

October 11, 2019

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 Montana's proposed amendment to its Section 1115 Demonstration project, known as the Montana Health and Economic Livelihood Partnership (HELP) Demonstration Program. Montana House Bill 658, enacted in May 2019, extended Montana's successful Medicaid expansion and HELP-Link, its innovative workforce promotion program, which provides Medicaid enrollees with evidence-based job training and employment services. The legislation also requires that the state seek federal approval to take Medicaid coverage away from expansion enrollees who don't work or engage in work-related activities for a minimum of 80 hours per month unless they qualify for an exemption from the requirement. The proposal would also require that enrollees with incomes above 50 percent of the federal poverty line (\$516 per month in 2019) pay premiums starting at two percent and going as high as four percent of household income depending on how long they stay enrolled.

Furnishing medical assistance to Medicaid enrollees is a "central objective" of the Medicaid program.¹ Yet research published in the *New England Journal of Medicine* found that "implementation of the first-ever work requirements in Medicaid in 2018 was associated with significant losses in health insurance coverage in the initial 6 months of the policy but no significant change in employment."² This research, along with robust findings from decades of research on the effect of work requirements in other basic assistance programs and the effect of premiums in Medicaid, show that Montana's proposal would take coverage away from low-income adults. Thus it is clear that the proposed amendment does not promote the objectives of the Medicaid program. We therefore urge CMS to reject the amendment and maintain Montana's demonstration in its current form.

Taking Coverage Away from People Who Don't Meet the Proposed Work Requirement Will Cause Many Thousands of Montanans to Lose Health Coverage

Montana's proposal would take coverage away from Medicaid expansion enrollees ages 19 to 55 who don't document their participation in work or job-related activities for 80 hours per month. Those who don't report compliance with the requirement who aren't otherwise eligible for an exemption will be locked out of coverage for six months or until they meet the work requirement for 30 days or prove they are eligible for an exemption.

Work Requirements Will Cause Harmful Coverage Losses

A purported goal of Montana's amendment is to "improve the health, well-being, and financial stability of Montanans through participation in work/community engagement requirements." But evidence shows that Montana like other states that have adopted the Affordable Care Act's (ACA)

¹ Memorandum Opinion, *Stewart v. Azar*, United States District Court for the District of Columbia, Civil Action No. 18-152 (JEB), June 29, 2018.

² Benjamin D. Sommers *et al.*, "Medicaid Work Requirements — Results from the First Year in Arkansas," *New England Journal of Medicine*, June 18, 2019, <https://www.nejm.org/doi/full/10.1056/NEJMSr1901772>.

Medicaid expansion has made tremendous progress toward these objectives *without* a work requirement. More than 102,000 Montanans received preventive services through the state's Medicaid expansion as of July 2019, including more than 9,500 women who received a breast cancer screening. More than 35,880 expansion enrollees received outpatient mental health services, and more than 9,300 received outpatient substance use disorder services.³ Taking coverage away from people who don't meet a work requirement would impede the success of the state's expansion, preventing individuals from obtaining needed care and impeding their ability to participate in the workforce.

Montana's proposal will lead to fewer people enrolling in and maintaining their Medicaid coverage: the state estimates that between 4 and 12 percent of enrollees subject to the work requirement (or up to 12,000 people) will be unable to meet the requirements and will lose their coverage. Experience thus far in Arkansas — where over 18,000 people have lost their Medicaid coverage, or 23 percent of those subject to the requirement — suggests coverage loss in Montana would likely be considerably higher than the state projects.

Most expansion enrollees are already working or should qualify for an exemption. Nationally, 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

In Arkansas, which implemented a similar work requirement (although in some ways less restrictive than Montana's proposal),⁵ the state determined that more than 80 percent of beneficiaries qualified for an exemption and didn't have to take action to maintain their coverage. The vast majority — over 75 percent — of those who did have to take action did not claim an exemption or satisfy the reporting requirement and saw their coverage terminated.⁶ As a result, nearly 18,000 Arkansans lost Medicaid coverage before the waiver was vacated by a federal judge.

