April 18, 2024

Secretary Xavier Becerra
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Re: Maryland HealthChoice Program §1115 Waiver Amendment: Reentry Demonstration

Dear Secretary Becerra,

The Center on Budget and Policy Priorities and Georgetown University Center for Children and Families appreciate the opportunity to comment on Maryland's proposed reentry demonstration amendment to its HealthChoice Program §1115 waiver.[1]

The Center on Budget and Policy Priorities (CBPP) is a nonpartisan research and policy organization based in Washington, D.C. Founded in 1981, CBPP conducts research and analysis to inform public debates and policymakers about a range of budget, tax and programmatic issues affecting individuals and families with low or moderate incomes. Georgetown University Center for Children and Families (CCF) is an independent, nonpartisan policy and research center founded in 2005 with a mission to expand and improve high quality, affordable health coverage for America's children and families. As part of the McCourt School of Public Policy, Georgetown CCF conducts research, develops strategies, and offers solutions to improve the health of America's children and families, particularly those with low and moderate incomes.

We support Maryland's request to provide a targeted package of pre-release services to a specific population in the 90 days prior to release from state-operated correctional facilities. Targeted pre-release services during the last 90 days of incarceration can help reduce gaps in coverage and care, supporting successful transitions back to the community. The request is consistent with CMS's guidance outlining parameters for similar demonstrations and we support approval subject to several recommendations noted below.[2]

Maryland's request would improve access to care and outcomes for Medicaid enrollees with substance use disorder (SUD) and serious mental illness (SMI) and would promote the objectives of the program. As Maryland details in its application, the state prison system disproportionately services men of color from Baltimore City and a far greater share of people sentenced are Black compared to Maryland's Black population overall. Therefore, the demonstration holds the potential to advance health equity and reduce disparities in coverage, which is consistent with the goals of

[1] Maryland Department of Health, "Maryland HealthChoice Program §1115 Waiver Amendment: Reentry Demonstration," March 6, 2024, https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/md-healthchoice-03062024-pa.pdf.

[2] CMS, "Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated," State Medicaid Director Letter (SMDL) #23-03, April 17, 2023, https://www.medicaid.gov/sites/default/files/2023-12/smd23003.pdf.

Executive Order 13985 and the strategic vision laid out by CMS Administrator Chiquita Brooks-LaSure and CMCS Director Dan Tsai.[3]

People in jail and prison have high rates of untreated, chronic conditions as well as a high incidence of substance use disorder and mental illness. However, they often return home without adequate access to medications or care coordination. Once home, health care often falls by the wayside as people face competing demands, including securing housing, finding work, filling prescriptions, connecting with family, and fulfilling court-ordered obligations. Gaps in coverage and care contribute to a litany of poor health outcomes and compound the harmful effects of mass incarceration and the over-policing of people of color. In addition, incarcerating children and young adults can cause serious harm to youth who are separated from their family and community, including long-term adverse impacts on individuals' physical and mental health.[4]

If approved, Maryland's demonstration amendment would authorize the state to begin implementing a reentry demonstration ahead of the full demonstration renewal. We support the state's goal to initiate the demonstration ahead of the full renewal as it will give the state valuable time to begin implementation planning and to consider changes or additional authorities that may be necessary to scale the program beyond state-operated correctional facilities to include county-operated prisons in a second phase. As we have seen in other states that have received authority to implement similar demonstrations, implementation planning takes considerable time; granting authority now will help the state take the steps it needs to begin implementation activities ahead of the full demonstration renewal.

As part of the approval, we encourage CMS to work with the state to fill in some details that will be necessary to promote effective implementation. In particular, we note the potential for discontinuity if the state covers individuals in FFS pre-release, but then quickly transitions to managed care post release. For example, how would pre-release FFS case managers be able to schedule post-release care appointments if they don't know what health plan an individual will enroll in after release, and thus which providers would be in network? CMS should work with the state to clarify how this would work. For example, Maryland could consider enrolling individuals in managed care for the pre-release period. Additionally, CMS should work with the state to ensure individuals have adequate education and support during the plan selection process to promote smooth transitions and minimize disruptions to the care plan developed during the pre-release period.

