

June 14, 2018

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

Dear Secretary Azar:

The undersigned organizations appreciate the opportunity to comment on Ohio's proposed Section 1115 Demonstration project, which would take Medicaid coverage away from adults under age 50 in Ohio's Medicaid expansion who don't work or engage in work-related activities, for a minimum of 20 hours per week.

As we have commented on previous proposals, federal law does not authorize conditioning Medicaid eligibility on meeting a work requirement. The law defines the factors states can consider in defining who is eligible for Medicaid, and those factors do not include a requirement that an individual work or engage in work-related activities.¹ While your January 2018 letter to state Medicaid directors² makes it clear that you do not share this interpretation, we again 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 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

Ohio says the goal of this demonstration is to “promote economic stability and financial independence” and “improve health outcomes.” The reality is that since Ohio adopted the Affordable Care Act's (ACA) Medicaid expansion in 2014 the state has made tremendous progress toward these objectives *without a work requirement*. Medicaid expansion enrollees report a decline in unmet health needs, according to a state report, and among those who were unemployed and looking for work when they gained coverage, they said Medicaid made their job search easier.

We urge you to reject this proposal because it poses a significant danger to the health and well-being of low-income people in Ohio and, if implemented, would reverse the progress Ohio has made in covering its low-income residents, improving health outcomes, and supporting employment. Our specific comments are as follows:

¹ Jane Perkins, “Medicaid Work Requirements: Legally Suspect,” National Health Law Program, March 21, 2017, <http://www.healthlaw.org/publications/browse-all-publications/medicaid-work-requirements-legally-suspect#.WxrPwDVKhHE>.

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

³ For example, one of the studies cited in the January guidance 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, <https://jamanetwork.com/journals/jama/article-abstract/2513561>.

A work requirement will make it harder for Ohioans — especially vulnerable populations — to get and stay covered.

Nationwide, 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, 35 percent 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 The reality is that, for the large majority of enrollees who are already working or face serious barriers to employment, work requirements have little or no possible benefit. But they will add red tape and bureaucratic hurdles that will cause some of these people to lose coverage.

Ohio estimates that 18,000 people will lose their Medicaid coverage because they are unable to meet the work requirement, but this estimate is likely too low. The state assumes that the only people in danger of losing coverage are those who would not qualify for an exemption and are not working the required number of hours a week.

Some individuals who should be exempt under Ohio's proposal are likely to fall through the cracks because they will have difficulty navigating the appraisal process. Ohio says each person who does not have SNAP benefits will have 30 days to complete an in-person appraisal where they will receive information about how they can meet the work requirement. There is evidence from Medicaid waivers in Indiana, Iowa, and Michigan showing that states have done a poor job of informing enrollees in an understandable manner of what they need to do to maintain their coverage.⁵ Ohio's Medicaid program is administered by its counties, yet the burden on them for doing these appraisals is not factored into the state's proposal. Ohio's counties estimate the appraisal process will create millions of dollars in new costs, and there will naturally be wide variation in how well the appraisals are handled across the state.⁶

Red tape and paperwork requirements have been shown to reduce enrollment in Medicaid across the board,⁷ and people coping with serious mental illness or physical impairments may face particular difficulties meeting these requirements. A study conducted by Ohio's own Department of Medicaid found that nearly one-third of adults enrolled through the ACA Medicaid expansion have a substance use disorder, while 27 percent have been diagnosed with at least one serious physical health condition, such as diabetes or heart disease, just since enrolling in Medicaid.⁸ For people with

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 Judith Solomon, "Complex Medicaid Changes Likely to Cost Many People Coverage," Center on Budget and Policy Priorities, May 30, 2018, <https://www.cbpp.org/blog/complex-medicaid-changes-likely-to-cost-many-people-coverage>.

⁶ Loren Anthes, "Medicaid Work Requirements Public Testimony," Center for Community Solutions, March 12, 2018, <https://www.communitysolutions.com/research/medicaid-work-requirements-public-testimony/>.

⁷ Margot Sanger-Katz, "Hate Paperwork? Medicaid Recipients Will Be Drowning In It," *The New York Times*, January 18, 2018, <https://www.nytimes.com/2018/01/18/upshot/medicaid-enrollment-obstacles-kentucky-work-requirement.html>.

⁸ Ohio Department of Medicaid, "Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly," January 2017, <http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf>.

these types of chronic health conditions, which *should* make them eligible for the state’s exemption for people physically unfit for employment, obtaining physician testimony, medical records, or other required documents may be difficult, especially if beneficiaries don’t have health coverage while seeking to prove they are exempt.

