

July 23, 2024

VIA ELECTRONIC SUBMISSION

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

Re: District of Columbia's Whole-Person Care Transformation Demonstration Renewal

Dear Secretary Becerra,

The Center on Budget and Policy Priorities and the Georgetown University Center for Children and Families appreciate the opportunity to comment on the District of Columbia's demonstration renewal request.<sup>1</sup>

The Center on Budget and Policy Priorities (CBPP) is a nonpartisan research and policy organization based in Washington, DC. 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. The 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.

The district's proposed Whole-Person Care Transformation demonstration seeks to renew existing authority to use Medicaid funding to reimburse institutions for IMDs for treatment provided to Medicaid-eligible adults with substance use disorders and serious mental illness, and to continue existing authority to waive cost-sharing for medication assisted treatment prescriptions. Our letter does not comment on these renewal proposals and is instead focused on new policies the state is proposing related to reentry of justice-involved individuals as well as provision of services to address Medicaid enrollees' unmet health related social needs (HRSNs). Considering the distinct issues and impacts associated with IMD waivers as compared to these new requests, we urge CMS to evaluate these policies as separate and independent demonstrations.

The district is seeking to increase coordination of and access to care for people leaving carceral settings by providing services in the 90 days prior to transitioning into the community. We support this proposed initiative, which would promote health equity and help minimize negative health outcomes that may occur in the period immediately following reentry. We also support the district's request to provide housing and nutrition supports to help meet Medicaid enrollees' unmet HRSNs. We believe these policies promote coverage, consistent with the objectives of Medicaid as

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<sup>1</sup> District of Columbia, Department of Health Care Finance, Section 1115 Demonstration Renewal Request, June 6, 2024, <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/dc/dc-behavioral-health-transformation-renewal-pa.pdf>

required for section 1115 demonstrations, and would improve access to care. We urge CMS to approve the district's proposal, consistent with CMS approvals of similar policies in other states,<sup>2</sup> subject to the recommendations below.

Although we recommend approval of these new requests, we do note that the district's application does not include a copy of the public notice that was used to satisfy transparency requirements at 42 CFR §431.408. It is important that applications include this information in order for CMS to ensure that state comment periods are adequate. We recommend that CMS request that DC provide a copy of the notice that was used, and make clear to states that it should be included in applications submitted to the agency.

### **Targeted pre-release services during the last 90 days of incarceration would reduce gaps in coverage and care, supporting successful transitions back to the community and continuity of coverage.**

The district is requesting approval to provide targeted pre-release benefits to high-risk adults who would be eligible for Medicaid but for their incarceration in Department of Corrections and Department of Youth Rehabilitation Services facilities. We support DC's desire to provide pre-release supports for incarcerated individuals and support approval of the district's request, consistent with CMS's recent letter to State Medicaid Directors, which outlined standards for approval of pre-release services, and other recent approvals authorizing 90 days of pre-release services.<sup>3</sup>

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. Individuals are 129 times more likely to die from an overdose than their peers in the community in the first two weeks following release from incarceration.<sup>4</sup> 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.<sup>5</sup>

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<sup>2</sup> Oregon Health Plan Approval Letter, September 28, 2022, <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/or-health-plan-09282022-ca.pdf>; Washington Medicaid Transformation Project Amendment Approval Letter, April 14, 2023, <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/wa-stc-ca-04142023.pdf>; New Mexico Centennial Care 2.0 Extension Amendment Approval Letter, December 15, 2023, <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/nm-centennial-care-appvl-12152023.pdf>.

<sup>3</sup> State Medicaid Directors Letter, "Opportunities to Test Transition-Related Strategies to Support Community Reentry and Improve Care Transitions for Individuals Who Are Incarcerated," SMD 23-003, CMS, April 17, 2023, <https://www.medicaid.gov/federal-policy-guidance/downloads/smd23003.pdf>.

<sup>4</sup> Binswanger IA, Stern MF, Deyo RA, Heagerty PJ, Cheadle A, Elmore JG, Koepsell TD. Release from prison--a high risk of death for former inmates. *N Engl J Med.* 2007 Jan 11;356(2):157-65. doi: 10.1056/NEJMsa064115. Erratum in: *N Engl J Med.* 2007 Feb 1;356(5):536. PMID: 17215533; PMCID: PMC2836121.

<sup>5</sup> 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

The district's application demonstrates consideration of both CMS's guidance and how to translate the guidance into practice in DC, including by taking a year to improve the infrastructure necessary to implement pre-release services.<sup>6</sup> We appreciate that DC intends to apply Medicaid provider participation policies to all providers (community-based and carceral) who will be participating in the reentry demonstration. We agree that CMS should require all providers under the demonstration to be enrolled as Medicaid providers. While the district indicates its intent to utilize both carceral providers and community-based providers, we urge CMS to require the district to find ways to maximize the use of community-based providers to deliver pre-release services, including case management services that can more seamlessly bridge to post-release services.

Finally, the district is also requesting authority to enroll eligible individuals who are incarcerated in Bureau of Prisons (BOP) facilities outside of the district in Medicaid and engage them in case management services before they are released from federal custody. The district is not proposing to provide the full suite of pre-release services to such individuals, but we agree that connecting individuals who are incarcerated in BOP facilities with case management would help ease their transitions back to the community. Given the parallels between populations who will benefit from reentry demonstrations approved in state prisons in other states to date and the District of Columbia residents who are incarcerated in BOP facilities (unlike states, DC has no prisons, only jails), we urge CMS to work with the district to approve this request. To be clear, we are recommending a one-of-a-kind approval in DC given the unique circumstances.

