August 8, 2025

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

Re: South Carolina Community Engagement Section 1115 Demonstration Waiver Application

Dear Secretary Kennedy,

The undersigned organizations appreciate the opportunity to comment on South Carolina's proposed "Palmetto Pathways to Independence" section 1115 demonstration application.[1]

South Carolina is seeking to provide coverage to parents and caretakers between 67 and 100% of the federal poverty level (FPL) who meet an onerous work requirement, subject to a restrictive enrollment cap. The proposal includes features that do not comply with the objectives of Medicaid—to provide health care coverage for low-income Americans—and do not support the health and wellbeing of low-income people in South Carolina. Therefore, *we urge you to work with the state to implement a full Medicaid expansion, without work requirements or enrollment caps, to increase health coverage for South Carolinians.*

South Carolina's proposal falls short on coverage.

At best, South Carolina's partial Medicaid expansion proposal would provide short periods of coverage to a *very* small number of low-income parents who manage to meet a work requirement and fall within the proposed enrollment cap. It would only go up to 100% FPL ($2,221 per month for a family of three), instead of the statutory option to expand Medicaid to 138% FPL ($3,065 per month). In addition, even for those below 100% FPL, the proposal would only offer coverage to a subset of individuals – parents and caretakers between 67% ($1,488 per month) to 100% of FPL. (The state already covers parents up to 67% through the Section 1931 eligibility group). The demonstration request falls far short of full Medicaid expansion, which would provide affordable coverage to hundreds of thousands of South Carolinians.

Due to the narrow "partial expansion" coverage group, the state estimates that only about 17,700 people are potentially eligible for coverage, out of 134,000 people who would be eligible under a full Medicaid expansion according to expert estimates (just 13 percent of the coverable population).[2] Furthermore, the state has requested authority to implement an enrollment cap based on available state funding of up to 11,400 members—dropping potential coverage to less than 9% of those who could be covered under full expansion.

[1] "South Carolina Community Engagement Section 1115 Demonstration Waiver Application," June 23, 2025, https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/sc-palmetto-path-ind-pa-06232025.pdf.
[2] Sammy Cervantes et al., "How Many Uninsured Are in the Coverage Gap and How Many Could be Eligible if All States Adopted the Medicaid Expansion?", KFF, February 25, 2025, https://www.kff.org/medicaid/issue-brief/how-many-uninsured-are-in-the-coverage-gap-and-how-many-could-be-eligible-if-all-states-adopted-the-medicaid-expansion.

Excluding well over 100,000 individuals from health care coverage would continue to expose South Carolina families to worse health outcomes and increased medical debt, increased uncompensated care and losses for South Carolina hospitals and other providers, and reduced tax revenues, jobs, and economic strength for the state. The proposal would also be inefficient for the state, as CMS is statutorily barred from providing the enhanced matching funds available for newly eligible people in states that adopt the full ACA Medicaid expansion for a partial Medicaid expansion; this means the state's costs per person would be *triple* under the partial expansion (from 10% to 30% of costs of services). The first Trump administration held that states could not receive the enhanced federal match unless coverage was provided to the entire adult expansion group.[3] South Carolina's proposal is totally inadequate in providing coverage to the thousands of state residents left in the coverage gap and does not promote the objectives of Medicaid by implementing harsh restrictions that further undermine coverage as described below.

The proposed work requirements would result in many low-income parents being denied or terminated from Medicaid coverage, including some who have disabilities, without actually supporting work.

South Carolina's demonstration would apply to parents and caretakers age 19 to 64, who are between 67% to 100% FPL; these individuals would be ineligible for or terminated from coverage unless they are working 80 hours per month or meeting qualifying exemptions --education, work search, compliance with SNAP work requirements, compliance with SUD treatment, and additional exemptions for Catawba Nation members.

Research has consistently shown that work requirements fail to promote employment.[4] In fact, evidence shows that access to Medicaid coverage is supportive of finding and maintaining work.[5] Empirical evidence from work requirements in Arkansas and Georgia, implemented in 2018 and 2023 respectively, show how the policy does not support coverage. In Arkansas, twenty-five percent of the individuals subject to the work requirement (over 18,000 people) lost coverage in three months, due to failure to report their work status or eligibility for an exemption.[6] As of June 2025, far fewer adults had enrolled in coverage in the Georgia's "Pathways to Coverage" section 1115 waiver than the state predicted when it applied for its waiver; the state predicted over 25,000 people would enroll in the first year, yet enrollment has still barely surpassed 8,000.[7] In both of these cases, work requirements have led to coverage losses or prevented people from getting coverage they need.

