April 7, 2025

Secretary Robert F. Kennedy, Jr.
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Re: Ohio Group VIII Demonstration Application

Dear Secretary Kennedy,

The undersigned organization appreciate the opportunity to comment on Ohio's section 1115 demonstration application, "Ohio Group VIII 1115 Demonstration."[1]

The state is seeking to impose work requirements on adults in the Medicaid expansion population. The proposal does not comply with the objectives of Medicaid - to provide health care coverage for low-income Americans - and poses a significant danger to the health and wellbeing of low-income people in Ohio. In addition, if approved, the proposal's work requirement would create a high-level of administrative burden for Medicaid enrollees and state staff and would harm vulnerable populations, including parents, individuals who are pregnant, and people with disabilities. **Therefore, we urge you to reject the state's proposal. Ohio's proposal does not promote the objectives of the Medicaid program and would take away coverage from low-income Ohioans.**

Ohio is proposing a new section 1115 demonstration that would allow the state to impose work requirements on the adult Medicaid expansion population. Under the proposal, the state would establish new eligibility requirements for adults under age 55 to receive Medicaid coverage; individuals would have to meet at least one of five criteria including being employed or qualifying for an exemption. The state proposes to use data matching, including leveraging a third-party vendor, to assess eligibility. However, the exact eligibility criteria are unclear and the state lacks data sources for many of the elements needed to confirm an exemption. Individuals would be assessed for compliance with the work requirement or one of the exemptions at application and subsequent renewals.

Under Section 1115, the Secretary has the authority to waive provisions of Section 1902 of the Medicaid statute and to authorize federal matching funds for costs not otherwise matchable under Section 1903 in order to enable a state to conduct a demonstration. Such demonstrations must be "likely to assist in promoting the objectives of" the Medicaid statute. As several recent federal district court decisions have emphasized, the "core objective" of the Medicaid statute is to provide health care coverage for low-income Americans.[2] Health and Human Services' General Counsel Advisory Option 24-01 affirms that the Secretary "lacks authority" to approve Medicaid work or

[1] Ohio Department of Medicaid, "Ohio Group VIII Demonstration Waiver Application," Feb. 28, 2025, oh-work-reqirmnt-comunity-engmnt-pa-03072025.pdf.
[2] Philbrick v. Azar, Civil Action 19-773 (JEB), https://ecf.dcd.uscourts.gov/cgibin/show_public_doc?2019cv0773-47.

"community engagement" requirements as they "conflict with [the] core objective" of Medicaid to "furnish medical assistance."[3]

Ohio's proposed demonstration directly conflicts with this objective as an estimated 61,826 individuals would potentially lose Medicaid coverage in the state as a result of the demonstration according to the state's own analysis (and many new applicants would be denied coverage). For the reasons detailed below, the number of people who lose coverage, or become or remain uninsured as a consequence of the demonstration, could be larger. Loss of health coverage would lead to reduced access to medical care, unmet healthcare needs, and greater financial vulnerability for the affected individuals and their families. Health care providers, particularly those in rural areas, will also face an increase in uncompensated care, putting additional financial strain on hospitals and other providers. The demonstration as constructed would also undermine the proven benefits of Medicaid coverage in the state. Ohio's Department of Medicaid, in a 2018 report to the General Assembly on Group VIII enrollees, found that enrollees reported improved access to care, chronic disease and health risk factor management, self-rated health, and financial stability.[4]

Empirical evidence from work requirements in Arkansas and Georgia, implemented in 2018 and 2023 respectively, shows higher coverage loss rates than the roughly 8% rate predicted by Ohio. In Arkansas, twenty-five percent of the individuals subject to the work requirement, over 18,000 people, lost coverage in three months, due to the failure to report their work status or eligibility for an exemption.[5] As of January 2025, far fewer adults had enrolled in coverage in the Georgia's "Pathways to Coverage" section 1115 waiver than the state predicted. In both of these cases, work requirements have led to coverage losses or preventing people from getting coverage they should be eligible for, which does not serve the objectives of the Medicaid program.