About 3 or 4 percent of Arkansans subject to the work requirement were not working and did not qualify for exemptions, according to several studies.⁷ Yet each month, 8 to 29 percent of those subject to the requirement failed to report sufficient work hours, most of them not reporting any hours,⁸ suggesting that many people losing coverage were working or would have qualified for an

³ Montana Medicaid Expansion Dashboard, Montana Department of Health and Human Services, <https://dphhs.mt.gov/helpplan/medicaidexpansiondashboard>.

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 For example, Arkansas' requirement only applies to adults under the age of 50, and adults aged 19-29 were initially not subject to the requirements.

⁶ Jennifer Wagner, "Commentary; As Predicted, Arkansas' Medicaid Waiver Is Taking Coverage Away From Eligible People," Center on Budget and Policy Priorities, December 18, 2018, <https://www.cbpp.org/health/commentary-as-predicted-arkansas-medicaid-waiver-is-taking-coverage-away-from-eligible-people>.

⁷ Anuj Gangopadhyaya *et al.*, "Medicaid Work Requirements in Arkansas," Urban Institute, May 24, 2018, <https://www.urban.org/research/publication/medicaid-work-requirements-arkansas>; *see also* Sommers 2019, *op cit.*

⁸ Jennifer Wagner, "New Arkansas Data Contradict Claims That Most Who Lost Medicaid Found Jobs," Center on Budget and Policy Priorities, March 19, 2019, <https://www.cbpp.org/blog/new-arkansas-data-contradict-claims-that-most-who-lost-medicaid-found-jobs>.

exemption, but lost coverage due to the administrative burden of meeting the work requirement or a lack of awareness that it even existed.

A recent study from the Kaiser Family Foundation based on interviews with beneficiaries and providers in Arkansas sheds light on why coverage losses were so high. Many beneficiaries were unaware of the new requirement and didn't understand the steps they needed to take to demonstrate compliance.⁹ Beneficiaries reported that the new requirements didn't incentivize them to work; instead, the requirements just added to the stress and anxiety they already felt. At the same time, they reported that Medicaid coverage made it easier for them to manage their physical and mental health conditions.

In New Hampshire, the second state to implement a work requirement, state officials insisted they would do a better job than Arkansas. Yet New Hampshire experienced similar problems communicating with beneficiaries about the work requirement policy. Despite multiple outreach efforts, including mail notifications, town halls, phone calls, text messages, and door-to-door outreach, the state failed to reach 20,000 of the 50,000 people potentially subject to the requirement to inform them about the new policy. New Hampshire's governor suspended the work requirement, preventing almost 17,000 people from potentially losing coverage in August.¹⁰ The waiver was vacated by the federal court in *Philbrick v. Azar*.¹¹

In vacating HHS' approval of Kentucky's waiver that would have taken coverage away from adults who didn't meet a work requirement, pay premiums, or renew their coverage or report changes on time, the court found that the waiver didn't advance Medicaid's central objective of providing affordable coverage to people who otherwise wouldn't have it. Arkansas and New Hampshire's waivers were vacated for the same reason. Montana's proposal likewise fails to promote Medicaid's objectives, and should not be approved.

Montana's Proposal Is Unlikely to Promote Employment and May Be Counterproductive

Recent research published in the *New England Journal of Medicine* found that "implementation of the first-ever work requirements in Medicaid in 2018 was associated with significant losses in health insurance coverage in the initial 6 months of the policy but no significant change in employment. Lack of awareness and confusion about the reporting requirements were common, which may explain why thousands of persons lost coverage even though more than 95% of the target population appeared to meet the requirements or qualify for an exemption."¹²

Moreover, studies have found there is no evidence that the ACA Medicaid expansion meaningfully decreased employment, and no evidence of decreased employer coverage among those

⁹ MaryBeth Musumeci, Robin Rudowitz, and Barbara Lyons, "Medicaid Work Requirements in Arkansas: Experience and Perspectives of Enrollees," Kaiser Family Foundation, December 18, 2018, <https://www.kff.org/medicaid/issue-brief/medicaid-work-requirements-in-arkansas-experience-and-perspectives-of-enrollees/>.