Illustrating the validity of these concerns, studies of state SNAP and Temporary Assistance for Needy Families (TANF) programs have found that people with disabilities, serious illnesses, and substance use disorders are disproportionately likely to lose benefits due to work requirements, even when they should be exempt.⁹ Effectively, people with disabilities may become collateral damage in an attempt — likely an unsuccessful one — to increase employment among the small minority of adult Medicaid enrollees who are not already working, or are ill or disabled, caregivers, or in school.

Ohio’s proposal is unlikely to promote employment and may be counterproductive

Research on work requirements in other programs finds that they generally have only modest and temporary effects on employment, failing to increase long-term employment or reduce poverty. Results in Medicaid are likely to be worse, for several reasons. First, as noted, most of those affected by the requirements are either already working or face major barriers to work — barriers that will not be addressed by the state’s proposal as discussed below.

Second, Medicaid enrollees targeted by work requirement proposals already have a strong incentive to work: without working, they can get health care but usually little other assistance, and they generally are very poor. Enrollees who are seemingly able to work but aren’t employed typically lack not motivation, but work supports such as job search assistance, job training, child care, and transportation assistance; they may also face challenges such as an undiagnosed substance use disorder, domestic violence, the need to care for an ill family member, or a housing crisis.

Third, state Medicaid programs generally are not well equipped to provide or connect families with work support services, which are already oversubscribed in most states. The CMS guidance does not require states to offer any work supports in tandem with instituting work requirements — in fact, it prohibits them from using federal Medicaid funding to do so. Ohio makes this point in its proposal by requesting a federal match for transportation costs and supportive services provided to beneficiaries, while acknowledging that the CMS guidance is explicit that such services are not eligible for matching dollars making it highly likely that Ohio’s request for federal funds will be rejected.

Finally, Ohio’s own reports show that Medicaid coverage benefits those who have gained coverage. Enrollees have reported a decline in unmet health needs, as well as better access to mental health services and treatment for chronic health conditions. And 75 percent of those who were unemployed and looking for work when they gained coverage said Medicaid made their job search easier. Among those who were already employed, half said Medicaid made it easier to stay working.¹⁰

⁹ Hannah Katch, Jennifer Wagner, and Aviva Aron-Dine, “Medicaid Work Requirements Will Reduce Low-Income Families’ Access to Care and Worsen Health Outcomes,” Center on Budget and Policy Priorities, February 8, 2018, <https://www.cbpp.org/research/health/medicaid-work-requirements-will-reduce-low-income-families-access-to-care-and-worsen>.

¹⁰ Ohio Department of Medicaid, 2017, *op. cit.*

State public comment period established overwhelming record of opposition to Ohio's proposal

Ohio notes that *93 percent* of comments submitted during the state comment period opposed the waiver (only 4 percent were in support). The comments focused on the harm to beneficiaries, especially vulnerable populations such as people with disabilities, those with chronic health conditions, people experiencing homelessness, and veterans. Commenters also noted the burden a work requirement would place on providers, and the increased cost and burden on the state and its counties. Despite the overwhelming opposition to the waiver and the specific issues raised in the comments, the state failed to make any changes admitting that “the Waiver has not been modified other than for changes to the budget neutrality estimates and revisions to improve clarity.”

Conclusion

Ohio's proposal would do nothing to boost employment in 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. Medicaid beneficiaries with a disability, those with a chronic health condition, and those living in areas without job opportunities or transportation would likely struggle to meet the requirements.

The proposal would also harm those who *are* working. The complex rules and lengthy appraisal process, and lack of community and transportation supports, would likely lead to errors and coverage terminations for those who are working or participating in a job training program, and could cause working individuals to erroneously lose coverage and face additional burdens in proving their eligibility.

We urge you to reject Ohio's proposal.

We ask that you include the full text of each of the studies and other materials cited through active hyperlinks in our comments in the formal administrative record for purposes of the Administrative Procedures Act. Thank you for your willingness to consider our comments. If you need additional information, please contact Judy Solomon (Solomon@cbpp.org) or Joan Alker (jca25@georgetown.edu).

Autistic Self Advocacy Network
Center on Budget and Policy Priorities
Children's Defense Fund
Community Catalyst
First Focus
Georgetown University Center for Children and Families
Guttmacher Institute
HIV Medicine Association
Justice in Aging
National Association of Community Health Centers
NAMI, National Alliance on Mental Illness
National Center for Law and Economic Justice
National Employment Law Project

National Health Care for the Homeless Council
National Multiple Sclerosis Society
National Partnership for Women & Families
Ohio Academy of Family Physicians
Ohio Chapter, American Academy of Pediatrics
Raising Women's Voices for the Health Care We Need
Service Employees International Union
University of Cincinnati Center for Excellence in Developmental Disabilities