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[3] Executive Order No. 13985, 86 CFR 7009 (2021), https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government.; Chiquita Brooks-LaSure and Daniel Tsai, "A Strategic Vision for Medicaid and the Children's Health Insurance Program (CHIP)," *Health Affairs Blog,* November 16, 2021, https://www.healthaffairs.org/do/10.1377/forefront.20211115.537685/full/.

[4] Cortney Sanders, "State Juvenile Justice Reforms Can Boost Opportunity, Particularly for Communities of Color," Center on Budget and Policy Priorities, July 27, 2021. https://www.cbpp.org/research/state-budget-andtax/statejuvenile-justice-reforms-can-boost-opportunity-particularly-for; Vincent Schiraldi, "Can We Eliminate the Youth Prison? (And What Should We Replace It With)?" Square One Project, June 2020, https://squareonejustice.org/paper/can-we-eliminate-the-youth-prison-and-what-should-we-replaceit-with-by-vincentschiraldi-june-2020/; Christopher Wildeman and Emily Wang, "Mass Incarceration, Public Health, and Widening Inequality in the USA," The Lancet 389, April 2017, https://doi.org/10.1016/S0140-6736(17)30259-3; Michael Massoglia and Brianna Remster, "Linkages Between Incarceration and Health," Public Health Reports, May 1, 2019, https://doi.org/10.1177/0033354919826563.

One specific area to focus on is better defining how community health workers and other community-based providers will contribute to the continuum of care that the state is seeking to implement. We support Maryland's plan to leverage Community Health Workers as part of the case management team, but more details are necessary as to how case managers will help facilitate continuity of care post-release, particularly as people transition to managed care organizations. We encourage the state's implementation planning to require managed care organizations to include community-based case managers *and* other community-based providers in their networks to help promote continuity of care when people leave carceral settings. We also recommend that CMS require all providers under the demonstration to be enrolled as Medicaid providers.

We note that Maryland's reentry demonstration intends to connect enrollees to services to address health-related social needs (HRSN), yet the proposal does not include new funding for HRSN services similar to what has been requested in other states. For example, many people who would qualify for services under the reentry demonstration may also qualify for the state's Assistance in Community Integration Services Pilot (ACIS), which includes tenancy support services. However, the cap on ACIS services – limited to nine hundred participants — means many reentry services participants likely would not be able to access important housing-related services that would advance the goals of reentry pilot. As Maryland plans for its upcoming demonstration renewal, we encourage CMS to explore with the state the feasibility of expanding their ACIS pilot to improve access to critical services and create more opportunities for coordination across these important pilot programs. Ultimately, in approving funding for "connections" to HRSN services, CMS should also be assessing the actual capacity to provide services and if more capacity is needed to provide adequate supports, should encourage the state to use its Reinvestment Plan (described below) to expand existing HRSN-related programs.

We commend the state for committing to reinvesting state savings resulting from federal Medicaid funding for the 30-day supply of medications upon release. As we have noted in other comment letters, the Reentry Initiative Reinvestment Plan to ensure that Medicaid funding does not simply replace other current funding sources is an important part of CMS's guidance and reentry demonstrations, and we urge CMS to monitor state compliance with reinvestment.

Finally, we encourage CMS to discuss with the state if there are additional steps that can be taken to bolster continuity of care upon reentry. First, we note that the state plans to impose regular state plan cost-sharing to applicable services, including prescription drugs, upon release. The state could exempt individuals reentering the community from cost-sharing obligations for at least 12 months following release to ensure there is not reduced access to medications and other services.[5] Second, the state could consider implementing continuous eligibility for the 12-month period after release to ensure continued access to care. We urge CMS to make these recommendations a standard part of reentry demonstration discussions.

[5] Madeline Guth, et al., "Understanding the Impact of Medicaid Premiums & Cost-Sharing: Updated Evidence from the Literature and Section 1115 Waivers," Kaiser Family Foundation, September 9, 2021. https://www.kff.org/medicaid/issue-brief/understanding-the-impact-of-medicaid-premiums-cost-sharing-updated-evidence-from-the-literature-and-section-1115-waivers.

Conclusion

Our comments include numerous citations to supporting research, including direct links to the research, for HHS's 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 the consideration of our comments. If you would like any additional information, please contact Allison Orris (aorris@cbpp.org) or Joan Alker (jca25@georgetown.edu).