¹⁰ Jessica Schubel, "NH Medicaid Work Requirement Suspension Confirms: Policy Can't Be Fixed," Center on Budget and Policy Priorities, July 9, 2019, <https://www.cbpp.org/blog/nh-medicaid-work-requirement-suspension-confirms-policy-cant-be-fixed>.

¹¹ Memorandum Opinion, *Philbrick v. Azar*, United States District Court for the District of Columbia, Civil Action No. 19-773 (JEB), July 29, 2019.

¹² Sommers 2019, *op cit*.

who are employed.¹³ Meanwhile Medicaid coverage itself supports employment, research shows. Surveys of Medicaid expansion beneficiaries in Ohio and Michigan, for example, show that coverage has made it easier for people who are unemployed to find work, and for people who have a job to maintain their employment. A recent study examining the impact of Michigan’s Medicaid expansion found that 69 percent of enrollees said having health insurance through Medicaid helped them do a better job at work and the majority of those who were out of work reported that having Medicaid made them better able to look for a job.¹⁴ Another Michigan study shows that expansion particularly benefits people with chronic health conditions — finding that 76 percent of survey respondents with a behavioral health condition who were employed reported that having Medicaid coverage improved their ability to perform well at work.¹⁵

Montana’s Current Workforce Promotion Program is a National Model

Montana’s HELP-Link program is a nationally recognized model for workforce promotion. The proposed waiver could impede the success of this program and prevent low-income individuals from finding jobs or climbing a career ladder.

Legislation initially enacting Montana’s Medicaid expansion authorized the Department of Labor & Industry to administer a workforce promotion program — Montana’s Health and Economic Livelihood Partnership Link (HELP-Link) — for the newly eligible population. HELP-Link targets outreach and services to the minority of Medicaid enrollees who don’t have disabilities or similarly severe barriers to work but who aren’t working, often due to challenges such as limited skills and lack of access to transportation, child care, or other needed work supports.

Since the program’s start, 25,000 expansion beneficiaries have enrolled in workforce training through the Department of Labor and Industry. Of those, 62 percent were employed in the quarter after completing training, and 70 percent were employed within a year. Fifty-eight percent of participants report wage increases in the year after participating, with a median increase of more than \$8,000 in annual wages. While the state hasn’t analyzed how many people would have found employment without the training, the above figures show the program’s promise.¹⁶

HELP-Link is a national model for supporting Medicaid beneficiaries in the workforce. But its success could be impeded by the proposed policy to take coverage away from people who don’t meet a work requirement. As described above, work requirements create substantial administrative barriers to maintaining coverage, and coverage is an important work support. Moreover, Montana’s Medicaid program provides an important connection to the job services that Montana offers through HELP-Link. Impeding continuous coverage will make it more difficult for Montanans to

¹³ Aviva Aron-Dine, “Eligibility Restrictions in Recent Medicaid Waivers Would Cause Many Thousands of People to Become Uninsured,” Center on Budget and Policy Priorities, August 9, 2018, <https://www.cbpp.org/research/health/eligibility-restrictions-in-recent-medicaid-waivers-would-cause-many-thousands-of>.

¹⁴ Tipirneni, R. et al. “Changes in Health and Ability to Work Among Medicaid Expansion Enrollees: A Mixed Methods Study” *Journal of General Internal Medicine*, December 5th, 2018.

¹⁵ Renuka Tipiernen *et al.*, “Association of Expanded Medicaid Coverage With Health and Job-Related Outcomes Among Enrollees With Behavioral Health Disorders,” *Psychiatric Services*, September 25, 2019, <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201900179>.

¹⁶ Montana Department of Labor and Industry, “HELP-Link Program: 2018 Fiscal Year End Report,” http://lmi.mt.gov/Portals/193/Publications/LMI-Pubs/Special%20Reports%20and%20Studies/HELP-Link_2018Report.pdf.

maintain employment or a job search and is likely to create barriers to accessing the job services that could actually provide support for individuals looking for jobs.