In order to achieve Ohio's goal of supporting work consistent with the legal purpose of the Medicaid program, we recommend that Ohio build upon its currently available system of voluntary supports instead of imposing harmful work requirements that don't actually support work.[6] Ohio operates a Medicaid Voluntary Work Supports and Opportunities Program to connect beneficiaries with work and job training. This program could be expanded, including targeting services and addressing barriers (such as job training, child care, and transportation) that prevent individuals from finding and maintaining employment.[7] *We urge CMS to deny the state's application and instead encourage the state to expand voluntary employment supports.*

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[3] Department of Health and Human Services, "Advisory Opinion on Medicaid Section 1115 Demonstrations Imposing Work Requirements," December 2024, https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/advisory-opinion-24-01.pdf.

[4] Ohio Department of Medicaid, "Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly," https://medicaid.ohio.gov/wps/wcm/connect/gov/2468a404-5b09-4b85-85cd-4473a1ec8758/Group-VIII-Final-Report.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_K9I401S01H7F40QBNJU3SO1F56-2468a404-5b09-4b85-85cd-4473a1ec8758-nAUQnlt.

[5] Elizabeth Hinton and Robin Rudowitz, "5 Key Facts About Medicaid Work Requirements," KFF, February 2025, https://www.kff.org/medicaid/issue-brief/5-key-facts-about-medicaid-work-requirements/#:~:text=3.,in%20care%2C%20and%20medical%20debt

[6] Benjamin D. Sommers, et. al., "Medicaid Work Requirements In Arkansas: Two-Year Impacts on Coverage, Employment, and Affordability of Care," *Health Affairs*, Vol. 39(9), September 2020, available at: https://doi.org/10.1377/hlthaff.2020.00538.

[7] Cornelia Hall and Elizabeth Hinton, "Supporting Work without the Requirement: State Managed Care Initiatives," KFF, December 2019, https://www.kff.org/medicaid/issue-brief/supporting-work-without-the-requirement-state-and-managed-care-initiatives/#:~:text=While%20most%20Medicaid%20adults%20are,eligibility%20on%20having%20a%20job.

Ohio's proposed demonstration creates unnecessary barriers to accessing coverage.

Research has consistently shown that work requirements fail to promote employment.[8] In fact, access to Medicaid coverage is supportive of finding and maintaining employment. Ohio's 2018 report to the General Assembly on Group VIII enrollees found that three-quarters of Medicaid beneficiaries who received care under the state's Medicaid expansion and were looking for work reported that Medicaid made it easier to do so.[9] For expansion adults who were currently working, more than half said that Medicaid made it easier to keep their jobs. If the state is seeking to promote economic stability and financial independence via work, it would be counter to the state's own findings to take away Medicaid coverage from those considered "noncompliant" with the work requirement. The state also indicates that individuals with no earned income will not be eligible for the program upon initial application, thus barring individuals from accessing services that might be necessary in order to gain employment.

Work requirements create red tape barriers to accessing and maintaining health care coverage, resulting in coverage losses. Ohio proposes to utilize data matching rather than relying on enrollees to report their work activities regularly, but this process would be unable to identify compliance with work requirement (particularly unpaid employment) or allowable exemptions for *all* individuals. The proposal notes "Ohio does not collect information regarding some of the exemptions that will be allowed under this proposal."[10] Data collected via Ohio Benefits (the state's eligibility system) may not be adequate to identify compliance for some individuals, and these gaps in data availability would disproportionately affect certain populations like those who qualify for an exemption from the work requirement or are participating in unpaid work, as these data are not typically collected under Medicaid screening, enrollment, or renewal processes. As a result, the state cannot rely on existing *ex parte* processes to confirm compliance with, or exemption from, the proposed work requirements.

