May 14, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-1850

Dear Administrator Verma:

The 17 undersigned organizations represent more than one hundred million Americans living with chronic or serious health conditions, including many who rely on Medicaid as their primary source of health care coverage. Together and separately, our non-profit, non-partisan organizations are dedicated to working with the Administration, Members of Congress, and State Governments on a bipartisan basis to protect the health and wellbeing of the patients and consumers we represent.

However, our organizations are deeply concerned about guidance issued by the Centers for Medicare and Medicaid Services (CMS) to State Medicaid Directors encouraging states to impose work requirements on the Medicaid population. These policies would likely have significant negative consequences for the individuals and families we serve. We urge CMS to rescind this invitation to states to include work requirement policies in their 1115 demonstration waiver applications.

Medicaid is a Coverage Backbone
Medicaid plays a crucial role in the health care of low-income and disabled individuals and families across the United States by providing access to prevention, treatment, disease management, and care coordination. For example, Medicaid provides health insurance coverage for nearly one half of children

and one third of adults with cystic fibrosis,[1] almost one half of all children with asthma[2], and disproportionally covers adults living with diabetes.[3] Furthermore, almost a third of the adult population with Medicaid coverage have a history of cardiovascular disease[4] and approximately one-third of all pediatric cancer patients have Medicaid at the point of diagnosis.[5] Almost half of all births are covered by Medicaid.[6] Clearly the Medicaid program serves as a critical access point for health management and care.

Work Requirements are not Aligned with the Intent of Medicaid

The purpose of Medicaid is to provide health coverage. It is not a work program like Temporary Assistance for Needy Families (TANF.) The statute defines the factors states can consider in determining eligibility for Medicaid, such as income, citizenship and immigration status, and state residence. The statute does *not* reference an individual's employment status or ability to work, if they are seeking work, or their ability to engage in work-related activities as a permissible factor in determining Medicaid eligibility.[7]

Section 1115 of the SSA does allow states to petition the Department of Health and Human Services (HHS) for additional flexibility from federal requirements to implement experimental projects as long as they further the objectives of the Medicaid program. As noted on the Department's website, the intent of the 1115 demonstration waiver program is to increase access and test innovative approaches to delivering care, while evaluating the effectiveness of the new experimental approach.[8] Evidence from other programs that have implemented work and community engagement requirements suggests that these policies do not effectively increase stable employment and may exacerbate extreme poverty.[9]

While many states have made coverage more affordable and accessible to low-income adults and families using mechanisms such as 1115 waivers it is unclear how allowing states to impose work requirements, which proposals project will reduce enrollment by tens of thousands, would further Medicaid's own programmatic goals. Employment and community engagement criteria fall outside statutory standards and could significantly harm patients by reducing their access to healthcare services both in the short and long term. To treat disease and prevent adverse health outcomes, everyone – regardless of employment status – should have access to affordable, quality healthcare.

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[1] Cystic Fibrosis Patient Registry, 2016.

[2] Center for Disease Control and Prevention. Health Care Coverage among Children. November 2016. Available at: https://www.cdc.gov/asthma/asthma_stats/Health_Care_Coverage_among_Children.htm

[3] Kaiser Commission on Medicaid and the Uninsured. The Role of Medicaid for People with Diabetes. Henry J. Kaiser Family Foundation. November 2012. Available at: https://kaiserfamilyfoundation.files.wordpress.com/2013/01/8383_d.pdf

[4] Kaiser Family Foundation. The Role of Medicaid For People with Cardiovascular Diseases. 2012. Available at: https://kaiserfamilyfoundation.files.wordpress.com/2013/01/8383_cd.pdf

[5] Analysis provided to ACS CAN by Avalere Health. Funding for Medicaid patients with cancer under BCRA Discussion Draft. Analysis performed June 2017.

[6] Anne Rossier Markus, Ellie Andres, Kristina D. West, Nicole Garro, Cynthia Pellegrini. Medicaid Covered Births, 2008 Through 2010, in the Context of the Implementation of Health Reform. Women's Health Issues, Sept-Oct 2013, Vol. 23, Issue 5, pp. e273-280.

[7] Jane Perkins, "Medicaid Work Requirements: Legally Suspect," National Health Law Program, (March 2017).

[8] Centers for Medicare & Medicaid Services. Section 1115 Demonstrations. Available at https://www.medicaid.gov/medicaid/section-1115-demo/index.html

[9] Sandra K. Danziger et al., *From Welfare to a Work-Based Safety Net: An Incomplete Transition*, 35 Journal of Policy Analysis and Management, 231–238 (2016).

Work Requirements Create Barriers to Care

Implementing work and community engagement requirements in Medicaid programs will impose additional barriers to care and will likely negatively impact already vulnerable populations – especially families and individuals living with complex or chronic medical conditions. Approving waivers that include work requirements will likely result in patients and consumers losing access to the care they need to manage their condition(s) or inappropriately forcing beneficiaries into work situations that may worsen their health in order to maintain coverage. Without access to these services, many would lose their ability to live healthy and productive lives.

