May 30, 2013

The Honorable Kathleen Sebelius, Secretary

United States Department of Health and Human Services

200 Independence Avenue, S.W.

Washington, D.C. 20201

Dear Secretary Sebelius:

The undersigned organizations write to express our concern about the provisions of Indiana’s pending request for a demonstration Section 1115 waiver to extend its Healthy Indiana Program.

We share your objective in extending Medicaid coverage to uninsured adults and understand the need for states to have flexibility in designing their programs. However, Indiana is requesting authority to limit coverage in ways that your agency has already said are inconsistent with the objectives of the Medicaid statute. As you know, on January 1 2014 the statute provides a pathway to coverage for almost all low-income adults with extremely generous federal funding attached.

* The state’s request to retain authority to cap enrollment is directly contrary to recent CMS guidance issued on April 25, 2013, stating that enrollment caps run counter to the objectives of the Medicaid program, so the agency does “not anticipate that we would authorize enrollment caps … through section 1115 demonstrations.” We agree with this limitation, which recognizes the intent of Congress to expand Medicaid to all low-income adults.
* The state is also requesting permission to require that *all* adults pay a premium in the form of a contribution to a “POWER Account.” While the contributions would be based on a sliding scale, even adults without any income would be required to contribute at least $160 a year. Those who fail to make their monthly contributions would be “expelled” from the program for 12 months.

In a recent letter to Iowa state legislators, CMS Deputy Administrator Cindy Mann explained that “the statute does not permit premiums for beneficiaries whose incomes are below 150 percent of the poverty level. Prior to the Affordable Care Act, HHS approved the use of premiums in some section 1115 demonstrations, but has not generally permitted premiums for populations with incomes below the poverty level.” We agree that low-income adults enrolled in Medicaid – especially those with incomes below poverty -- should not be charged premiums. It would be especially problematic to approve a premium structure like that proposed by Indiana, which bars people from coverage for 12 months when they fail to make their required payments. Such a penalty goes well beyond what is allowed for CHIP beneficiaries and those who will receive premium tax credits to help them pay for coverage in the new Marketplaces.

In short, we do not believe that these aspects of Indiana’s request comport with the objectives of the Medicaid statute, and therefore Indiana’s request for demonstration authority should not be approved. Thank you for your consideration of our views.

Sincerely,

American Cancer Society Cancer Action Network

Bazelon Center for Mental Health Law

Center on Budget and Policy Priorities

Community Access National Network

Families USA

First Focus

Georgetown University Center for Children and Families

National Alliance on Mental Illness

National Health Law Program

National Senior Citizens Law Center