard Law School, the GO2 Foundation for Lung Cancer and the Bristol-Myers Squibb Foundation for sponsoring today's event.

Thank you to you, our audience. A recording of today's presentation and the slides will be available to you next week at Dialogue4Health.org. You will receive an email from us with a link to a brief survey that we hope you will take. We would like to hear from you. That survey includes instructions for getting a certificate of completion for this event.

Thanks so much for being with us and that concludes today’s web forum. Have a great day.

(The session concluded at 2:30 p.m. EDT.)

(CART captioner signing off.)