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[3] Letter from CMS Administrator Seema Verma to Governor Gary Herbert, August 16, 2019, ut-per-capita-cap-correspondence-ltr-20190816.pdf.

[4] 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," Health Affairs, Vol 36(9), September 2020, available at https://doi/10.1377/hlthaff.2020.00538.

[5] Madeline Guth, Rachel Garfield, and Robin Rudowitz, "The Effects of Medicaid Expansion under the ACA: Studies from January 2014 to January 2020," KFF, May 17, 2020, https://www.kff.org/report-section/the-effects-of-medicaid-expansion-under-the-acaupdated-findings-from-a-literature-review-report/; Larisa Antonisse and Rachel Garfield, "The Relationship Between Work and Health: Findings from a Literature Review," KFF, August 7, 2018, https://www.kff.org/medicaid/issue-brief/the-relationshipbetween-work-and-health-findings-from-a-literature-review/.

[6] 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-workrequirements/#:~:text=3.,in%20care%2C%20and%20medical%20debt.

[7] GeorgiaPathways.org "Data Tracker," (Last Accessed August 4, 2025), https://www.georgiapathways.org/data-tracker.

South Carolina's proposal would create barriers to obtaining or maintaining coverage for parents and caretakers with dependent children. The proposal, unlike nearly every other Medicaid work requirement that has been proposed in other states, includes no exemption for parents with children of any age, even parents with infants. The proposal may effectively force parents to choose between health coverage and 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 South Carolina, the average cost of child care for a child in 2022, depending on age and county, ranged from $4,652 to $11,558 annually (17 percent and 43 percent, respectively, of income for a family of three earning 100 percent of the federal poverty level).[8] The challenges of affording child care, among others, would prevent many parents from meeting the work requirement, leaving them uninsured.[9] Families could be faced with an impossible decision of whether to use limited income to pay for childcare in order to get or maintain health coverage or household necessities like diapers, food, and utilities. Parents who want to work often need to miss work to take care of a sick child, and parents of children with chronic or serious health conditions or intellectual disabilities may face even more challenges maintaining a job. Even if a parent of school aged children may have more flexibility to work during the school year, they would face greater difficulties meeting the work requirement during periods their children are not in school, like summer breaks.

South Carolina's proposal includes no exemption for individuals with disabling conditions or chronic illness. Only a subset of individuals with substance use disorder who are participating in or in compliance with "medically necessary substance use disorder treatments" would be exempt from the work requirements; many individuals with substance use disorder would not even meet this standard. Furthermore, people with disabilities are found across age groups and Medicaid eligibility categories.[10] In fact, on average, 66% of Medicaid enrollees with disabilities are <u>not</u> in a Supplemental Security Income (SSI) related category.[11] Many individuals with disabilities face a long wait to receive an SSA determination, while others may not meet the strict SSA threshold and would not be able to access health care despite having a health condition that makes it impossible or unsafe for them to work 80 hours per month.

Finally, we believe CMS should not approve the waiver of hospital presumptive eligibility requested by the state to align enrollment with the work requirement. The work requirement is an extra condition of eligibility added by the state, and should not be the basis for withholding immediately needed health care. This is particularly true since, given the enrollment cap, the number of people who are found presumptively eligible but not ultimately confirmed eligible will be miniscule in this demonstration (effectively a small subset of a very small subset of 11,400 people).

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[8] 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.

[9] 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.

[10] 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.

[11] *Ibid.*

South Carolina's proposed demonstration does not comply with the requirements of section 1902(xx) of the Social Security Act and is therefore not approvable.

Section 1902(xx) of the Social Security Act, which was part of P.L. 119-21 signed into law on July 4, 2025, requires all states that cover expansion adults (through either the state plan or a waiver of the plan that covers some or all of the ACA expansion group) to impose work requirements on those adults no later than January 1, 2027, though the law permits states to implement the work requirement earlier than January 1, 2027. In either case (before or after 2027), and whether implemented through waiver or state plan amendment, a state must follow the detailed specifications set forth in section 1902(xx) of the Social Security Act relating to compliance, exemptions, verification, outreach, notices, etc.[12] Section 1902(xx)(10) expressly prohibits the Secretary from waiving any of these requirements.