In cases where the state, or its third-party data vendor, are unable to verify eligibility, the burden would fall on the enrollee to prove eligibility. However, the proposal does not specify how individuals would be able report compliance or address inaccuracies when data sources fail to verify their eligibility. The proposal also appears to require beneficiaries to confirm information when the third-party vendor *does* have data, adding a layer of red tape despite the state purporting the demonstration would not require enrollees to "report activities, fill out forms, or *take any action* [emphasis added]" beyond standard reporting of changes in circumstances.[11]

Administering this program would be burdensome and costly for Ohio. Although the state plans to leverage existing systems to verify eligibility, new systems would need to be developed for verifying exemptions in the initial screening and renewal processes. These new procedures and system changes would add considerably to the tasks eligibility workers must perform. Furthermore, the state's request for federal matching funds for a third-party data vendor is inappropriate and likely

[8] LaDonna Pavetti, "TANF Studies Show Work Requirements Proposals for Other Programs Would Harm Millions, Do Little to Increase Work," Center on Budget and Policy Priorities, November 2018, https://www.cbpp.org/sites/default/files/atoms/files/11-13-18tanf.pdf; Benjamin Sommers, et al., "Medicaid Work Requirements In Arkansas: Two-Year Impacts on Coverage, Employment, and Affordability of Care"

[9] Ohio Department of Medicaid, "Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly"

[10] Ohio Group VIII Demonstration Waiver Application, Page 5.

[11] Ohio Group VIII Demonstration Waiver Application, Page 3.

constitutes a waste of taxpayer dollars. Federal Medicaid dollars should support health coverage, not pay for administrative costs associated with terminating people's coverage.

Coverage loss from not meeting the proposed work requirement would result in "churn" - where individuals lose coverage and later reenroll - among individuals whose coverage is terminated. Multiple studies suggest that churn is associated with increases in emergency room visits, higher levels of unmet health care needs during periods of uninsurance, more frequent use of costly treatments for conditions that could have been prevented through early detection and care, and significantly higher administrative costs.[12]

According to the waiver proposal, Ohio believes that less than 8 percent of the expansion population is not currently working or not exempt. Yet, they are risking that members of the entire expansion population could lose coverage due to paperwork issues.

The proposal would harm parents, individuals who are pregnant, and people with disabilities.

The proposal's lack of explicit exemptions for parents is harmful to both parents and their children.

Ohio's proposed demonstration would create barriers to maintaining or obtaining coverage for parents with dependent children. Unlike almost every other proposal for work requirements in recent years, Ohio's proposal includes no automatic exemption for parents with dependent children of any age – including for parents of babies and toddlers. Ohio's application does include an "unpaid employed status" exemption for "an unpaid caregiver of a family member," but meeting this exception would require "documentation" and it is unclear whether this exemption applies to parents. In addition, it is an onerous step to ask parents to document their caregiving, nor is it clear what documentation a parent could provide to prove that they care for their own child.

The proposal may effectively force parents to choose between losing their health coverage or finding child care for their children while they pursue work, even if they prefer to care for their children and/or the cost of child care is cost-prohibitive. In Ohio, the average cost of child care for a school-age child in 2022 ranged from $5,200 to $7,800 annually (17 percent and 25 percent, respectively, of income for a family of three earning 133 percent of the federal poverty level); parents of young children in Ohio can face even higher child care costs, between $7,400 and $15,300 depending on the age of the child and what county they live in.[13] As a practical matter, these child care challenges, among others, would prevent many parents from meeting the work requirement, leaving them uninsured. [14]

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[12] Leighton Ku and Erika Steinmetz, "Bridging the Gap: Continuity and Quality of Coverage in Medicaid," George Washington University, Association for Community Affiliated Plans, September 2013, http://www.communityplans.net/Portals/0/Policy/Medicaid/GW%20Continuity%20Report%20%209-10-13.pdf
Carol Irvin et al. "Discontinuous Coverage in Medicaid and Implications for 12-Month Continuous Coverage," Mathematica Policy Research, October 2001, https://mathematica.org/~/media/publications/PDFs/discontinuous.pdf; Matthew J. Carlson et al., "Short-Term Impacts of Coverage Loss in a Medicaid Population: Early Results from a Prospective Cohort Study of the Oregon Health Plan," *Annals of Family Medicine* 4(5), September 2006, available at https://doi.org/10.1370/afm.573; Jennifer Wagner and Judith Solomon, "Continuous Eligibility Keeps People Insured and Reduces Costs," CBPP, May 4, 2021, https://www.cbpp.org/research/health/continuous-eligibility-keeps-people-insured-and-reduces-costs.
[13] Department of Labor, Women's Bureau, "The Price of Child Care by County," Updated March 2025, https://public.tableau.com/app/profile/women.s.bureau.department.of.labor/viz/CountyFactsheets/Childcareinthecounties.
[14] Gina Adams, *et. al.,* "Child Care Challenges for Medicaid Work Requirements," Urban Institute, September 2019, available at: https://www.urban.org/sites/default/files/publication/101094/medicaid_work_reqs_child_care.pdf.