In contrast with the proposed work requirements, evidence shows that the continuation of the HELP-Link program is far more likely to achieve the proposal's goal to "improve the health, well-being, and financial stability of Montanans through participation in work/community engagement requirements" than the state's proposal to take coverage away from Medicaid enrollees, making it harder for some to work.

Premiums Will Further Decrease Coverage and Access to Care

Montana's proposal would also charge premiums to enrollees with incomes above 50 percent of the federal poverty level who are not exempt from the work requirement.

Montana's premiums are already among the highest in the nation at 2 percent of family income for those with incomes above 50 percent of the federal poverty line (or \$10,665 annual income for a family of three in 2019). Those with incomes above the poverty line who don't pay their premiums for 90 days are disenrolled from coverage. Those with incomes between 50 and 100 percent of the poverty line who don't pay premiums are not disenrolled, but the amount owed is considered collectible debt, which the state Department of Revenue would collect against the enrollee's annual income tax — which could substantially affect their financial well-being.

The proposed amendment would penalize those who stay on Medicaid by raising premiums by 0.5 percent of family income per year up to a four percent limit. Under the proposal, enrollees with incomes above 100 percent of the federal poverty level would be disenrolled from coverage if they don't pay their premiums, and would be locked out of coverage until payment of the owed premiums, or until the debt has been assessed through a notice of the debt sent to the individual.

Montana's current premiums are already unaffordable, a recent federal evaluation suggests. In June 2017, only 50 percent of enrollees subject to premiums made their premium payment for the month.¹⁷

Extensive research (including research from Medicaid demonstration projects conducted prior to the passage of the Affordable Care Act) shows that premiums significantly reduce low-income people's participation in health coverage programs.¹⁸ These studies clearly show that the lower a person's income, the less likely they are to enroll and the more likely they are to drop coverage due to premium obligations. People who lose coverage most often end up uninsured and unable to obtain needed health care services.

In proposing these premiums, Montana isn't claiming to test anything that hasn't been tried before — either before the ACA, or in states like Indiana and Montana that have been granted permission to charge premiums to people with incomes above the poverty line. *Evidence from these experiments clearly shows that charging premiums makes it more likely that Medicaid beneficiaries lose their health coverage and become uninsured, or that they are less likely to sign up for coverage in the first place.* Given the preponderance of evidence on the harms of premiums on low-income individuals, the hypotheses

¹⁷ Teresa A. Coughlin *et al.*, "Federal Evaluation: Montana Health and Economic Livelihood Partnership Plan," Urban Institute, December 14, 2018, <https://www.urban.org/research/publication/federal-evaluation-montana-health-and-economic-livelihood-partnership-plan>.

¹⁸ Samantha Artiga, Petry Ubri, and Julia Zur, "The Effects of Premiums and Cost-Sharing on Low-Income Populations: Updated Review of Research Findings," The Kaiser Family Foundation, June 2017, <http://files.kff.org/attachment/Issue-Brief-The-Effects-of-Premiums-and-Cost-Sharing-on-Low-Income-Populations>.

that the state proposes to test with these premiums, such as the hypothesis that conditioning coverage among enrollees with incomes above the poverty level on payment on premiums “will promote continuous coverage and continuity of care,” are not well-founded, and the premiums should not be approved.

Our comments include numerous citations to supporting research, including direct links to the research for HHS’ benefit in reviewing our comments. We direct HHS to each of the studies cited and made available to the agency through active hyperlinks, and we request that the full text of each of the studies cited, along with the full text of our comments, be considered part of the administrative record in this matter for purposes of the Administrative Procedure 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 Dental Health Project

Community Catalyst

Families USA

First Focus on Children

Georgetown University Center for Children and Families

Guttmacher Institute

Mental Health America

NASTAD

National Employment Law Project

National Health Care for the Homeless Council

National Multiple Sclerosis Society

Professor Donald Moynihan, Professor of Public Policy, Georgetown University

Professor Pamela Herd, Professor of Public Policy, Georgetown University

Service Employees International Union

United Way Worldwide