

February 5, 2018

The Honorable Alex Azar, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Azar:

The undersigned organizations appreciate the opportunity to comment on Arizona's December 19, 2017 request for an amendment to the Arizona Health Care Cost Containment System (AHCCCS) section 1115 demonstration project that would allow Arizona to implement the AHCCCS Works program. The AHCCCS Works program would condition Medicaid eligibility on compliance with work requirements, time limit Medicaid coverage to five years over a person's lifetime, and increase the frequency of Medicaid eligibility redeterminations.

We urge you to reject Arizona's request because it fails to meet the statutory requirements for an 1115 demonstration and poses a significant danger to the health of low-income Arizonans. By the state's own estimates, as many as 269,000 Arizonans would be at risk of losing coverage due to the proposed new policies. It's clear from the state's proposed goals, hypotheses, and policies that the proposal would not promote the objectives of the Medicaid program. In fact, the AHCCCS Works hypotheses aren't linked to improvements in health or health outcomes but instead explicitly linked to increasing employment and reducing the number of people on public assistance, which are not objectives of the Medicaid program.

Work Requirements Would Harm People Who Cannot Work

Arizona's proposal would require expansion adults who are not otherwise exempt to "verify that they are employed, attending school, participating in Employment Support and Development activities or any combination of these for at least 20 hours per week." While the state proposes to exempt certain populations from its 20 hours per week work requirement, the state projects that as many as 269,000 Arizonans would be subject to the work requirement and at risk of losing coverage if they're unable to meet it.

Federal law does not permit work requirements or time limits in Medicaid. The law defines the factors states can consider in determining who is eligible for Medicaid, and it does not require an individual to be working or seeking work as a permissible factor.¹ We are aware that you do not share this interpretation of the law as made clear in recent guidance,² but we respectfully disagree. The guidance attempts to justify a work requirement by misinterpreting research showing that people with jobs have better health and higher incomes than people without jobs, and claiming,

¹Jane Perkins, "Medicaid Work Requirements: Legally Suspect," National Health Law Program, March 2017, <http://www.healthlaw.org/publications/browse-all-publications/medicaid-work-requirements-legally-suspect#.Wm95iFWnFtQ>.

²Centers for Medicare and Medicaid Services, "Opportunities to Promote Work and Community Engagement Among Medicaid Beneficiaries" SMD 18-002, January 11, 2018, <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf>.

based on this research, that requiring people to work will make them healthy. However, the causal relationship is more likely in the other direction — namely, that healthy people are likelier to have jobs than those in poor health.³

Work requirements are contrary to the core mission of Medicaid, which is to provide health coverage to low-income people so they can get the health care services they need. Research shows that most people with Medicaid coverage who can work do so. For people who face major obstacles to employment, harsh requirements such as limiting their eligibility for health coverage will not help overcome them. Nearly 8 in 10 non-disabled adults with Medicaid coverage live in working families, and nearly 60 percent are working themselves. Of those not working, more than one-third reported that illness or a disability was the primary reason, 28 percent reported that they were taking care of home or family, and 18 percent were in school.⁴

In Arizona, there are 636,000 adults with Medicaid coverage who are under 65, who are not receiving disability benefits from the Social Security Administration. Eighty-one percent of those adults live in a family with at least one worker, and over 60 percent are working themselves. Of those who are not working, over 70 percent say they can't work due to an illness or a disability, or because of caretaking responsibilities.⁵

The proposal also does nothing to increase the availability of appropriate jobs across the state, or to provide Medicaid beneficiaries with transportation, childcare, education, job search services, or training that could help them find and hold a job. For example, Medicaid beneficiaries living in rural areas without job opportunities or transportation, or those transitioning back into the community from the justice system, could lose their Medicaid benefits under this proposal.

The proposal would also harm those who *are* working, especially those with variable hours and seasonal employment who may lose coverage in months they don't work enough hours. Moreover, the complex rules and required tracking would likely lead to errors and coverage terminations for those who are working or participating in a job training program. If a beneficiary does not understand that they must report participation or an eligibility worker fails to properly record employment activities, working individuals may erroneously lose coverage and face additional burdens in proving their eligibility.

Arizona's proposal could end up keeping people from gaining employment: without health services, making it much more difficult for them to find and hold a job. Ohio's Department of Medicaid found that three-quarters of Medicaid beneficiaries who received care under the state's Medicaid expansion and those who were looking for work reported that Medicaid made it easier to do so. For those who were currently working, more than half said that Medicaid made it easier to keep their jobs.⁶

³ For example, one of the studies cited in the 1/11/18 SMD explicitly states that “these findings do not necessarily imply that income has a *causal* effect on life expectancy” Chetty, Raj et al. *The Association Between Income and Life Expectancy in The United States, 2001-2014* Journal of the American Medical Association, April 26, 2016.

⁴ Rachel Garfield, Robin Rudowitz, and Anthony Damico, “Understanding the Intersection of Medicaid and Work,” Kaiser Family Foundation, February 2017, <http://kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/>.

⁵ *Ibid.*

⁶ Ohio Department of Medicaid, “Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly,” <http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf>.