Individuals with chronic or serious conditions often experience lapses in employment due to their condition or may have been directed by a physician to take time away from work as part of their treatment and recovery. In fact, some patients with certain diseases or conditions may be advised that working during their course of treatment may negatively impact their treatment outcomes.[10,11] For many individuals with serious conditions, access to timely treatment is essential to avoid serious complications or long-term health deficits. While we appreciate CMS' inclusion of an exemptions process for certain individuals with barriers to work, it is unclear how these would be implemented, monitored, and adjudicated. Even if exemption criteria were better clarified, patients with serious and chronic health conditions, and the caretakers of such individuals, could still be at risk for losing coverage. Exempt enrollees will still have to provide documentation of their conditions to state offices tracking compliance with work and community engagement requirements, creating opportunities for administrative error that could jeopardize their coverage. No exemption criteria can adequately circumvent this problem without placing undue risk upon those we represent.

Further, policies that attempt to impose conditions on access to health care coverage are likely to result in people either losing access to necessary care or working jobs at times in their lives when doing so could have a markedly negative impact on their health. Therefore, participation in work, work searches, or required community activities as a condition of Medicaid eligibility could discriminate against these individuals and create inappropriate and unwarranted barriers to medical care and good health.

Increased Administrative Burden and Red Tape

Our organizations understand the dual need to address poverty while also controlling costs. However, we are concerned that the proposed changes will require substantial state investment in infrastructure that does not align with the Medicaid program's goal of providing access to care. Implementing work requirements will necessitate costly new administrative processes and programs, demanding considerable financial resources that would be better used providing care. States such as Kentucky, Tennessee and Virginia have estimated that setting up the administrative systems to track and verify exemptions and work activities will cost tens of millions of dollars.[12]

The administrative burden on beneficiaries to prove they have fulfilled or are exempt from work requirements will likely decrease the number of individuals with Medicaid coverage. Our organizations

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[10] Whitney RL, Bell JF, Reed SC, Lash R, Bold RJ, Kim KK, et al. Predictors of financial difficulties and work modifications among cancer survivors in the United States. *J Cancer Surviv.* 2016; 10:241. doi: 10.1007/s11764-015-0470-y.

[11] Ramsey SD, Blough DK, Kirchhoff AC, et al. Washington State Cancer Patients Found to be at Greater Risk for Bankruptcy then People Without a Cancer Diagnosis," Health Affairs, 32, no. 6, (2013): 1143-1152

[12] Misty Williams, "Medicaid Changes Require Tens of Millions in Upfront Costs," Roll Call, February 26, 2018. Available at: https://www.rollcall.com/news/politics/medicaid-kentucky

have already seen requirements that demand tedious reporting, which means more red tape for beneficiaries. Furthermore, language barriers, disabilities, mental illness, insecure work, frequent moves, limited internet access[13], and temporary or chronic homelessness are more prevalent among the Medicaid population, and could be significant barriers to fulfilling these requirements.[14,15] Preventing people from maintaining coverage will only exacerbate the many barriers to care they already face, and which Medicaid is intended to help beneficiaries overcome.

Work Requirements Do Not Increase Employment or Improve Health

There is limited evidence to suggest that work and community engagement programs, when implemented, increase employment or improve access to care.[16] Hinging one's health care coverage on their ability to find and maintain work may even worsen the health conditions and other barriers that prevented individuals from holding jobs in the first place. We therefore strongly recommend Medicaid resources be focused on improving the health of the individuals it serves, rather than imposing additional and unjustified burdens with little or no proven return on investment.

Conclusion

For the reasons outlined above, the inclusion of a work requirement to qualify for or maintain Medicaid coverage is deeply troubling to our organizations. We urge CMS to rescind this invitation to states to include work requirement policies in their 1115 demonstration waiver applications.

We appreciate your consideration of our concerns regarding the recent policy change on work and community engagement in Medicaid. If you have any additional questions or would like to discuss this issue further with the signatories of this letter, please contact Katie Berge, Government Relations Manager at the American Heart Association, at katie.berge@heart.org.

Sincerely,

American Cancer Association Cancer Action Network
American Diabetes Association
American Heart Association
American Liver Foundation
American Lung Association
Cystic Fibrosis Foundation
Epilepsy Foundation
Family Voices
Hemophilia Federation of America
Leukemia & Lymphoma Society

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[13] In April, the state of Arkansas indicated that it would implement a work requirement. Beneficiaries of the Arkansas Works Medicaid expansion program, which provides coverage for over 280,000 low-income adults, would be required to report work activity or request an exemption via an online portal despite over 600,000 Arkansans (23 percent) not having access to wired broadband services. (https://broadbandnow.com/Arkansas).

[14] Heather Hahn et al., Work Requirements in Social Safety Net Programs: A Status Report of Work Requirements in TANF, SNAP Housing Assistance, and Medicaid (Urban Institute) (2017), https://www.urban.org/research/publication/work-requirements-social-safety-net-programs-status-report-work-requirements-tanf-snap-housing-assistance-and-medicaid

[15] Yeheskel Hasenfeld et al., *The Logic of Sanctioning Welfare Recipients: An Empirical Assessment*, 78 Social Service Review 304–319 (2004).

[16] Ibid.

Lutheran Services in America
March of Dimes
Mended Little Hearts
National Alliance on Mental Illness
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation

Cc: The Honorable Alex Azar