The state's proposed demonstration application does not comply with the many of the requirements of section 1902(xx) and is therefore not approvable. Here is a partial list of the noncomplying elements of the state's proposed demonstration:

(1) Section 1902(xx) allows individuals to satisfy the work requirement by doing community service, work programs, or 80 hours of activities in combination. It also allows seasonal workers to satisfy the work requirement by considering the past six months' average income. South Carolina does not allow individuals to meet the work requirement through community service, work programs, combinations, or seasonal work.
(2) Section 1902(xx) requires states to use "ex parte" data sources, where possible, to identify compliance with work requirements and eligibility for exemptions. While South Carolina's proposal includes some use of data matching, it does not indicate plans to apply data matching to all of the required areas.
(3) Section 1902(xx) requires states to exempt parents, guardians, caretaker relatives, or family caregivers of a dependent child age 13 or under or a person with a disability; South Carolina's proposal offers no such exemption whatsoever for parents or other caregivers (in fact, every individual subject to the proposal would be a parent or caretaker relative).
(4) Section 1902(xx) requires states to broadly exempt individuals with substance use disorder; South Carolina's proposal would only exempt certain individuals in compliance with "medically necessary substance use disorder treatments."
(5) Section 1902(xx) requires states to exempt individuals with a disabling mental health disorder; South Carolina's proposal would provide no exemption whatsoever for individuals with mental health conditions.
(6) Section 1902(xx) requires states to exempt individuals with disabilities or any one of a number of disabling health conditions, including veterans with a total disability rating, individuals who are medically frail or have special needs, individuals who are blind, individuals with limitations in activities of daily living, and individuals with a serious or complex medical condition. South Carolina's proposal offers none of these exemptions.

[12] Section 1902(xx)(1) provides: "Except as provided in paragraph (11), beginning not later than the first day of the first quarter that begins after December 31, 2026, or, at the option of the State under a waiver or demonstration project under section 1115 or the State plan, such earlier date as the State may specify, ***subject to the succeeding provisions of this subsection***, a State shall provide, as a condition of eligibility for medical assistance for an applicable individual, that such individual is required to demonstrate community engagement under paragraph (2)...." (emphasis added).

(7) Section 1902(xx) requires states to exempt inmates of jails or prisons during incarceration and for 3 months post-release; South Carolina's proposal offers no exemption for such individuals, either while incarcerated or post-release.
(8) Section 1902(xx) requires that states notify all non-exempt adults of their work requirement obligations at least three months prior to the implementation date of January 1, 2027 (or earlier if a state elects to implement earlier) and periodically thereafter; South Carolina's proposed demonstration does not indicate any plans such outreach.

If South Carolina chooses to continue to pursue a waiver to implement work requirements, CMS should require the state to redesign its proposal making numerous major changes as required by P.L. 119-21, and per Medicaid law provide a new state public notice and comment period, and then resubmit its application to the agency for another round of federal notice and comment.

South Carolina's proposed enrollment cap waiver does not promote the objectives of Medicaid and should not be approved.

South Carolina is requesting to implement an enrollment cap on individuals who would be eligible for Medicaid through the demonstration, limiting coverage based on available state funding to only 11,400 individuals. Such an enrollment cap on a statutory coverage group under 1902(a)(10)(A)(i) would be unprecedented in Medicaid.[13] This is for good reason: it is not allowed by the statute and also is not consistent with section 1115 authority. In fact, the Medicaid statute explicitly requires coverage of "all individuals" in 1902(a)(10)(A)(i) categories. The statute does not allow enrollment limits for *medical assistance*, and the only authority for enrollment limits in Medicaid is for *other services* provided through other waiver authorities (for example, section 1915(c)). Arbitrarily limiting coverage clearly does not help furnish coverage nor is it necessary to any experiment—both requirements for section 1115 demonstrations. Circuit courts have held that saving money with "no research or experimental goal, would not satisfy" section 1115's requirements.[14]

Medicaid is critical to ensuring people are able to receive necessary care. Individuals subject to enrollment caps fail to be enrolled solely based on when they happen to apply for the program. Enrollment caps in some HCBS programs (which are legally permissible) have led to long waiting lists. The South Carolina policy would arbitrarily limit coverage based on who hears about the program first and gets their application filed fastest. The harm of the policy would be amplified by the proposed demonstration's work requirement, which could result in someone losing coverage due to temporary life circumstances (e.g., job loss) or due to administrative reporting problems associated with the requirement. When individuals then re-apply for coverage, which could be just a month after their coverage loss is finalized, they would be placed on a waiting list prior to moving back onto coverage. This certainly does not promote coverage, would be damaging to continuity of care, and would lead to negative health outcomes.