Parental coverage loss harms their children as well. For low-income families, one member being uninsured exposes the entire family to grave economic risk due to medical debt and even bankruptcy.[15] Additionally, ample evidence has found that children are more likely to have coverage and better health when their parents are insured.[16] **CMS should require Ohio to implement an automatic exemption for all parents with children under the age of 19 if the agency chooses to approve this highly problematic policy**.

The proposal could result in coverage loss among individuals who are pregnant and risks disrupting access to prenatal care.

Ohio also offers no general exemption for pregnancy. There are two broad problems with this policy. First, given that pregnancy is an independent *mandatory* basis of categorical Medicaid eligibility – with income levels that exceed eligibility for the VIII group – no individual who is pregnant should ever face disenrollment (or other penalties or burdens) due to policies for the *Medicaid expansion* population. However, CMS guidance has indicated that states have no obligation to monitor individuals for pregnancy status and individuals who are pregnant are not required to move eligibility categories.[17]

The state's plan to apply the work requirement to someone who is pregnant, as indicated in the response to public comments, is also extremely harmful and should not be allowed. [18] The state appears to argue that it is satisfactory for individuals who are pregnant to have a medical exemption available "if the medical nature of the pregnancy prevents the individual from working." The policy puts the burden of proving a medical exemption on individuals who are pregnant, adding unnecessary stress to a challenging time and creating risks to delays in necessary prenatal care. For example, a pregnant woman who does not believe it is safe to work might continue working because she is waiting to get the documentation together or because she is simply unwilling to risk losing her health insurance. Of course, other individuals may work jobs that – by definition – are unsafe while pregnant (such as a job with exposure to toxins known to be dangerous for pregnancy) even though there is nothing unusual about the "medical nature" of their pregnancy. Ohio has provided no evidence, nor is there any basis, for the premise that women are using pregnancy as an excuse not to work. This is particularly insulting to individuals who are pregnant given the struggles they face in attempting to retain employment during and after pregnancy.[19] Evidence shows that for low-income pregnant patients, disruptions in health insurance coverage are associated with lower levels of

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[15] Lunna Lopes et al., "Health Care Dept in the U.S." The Broad Consequences of Medical and Dental Bills," KFF, June 2022, https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings.

[16] Julie L. Hudson and Asako S. Moriya, "Medicaid Expansion for Adults Had Measurable 'Welcome Mat' Effects on Their Children," *Health Affairs*, Vol. 36(9), September 2017, available at https://doi.org/10.1377/hlthaff.2017.0347; Jessica Schubel, "Expanding Medicaid for Parents Improves Coverage and Health for Both Parents and Children," Center on Budget and Policy Priorities, October 2020, https://www.cbpp.org/research/health/expanding-medicaid-for-parents-improves-coverage-and-health-for-both-parents-and; Rebekah Levine Coley, "Parents' and Caregivers' Health Insurance Supports Children's Healthy Development," Society for Research in Child Development, June 2019, https://www.srcd.org/research/parents-and-caregivers-health-insurance-supports-childrens-healthy-development;

[17] States are required to inform individuals who are pregnant of benefits in the pregnancy eligibility category, including differences in benefits, premiums, and cost-sharing, but are not required to monitor pregnancy status nor move the individuals in the Group VIII population to the pregnancy eligibility group once they become pregnant. Preamble to 42 CFR Parts 431, 435, and 457, pg. 6: 2012-6560.pdf; Center for Medicaid and CHIP Services, "SHO #21-007 RE: Improving Maternal Health and Extending Postpartum Coverage in Medicaid and the Children's Health Insurance Program," December 7, 2021, sho21007_1.pdf.

