

November 1, 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 Idaho's proposed section 1115 demonstration project, known as the Idaho Medicaid Reform Waiver. Idaho Senate Bill 1204, enacted in April 2019, 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 new applicants be compliant with the work requirement or establish they are exempt before they can enroll in Medicaid coverage.

Providing affordable coverage to low-income people 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 Arkansas' Medicaid program 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 evidence from New Hampshire where nearly 17,000 beneficiaries were set to lose coverage for not meeting the state's rigid work requirement and robust findings from decades of research on the effect of work requirements in other basic assistance programs, make it clear that Idaho's proposal would take coverage away from low-income adults.³ Thus it is clear that the proposed demonstration does not promote the objectives of the Medicaid program. We urge CMS to reject Idaho's demonstration request.

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

Idaho's proposal would take coverage away from Medicaid expansion enrollees ages 19 to 59 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 and who aren't eligible for an exemption will be locked out of coverage for two months or until they meet the work requirement for 30 days or prove they are eligible for an exemption. Idaho's requirement goes even farther than other state proposals by requiring compliance with the requirement before approval of an application for coverage. In other words, Idaho's proposal would not only take coverage away from enrollees who don't meet the requirement; it wouldn't provide them with coverage in the first place.

Work Requirements Will Cause Harmful Coverage Losses

A purported goal of Idaho's proposal is to "enable coverage of Medicaid participants while also promoting the participant's health and financial independence." But evidence shows that other states

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>.

³ New Hampshire Department of Health and Human Services, "DHHS Community Engagement Report: June 2019," July 8, 2019, <https://www.dhhs.nh.gov/medicaid/granite/documents/ga-ce-report-062019.pdf>.

that have adopted the Affordable Care Act's (ACA) Medicaid expansion has made tremendous progress toward these objectives *without* a work requirement. Taking coverage away from people who don't meet a work requirement would impede the potential success of the state's expansion, preventing individuals from obtaining needed care and impeding their ability to participate in the workforce.

Idaho's proposal acknowledges that approval of the demonstration request will lead to fewer people enrolling in and maintaining their Medicaid coverage: the state estimates that 18 percent of enrollees subject to the work requirement (or up to 16,300 people) will be unable to meet the requirements and will lose their coverage. The state does not indicate how many individuals would be denied eligibility upfront as a result of not being able to meet the requirement, but that number would likely be sizeable.

We believe the state's estimate of coverage losses is too low. Applying Arkansas' coverage loss ratio of 23% would result in approximately 21,000 people in Idaho losing coverage. However, this number is likely still too low for two main reasons. First, *Idaho's work requirement is considerably harsher than both Arkansas and New Hampshire. Unlike in Arkansas and New Hampshire, Idaho proposes to require new applicants be compliant with the requirements, or establish an exemption, to be eligible for Medicaid coverage. In addition, Idaho proposes to terminate enrollee's coverage after one month of being unable to meet the requirements instead of any three months as was the case in Arkansas.* As such, we believe that the extent of coverage losses in Idaho would be considerably higher.

The second reason the state's projected coverage loss is likely too low is that it assumes that all enrollees who are already working or otherwise meeting the requirements, which we assume refers to those who are eligible for an exemption, will comply with the reporting requirements. We know from Arkansas' and New Hampshire's experiences that the number of people losing coverage exceeded the target population, and instead, included enrollees who were working or otherwise qualified for an exemption.

For example, around 3 or 4 percent of those subject to the Arkansas work requirement were not working and did not qualify for exemptions, studies estimate.⁴ Yet each month, 8 to 29 percent of those subject to the requirement failed to report sufficient work hours, many of them not reporting any hours. And over 75 percent of those required to report hours (that is, those not automatically exempted by the state) failed to do so each month.⁵ Likewise, a study estimates that all but a small minority of Medicaid expansion beneficiaries in New Hampshire are either working or ill or disabled (and therefore should qualify for exemptions), yet 40 percent of those subject to the work requirement were set to lose coverage had the state not put the policy on hold.⁶

News accounts corroborate that eligible beneficiaries in Arkansas lost coverage and were at risk of losing coverage in New Hampshire. For example, one working Arkansas beneficiary with a chronic condition explained that he lost Medicaid and then could not afford medications, which in turn

⁴ 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, *op cit.*

⁵ Arkansas Department of Human Services, "ARWorks Reports," <https://humanservices.arkansas.gov/newsroom/toolkits>.