The delays in access to care for people subject to enrollment caps or stuck on a waiting list will have harmful impacts on their health. Individuals without insurance are more likely to have no usual

[13] Demonstration enrollment caps that were permitted in the past were solely for groups that were not able to be covered through state plan authority, e.g., childless adults prior to the ACA.
[14] Beno v. Shalala, 30 F.3d 1057, 1068 (9th Cir. 1994), https://www.courtlistener.com/opinion/7029624/beno-v-shalala.

source of care and postpone or forgo needed treatments.[15] In contrast, research has linked being enrolled in Medicaid coverage with "improved health outcomes, including lower mortality rates from cancer, cardiovascular disease, liver disease, and maternal mortality."[16] Medicaid is also associated with reductions in uncompensated care and better financial outcomes for hospitals.[17]Although South Carolina's work reporting requirement is intended to "incentivize employment," Medicaid coverage itself is what supports work, particularly for individuals with chronic illnesses that need regular medications or other treatment.[18] Enrollment caps would suppress employment and would leave individuals in the middle of treatment or in need of medications to maintain their health with the impossible decision to forgo care or face significant out-of-pocket costs.

Enrollment caps, by definition, lead to periods where an eligible individual would be unable to enroll in Medicaid coverage. The policy clearly does not meet the criteria of promoting Medicaid's central objective of furnishing health coverage. *We strongly urge CMS to reject the state's proposed enrollment cap.*

Conclusion

As proposed, South Carolina's demonstration falls well short on coverage compared to full Medicaid expansion and seeks to impose harsh barriers to coverage that would keep people from accessing needed care. If CMS does choose to approve the state's problematic partial expansion, the state should not be permitted to institute enrollment caps on those eligible under the demonstration. To be clear, we also strongly oppose work requirements. They serve no purpose other than to take health coverage away from low-income adults, including parents of dependent children, most of whom are already working full- or part-time.[19] They also impose high administrative burdens and large, wasteful administrative costs on state Medicaid agencies.

But if the state wants to implement work requirements for the limited expansion population before the statutory effective date of January 1, 2027, the Secretary should require that the state revise its application to comply with P.L. 119-21 and seek comment on the revised application at the state level (consistent with 42 C.F.R. 431.408) prior to resubmitting to CMS. We urge the Secretary to encourage South Carolina and all other states to not use section 1115 waivers to implement this policy, and in any event to await the issuance of CMS implementation guidance, including the Interim Final Rule that CMS is required to issue, prior to submitting proposals for early adoption of the P.L. 119-21 work requirements.

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

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[15] Jennifer Tolbert, et al., "Key Facts about the Uninsured Populations," KFF, December 18, 2024, https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population.
[16] *Ibid.*
[17] Meghana Ammula, "What Does the Recent Literature Say About Medicaid Expansion?: Economic Impacts on Providers," KFF, January 18, 2023, https://www.kff.org/medicaid/issue-brief/what-does-the-recent-literature-say-about-medicaid-expansion-economic-impacts-on-providers.
[18] Inna Rubin, et al., "Medicaid Expansion: Frequently Asked Questions," Center on Budget and Policy Priorities, June 16, 2021, https://www.cbpp.org/research/health/medicaid-expansion-frequently-asked-questions.
[19] Gideon Lukens, "Research Note: Most Medicaid Enrollees Work, Refuting Proposals to Condition Medicaid on Unnecessary Work Requirements," Center on Budget and Policy Priorities, November 12, 2024, https://www.cbpp.org/research/health/most-medicaid-enrollees-work-refuting-proposals-to-condition-medicaid-on.

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

Autistic Self Advocacy Network
Center on Budget and Policy Priorities
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National Association of Pediatric Nurse Practitioners
National Multiple Sclerosis Society
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