[18] Ohio Group VIII Demonstration Waiver Application, Pages. 15 and 21.

[19] Natalie Kitroeff and Jessica Silver-Greenberg, "Pregnancy Discrimination is Rampant Inside America's Biggest Corporations," The New York Times, February 2019, https://www.nytimes.com/interactive/2018/06/15/business/pregnancy-discrimination.html.

recommended pregnancy-related care, increasing risks of adverse outcomes for both mothers and babies.[20] **CMS should require the state to clarify that no individual who is pregnant would ever have their health coverage terminated under the work requirement and require the state to have a specific exemption for individuals who are pregnant.**

The proposal falls well short in safeguarding coverage for individuals with disabilities.

Though it intends to create exemptions for people with disabilities, Ohio's demonstration would not do so successfully and would be extremely harmful to individuals with a wide range of disabling health conditions. Ohio hopes to use data matching, including through its proposed support from a third-party vendor, to automatically identify exemptions for participation "in an alcohol and drug addiction treatment program" or having "intensive physical health care needs or serious mental illness." However, this process is unlikely be to be successful due to the lack of data available for these criteria and the incredible variability in populations such as individuals with "intensive physical health care needs." There is just not enough available data to possibly identify all individuals who should meet the criteria for an exemption on the basis of a disability.

People with disabilities are found across age groups and Medicaid eligibility categories.[21] In fact, in Ohio 72% of Medicaid enrollees with disabilities are not in an SSI-related category, and given recent staff cuts at the Social Security Administration, wait times for receiving an initial eligibility determination for SSI (currently an average of seven months) are likely to increase.[22] Many of these enrollees are in Group VIII, with diverse and undiagnosed disabilities, and would be forced to document their exemption.

Documentation itself would be a fail point for the system, since many enrollees would not understand there is a work requirement, that an exemption is available, or the documentation needed to satisfy the exemption. When Arkansas unsuccessfully implemented work requirements, most enrollees didn't even know about the requirements.[23] Similar problems and low response rates led New Hampshire to delay their planned work requirements (which were ultimately never implemented).[24]

Ohio offers no specificity or explanation of how the exemptions will be evaluated nor the process for requesting them, making it difficult to provide public comment.

Even if an enrollee/applicant knows what they need to do, many will struggle to get the necessary documentation to prove they qualify for an exemption. Consider the challenges in collecting and filing documentation for individuals with clinical depression, or a physical impairment, or

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[20] Lindsay K. Admon et al., "Insurance Coverage and Perinatal Health Care Use Among Low-Income Women in the US, 2015-2017," *JAMA Network Open*, Vol. *4*(1), January 2021, available at https://doi.org/10.1001/jamanetworkopen.2020.34549.
[21] Alicia Burns and Sammy Cervantes, "5 Key Facts About Medicaid Coverage for People with Disabilities," KFF, February 2025, https://www.kff.org/medicaid/issue-brief/5-key-facts-about-medicaid-coverage-for-people-with-disabilities.
[22] Ibid.; Jack Smalligan and Adriana Vance, "Downsizing Staff Will Make It Harder to Receive Social Security Payments," Urban Institute, February 2025, https://www.urban.org/urban-wire/downsizing-staff-will-make-it-harder-receive-social-security-payments#:~:text=Shortages%20in%20trained%20staff%20in,twice%20the%20prepandemic%20wait%20time.
[23] Benjamin Sommers et al., "Medicaid Work Requirements – Results from the First Year in Arkansas," *New England Journal of Medicine,* Vol. 381(11), June 2019, available at https://doi.org/10.1377/hlthaff.2017.0347.
[24] Ian Hill et al., "New Hampshire's Experience With Medicaid Work Requirements," Urban Institute, February 2020, https://www.urban.org/sites/default/files/publication/101657/new_hampshires_experience_with_medicaid_work_requirements_v2_0.pdf.

participating in an opioid use treatment program. It will be deeply harmful to the state and Ohio families when individuals in the middle of a drug treatment program lose their health insurance—and potentially their treatment program—because they didn't know what documentation to collect or what to do with it. Uninsured applicants may also struggle to collect documentation precisely because they don't have access to a provider who can help document their health condition.