⁶ Rachel Garfield *et al.*, "Understanding the Intersection of Medicaid and Work :What Does the Data Say?" Kaiser Family Foundation, August 8, 2019, <https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work-what-does-the-data-say/>.

caused him to lose his job due to his deteriorating health. Another reported rationing her medication after failing to navigate the reporting requirement and losing coverage, despite working 25 to 35 hours each week — which equates to well over the state’s monthly minimum requirement.⁷ And a New Hampshire woman described her struggle to obtain a “medical frailty” exemption, which failed because her primary care doctor and neurosurgeon each insisted that the other should fill out the necessary paperwork.⁸

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 Similar research from the Urban Institute indicates the majority of beneficiaries did not understand the requirements or did not think they were subject to the requirements. As a result, many individuals only discovered they were disenrolled when they sought medical care¹⁰. A similar situation occurred in New Hampshire where many beneficiaries reportedly didn’t know about the work requirement or received confusing and often contradictory notices about whether they were subject to it.¹¹ These problems would only be exacerbated by Idaho’s proposal because the state intends to terminate coverage after just one month of non-compliance.

The Kaiser study also found that 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, 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

⁷ “With new work requirement, thousands lose Medicaid coverage in Arkansas,” PBS NewsHour, November 19, 2018, <https://www.pbs.org/newshour/show/with-new-work-requirement-thousands-lose-medicaid-coverage-in-arkansas>; Benjamin Hardy, “Locked out of Medicaid — Arkansas’s work requirement strips insurance from thousands of working people,” *Arkansas Times*, November 19, 2018, <https://www.arktimes.com/arkansas/when-arkansas-works-doesnt/Content?oid=25890378>.

⁸ Caitlin Andrews and Nathan DeWitt, “For ‘medically frail,’ judge’s decision on Medicaid expansion work requirement comes as a relief,” *Concord Monitor*, August 3, 2019, <https://www.concordmonitor.com/Penacook-NH-medical-frailty-exemption-difficulties-26880774>.

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 Ian Hill, and Emily Burroughs, “Lessons from Launching Medicaid Work Requirements in Arkansas,” Urban Institute, October 2019, <https://www.urban.org/research/publication/lessons-launching-medicaid-work-requirements-arkansas>.

¹¹ Dave Solomon, “Spreading the word on Medicaid work requirement proves challenging,” *Union Leader*, June 16, 2019, https://www.unionleader.com/news/health/spreading-the-word-on-medicaid-work-requirement-proves-challenging/article_740b99e7-9f48-52d4-b2d8-030167e66af8.html; Jason Moon, “Confusing Letters, Frustrated Members: N.H.’s Medicaid Work Requirement Takes Effect,” New Hampshire Public Radio, June 18, 2019, <https://www.nhpr.org/post/confusing-letters-frustrated-members-nhs-medicaid-work-requirement-takes-effect#stream/0>.

governor suspended the work requirement, preventing almost 17,000 people from potentially losing coverage in August.¹² The waiver was vacated by the federal court in *Philbrick v. Azar*.¹³

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. Idaho's proposal similarly fails to promote Medicaid's objectives, and should not be approved.

Idaho'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."¹⁴

In fact, it is likely that taking Medicaid coverage away, as Idaho's proposal will surely do, may result in Medicaid beneficiaries being less able to work, not more. 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.¹⁵ 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.¹⁶

Concerns in Public Comments were Ignored by the State

As required by federal law, Idaho held a 30-day public comment period on its demonstration proposal, which ended on September 22. The state received over 1,600 comments which were overwhelmingly opposed to the work requirements. Despite numerous substantive and technical comments, the state did not make a single change to the substance of its proposal apart from adding the required summary of commenters' concerns. Moreover, the state submitted the revised

¹² 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>.

¹³ Memorandum Opinion, *Philbrick v. Azar*, United States District Court for the District of Columbia, Civil Action No. 19-773 (JEB), July 29, 2019.

¹⁴ Sommers 2019, *op cit*.

¹⁵ 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.

¹⁶ Tipirneni, R. 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>.

application to the federal government just five days after the close of the comment period. This strongly suggests that the state failed to adequately consider the many public comments it received.

Given overwhelming evidence that Medicaid work requirements result in coverage loss and do not promote employment, as well as multiple court decisions vacating approvals of such requirements, Idaho's proposal should be rejected.

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

Georgetown University Center for Children and Families

Guttmacher Institute

HIV Medicine Association

March of Dimes

National Alliance on Mental Illness

National Employment Law Project

National Health Care for the Homeless Council

National Multiple Sclerosis Society

Professor Donald Moynihan, Professor of Public Policy, Georgetown University

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