As with other recent demonstration approvals, we urge CMS to 1) establish a clear, limited set of covered pre-release services that are tailored to the goal of improving continuity of care as people return to the community, 2) prioritize the use of community-based providers to deliver the services, and 3) require a Reentry Initiative Reinvestment Plan to ensure that Medicaid funding doesn't simply replace other current funding sources.

**The district's proposal to address health-related social needs, specifically housing and nutrition, would help drive better health outcomes for enrollees and advance health equity.**

We also support the District of Columbia's proposal to address health related social needs such as housing and food insecurity, which both jeopardize health and lead to costly, but avoidable, health care use. Due to racism and structural oppression that cause communities of color to experience higher rates of poverty and other drivers like lower household assets, housing and food insecurity disproportionately affect people of color.<sup>7</sup> Unmet social needs are common among Medicaid enrollees, especially people of color. Over half of Medicaid enrollees had unaffordable or

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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-replace-it-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](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>.

<sup>6</sup> 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>.

<sup>7</sup> "Race & Ethnicity and Food Insecurity," *Feeding America*, June 27, 2023, <https://www.feedingamerica.org/research/race-food-insecurity>.

inadequate housing prior to the pandemic.<sup>8</sup> Nationwide, roughly one-fifth of enrollees reported food insufficiency in a given week in 2020, most of whom still struggled with it 4 months later.<sup>9</sup> As DC notes in its application, the statistics are even worse the district, where nearly one in three residents of the Greater DC area are experiencing food insecurity.<sup>10</sup> As is true nationwide, addressing a DC Medicaid enrollees' HRSN is likely to improve their health.

As detailed in its application, in recent years DC has taken important steps to address housing instability. The authority to provide Medicaid-funding housing services and supports to individuals eligible under the demonstration would augment the district's current investments and supplement existing investments by providing housing services and supports to people transitioning out of institutional or congregate care settings, people transitioning out of the child welfare system, and people experiencing homelessness, at risk of homelessness, or transitioning out of an emergency shelter. We note that the proposal states that "Individuals currently receiving housing services authorized under the District's approved Medicaid State Plan are not eligible for 1115 housing services." While we agree that this approach would effectively avoid potential duplication of services, we are concerned that this policy could have an unintended consequence of denying services that are only coverable under the 1115 demonstration (e.g., temporary rent, post hospitalization housing) to enrollees who might otherwise meet eligibility criteria and benefit from such temporary, transitional services. To ensure that the proposed demonstration services are accessible to those who could benefit for them, we recommend that CMS work with DC to clarify that enrollees receiving the SPA services aren't eligible for the "transition, navigation, pre-tenancy, and tenancy-sustaining services" and the HRSN case management services covered under the 1115 demo, but could be eligible for some of the others 1115 demo services that are *not* covered by the current SPAs.

We support the district's proposal to implement nutrition counseling and education; home delivered meals and pantry stocking for up to 6 months; fresh produce prescriptions, protein boxes and/or grocery provisions; and cooking supplies necessary for meal preparation and nutritional welfare, when not available through other programs. The application has only basic information about eligibility criteria which, while seemingly consistent with CMS guidance, should be elaborated on in forthcoming special terms and conditions to ensure that HRSN benefits are medically appropriate (e.g., the application describes that nutrition services would be available to people with certain health risks, but does not enumerate those risks).

Finally, as it negotiates both the demonstration approval and implementation plans, we urge CMS to encourage the district to ensure a strong collaboration between the Medicaid, SNAP and WIC programs to better connect people with the nutritional supports for which they are already eligible. For example, there is a unique opportunity to increase take up in WIC as participants in Medicaid and SNAP are automatically eligible for WIC. Nationally, 58 percent of WIC-eligible

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<sup>8</sup> Bradley Corallo, "Housing Affordability, Adequacy, and Access to the Internet in Homes of Medicaid Enrollees," KFF, September, 22, 2021, <https://www.kff.org/medicaid/issue-brief/housing-affordability-adequacy-and-access-to-the-internet-in-homes-of-medicaid-enrollees/>.

<sup>9</sup> Cornelia Hall *et al.*, "Food Insecurity and Health: Addressing Food Needs for Medicaid Enrollees as Part of COVID-19 Response Efforts," KFF, August 14, 2020, <https://www.kff.org/medicaid/issue-brief/food-insecurity-and-health-addressing-food-needs-for-medicaid-enrollees-as-part-of-covid-19-response-efforts/#:~:text=Recent%20data%20indicates%20that%20access,week%20ending%20July%2021%2C%202020.>

<sup>10</sup> DC application at page 23, citing Capital Area Food Bank: 2022 Hunger Report, <https://hunger-report.capitalareafoodbank.org/report-2022/#report-intro>.

Medicaid participants and 60 percent of WIC-eligible SNAP participants with incomes below 185% of poverty were not enrolled in WIC in 2021.<sup>11</sup>

As with the district's reentry implementation proposal, we appreciate the recognition that implementing these new authorities will take both time and investment in new infrastructure. We therefore support the district's intent to use the first year of approval to build provider capacity for the proposed housing, nutrition, and case management services and to develop reimbursement capacity to facilitate participation by community-based providers.

## **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 consideration of our comments. If you would like any additional information, please contact Joan Alker ([jca25@georgetown.edu](mailto:jca25@georgetown.edu)) or Allison Orris ([aorris@cbpp.org](mailto:aorris@cbpp.org)).

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<sup>11</sup> Neuberger, Z., Hall, L., and Sallack, L., "WIC's Critical Benefits Reach Only Half of Those Eligible," Center on Budget and Policy Priorities, February 21, 2024, <https://www.cbpp.org/research/food-assistance/wics-critical-benefits-reach-only-half-of-those-eligible>.