Time Limiting Medicaid Eligibility Does Not Further the Objectives of the Program

Under the AHCCCS Work program, the state will impose a five-year lifetime coverage limit for beneficiaries subject to the work requirement. Per the state's proposal, only the time a beneficiary was out of compliance with the work requirements and enrolled in AHCCCS (e.g., when they are unemployed) would count towards the five-year coverage limit. Medicaid is critical to ensuring a continuum of coverage when people experience income and other life changes such as losing a job. By imposing a time limit on Medicaid eligibility for those who are unemployed, the proposal would harm Arizonans who are unable to work. Many adults with Medicaid coverage have health conditions that prevent them from working.

A time limit on Medicaid coverage has never been allowed, and Arizona's previous request to impose one was denied in September 2016 when CMS determined that such a policy didn't promote the objectives of the Medicaid program. The state hasn't included any additional information in its new proposal that would support a different determination, and as such, we urge CMS to again deny the state's request.

Work Requirements and Time Limits Are Administratively Complex and Costly to Implement

Administering the AHCCCS Works program will be burdensome and costly for Arizona. The state acknowledges that implementing the AHCCCS Works program would require new procedures, system changes, and add considerably to the tasks eligibility workers must perform. The state would also need to establish systems for verifying exemptions, screening, tracking, and sanctions.

The administrative challenges associated with implementing work requirements and time limits would be more pronounced in Medicaid than the Supplemental Nutrition Assistance Program (SNAP) and the Temporary Assistance for Needy Families (TANF), which have struggled with implementation. SNAP and TANF require substantial interactions with participants, including interviews and frequent reporting. Even with this more intensive case management model, states have encountered obstacles to accurately applying these policies. State experience implementing work requirements in TANF suggests that adding similar requirements to Medicaid could cost states thousands of dollars per beneficiary.⁷ States' administration of the SNAP time limit was found to be error prone, with inaccurate application of the rules leading to eligible individuals being denied benefits.⁸ When first implemented, the U.S. Food and Nutrition Service did a study and found that policies were "difficult to administer and too burdensome for the States." One of the biggest shifts was tracking benefit receipt over time, rather than circumstances in a single month, which was a fundamental change to program administration.⁹ Medicaid currently has a streamlined eligibility determination process

⁷ Gayle Hamilton et al., "National Evaluation of Welfare-to-Work Strategies: How Effective Are Different Welfare-to-Work Approaches? Five-Year Adult and Child Impacts for Eleven Programs," Manpower Demonstration Research Corporation, December 2001, Table 13.1.

⁸ USDA Office of Inspector General, FNS Controls over SNAP Benefits for Able-Bodied Adults Without Dependents, September 2016, <https://www.usda.gov/oig/webdocs/27601-0002-31.pdf>.

⁹ Mathematica Policy Research, Inc., Imposing a Time Limit on Food Stamp Receipt: Implementation of the Provisions and Effects on Food Stamp Participation (2001)

which relies heavily on online applications and electronic data verification, so it would likely be even more difficult for states to accurately determine compliance and ongoing eligibility.

Increasing the Frequency of Medicaid Eligibility Redeterminations Will Make It Harder for Adults to Stay Covered

Under Arizona's proposal, the state is seeking authority to not only redetermine Medicaid eligibility every 6 months for expansion adults but also authority to redetermine eligibility every 3 months for "individuals who have a change in circumstance that results in non-compliance with AHCCCS Works requirements." Based on the state's proposal, it's unclear who the intended group of individuals are who would be subject to the 3-month redetermination cycle (i.e., those who were in the grace period, or those who were out of compliance and then were reenrolled). This request is unnecessary as Medicaid requires most beneficiaries to renew their coverage once a year as well as to report changes in income, employment and other circumstances that affect their eligibility within 10 days.

Findings from other states show that increasing the frequency of renewals can reduce enrollment and increase breaks in coverage. In 2003, Washington State began requiring children to renew eligibility every six months and made other process changes; the number of children participating in Medicaid fell by 30,000 over the next two years. When the state restored 12-month eligibility, children's enrollment *rose* back by 30,000 within a year.¹⁰

Arizona's request to increase the frequency of eligibility determinations is not only inconsistent with the objectives of the Medicaid program because it will reduce enrollment, but it will also lead to higher administrative costs for the state with no benefit accruing to beneficiaries from these additional costs.

Thank you for your willingness to consider our comments. If you would like any additional information, please contact Joan Alker (jca25@georgetown.edu) or Judy Solomon (Solomon@cbpp.org).

CC: Seema Verma, Brian Neale, Tim Hill, Judith Cash

Arizona Center for Disability Law
Arizona Chapter of the American Academy of Pediatrics (AzAAP)
Center on Budget and Policy Priorities
Center for Autism and Related Disorders
Center for Reproductive Rights
Children's Defense Fund
Community Catalyst
Epilepsy Foundation Arizona
Family Voices
First Focus
Georgetown University Center for Children and Families
Justice in Aging

¹⁰ Georgetown Center for Children and Families, "Program Design Snapshot: 12-Month Continuous Eligibility," March 2009, <http://ccf.georgetown.edu/wp-content/uploads/2012/03/CE-program-snapshot.pdf>.

National Academy of Elder Law Attorneys
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