Work requirements are also burdensome for physicians and other clinicians. The need for documentation will create a paperwork burden for physicians, which will exacerbate Ohio's already understaffed health system.[25] Documentation from a provider will not be as simple as just signing a form. It will put providers in uncomfortable and untenable positions as they are forced to either declare their patient as "having intensive physical health care needs or serious mental illness" – a vague, undefined, and highly subjective eligibility requirement – or risk their patient losing their health insurance.

These policy flaws—including ambiguity in definitions, absence of evaluation criteria, reliance on unfeasible automation processes, and documentation burdens for enrollees—will *discriminatorily* harm individuals with disabilities. For example, individuals who rely on wheelchairs who are uninsured are less likely to be able to access the home- and community-based services they need to perform basic tasks, such as bathing, preparing meals, or entering or leaving their homes.[26] **We believe broad harms to people with disabilities are inherent in a work requirement, and the state will not be able to avoid improper terminations for people with disabilities.**

Because of the shortcomings in data availability for those who should meet exemption criteria, the lack of details on the documentation or reporting process when a data match is not identified is incredibly problematic. The state's plan to punt key operational details to the negotiation process or be finalized in the Special Terms and Conditions deprives the public of the opportunity to provide feedback on an important piece of the proposed demonstration, which would have a significant effect on the scale of potential coverage loss among populations that should otherwise be exempt.

The proposal will lead to harm for additional populations.

Though the state intends to exempt individuals doing occupational training or in school, the state lacks databases to broadly confirm exemptions for these populations, the definitions and verification process for qualifying activities (such as what counts for occupational training and how it is confirmed) are not stated, and even people who meet the unknown standard will struggle to find out and prove they are exempt. The application is also unclear how SNAP and TANF participation will be considered – these programs have their own work requirements and it's unclear if enrollees will have to meet multiple work requirements or will be found exempt from the Medicaid work requirement if participating in SNAP or TANF. Finally, we are also concerned that the application

[25] Ohio Academy of Family Physicians, "Physician Shortage in Ohio, U.S. Expected to Worsen," Accessed March 2025, https://www.ohioafp.org/wfmu-article/physician-shortage-in-ohio-u-s-expected-to-worsen/

[26] Lisa I Iezzoni et al., "Uninsured persons with disability face substantial barriers to health care services," *Disability and Health Journal,* Vol. 4(4), September 2011, available at https://doi.org/10.1016/j.dhjo.2011.06.001; Rachel Litchman, "I'm disabled. I'm terrified about what Medicaid cuts could mean for my life," Stat News, March 2025, https://www.statnews.com/2025/03/03/medicaid-cuts-disablility-hcbs-long-term-care-trump/#:~:text=This%20means%20that%20a%20majority,Medicaid%20and%20long%2Dterm%20care.

offers no exceptions for counties, in particular rural ones, with low employment opportunities and unemployment rates that are well above the national median and Ohio median for unemployment.[27]

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 your willingness to consider our comments. If you need any additional information, please contact Joan Alker (joan.alker@georgetown.edu) or Allison Orris (aorris@cbpp.org).

Autistic Self Advocacy Network
Center for Law and Social Policy
Center on Budget and Policy Priorities
Community Oriented Correctional Health Services
Disability Rights Ohio
Epilepsy Foundation of America
Families USA
Georgetown University Center for Children and Families
Justice in Aging
March of Dimes
National Association of Pediatric Nurse Practitioners
National Health Care for the Homeless Council
National Multiple Sclerosis Society
Ohio Chapter, American Academy of Pediatrics
Primary Care Development Corporation

[27] United States Department of Agriculture Economic Research Service, "County-level Data Sets – Unemployment," updated January 2025, https://www.ers.usda.gov/data-products/county-level-data-sets/unemployment/.