



SENT VIA ELECTRONIC SUBMISSION

June 14, 2018

The Honorable Alex Azar, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Seema Verma, Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Blvd.  
Baltimore, MD 21244-8013

Re: Group VIII Work Requirements and Community Engagement 1115 Demonstration Waiver

Dear Secretary Azar and Administrator Verma:

Advocates for Ohio's Future (AOF) is writing to ask you to reject Ohio's proposed "Group VIII Work Requirements and Community Engagement 1115 Demonstration Waiver."

AOF is a nonpartisan coalition of nearly 500 Ohio organizations that promotes health and human service budget and policy solutions so that all Ohioans live better lives. The coalition believes in investing in our state's most valuable resource—our people—to ensure that they are safe, healthy, and can afford life's basics.

AOF strongly supports Ohio's Medicaid expansion. Good health is critical for maintaining a job, earning an education, parenting, and participating in community life. As of early 2018, the Medicaid expansion has successfully provided access to health care coverage to 700,000 Ohioans. Ohio's uninsured rate is 5.6 percent – the lowest it's ever been. Research from our coalition partners, The Center for Community Solutions, indicates that this is primarily due to the Medicaid expansion,<sup>i</sup> which reduced the uninsured rate by nearly 18 percent for Ohioans age 19-64 with family income at or below 138 percent of the Federal Poverty Level.<sup>ii</sup>

Dozens of organizations, including many of our coalition members, have testified in opposition to the proposed waiver. As a coalition, we present the many concerns our member organizations have expressed. A list of AOF leadership is included in this submission. Our chief concerns are described briefly below.

The Work Requirements and Community Engagement waiver would damage the progress made toward affordable access to health care without barriers for low-income Ohioans. If implemented, the waiver would reduce access to health care for Ohioans eligible for Medicaid and threaten disenrollment for thousands of Ohioans enrolled in Medicaid. Estimates range from 36,000<sup>iii</sup> to more than 300,000.<sup>iv</sup> The proposed demonstration program will disproportionately affect populations in rural and urban areas, reduce the efficiency of administering the Medicaid system, and greatly increase the costs of implementation.

By requiring individuals to demonstrate their compliance with, or exemption from, the work requirement through a complex, but yet to be determined administrative system, the waiver will increase the likelihood of disenrollment. Medicaid enrollees have very little income; the cost of minutes on the phone, or a stamp and envelope, or a bus ride to report compliance or exemption in person, take time and money many don't have. The target population is also the least likely to have a computer or smart phone for electronic communication.

When individuals lose access to health care through Medicaid, they lose a sense of stability and the economic freedom to address other, basic needs. Once coverage is lost, the process for reenrollment will be more burdensome and daunting. Though the Ohio Department of Medicaid estimates 36,000 Ohioans do not currently comply with their proposed requirements and over 18,000 will lose access to care, our partners at Policy Matters Ohio estimate over 300,000 are in danger of losing Medicaid health coverage.<sup>iv</sup> By jeopardizing access to care for thousands of Ohioans, this waiver does not promote healthier populations and instead, creates more barriers toward AOF's mission for stronger, healthier people and communities.

A key factor affecting how many individuals will lose coverage is how exactly it will be determined whether an unhealthy individual is exempt because they are mentally or physically unfit to work. However, the waiver application as submitted to CMS defers that decision to the county agencies. CMS must require the Ohio Department of Medicaid to put forth specific criteria for what types of conditions and symptoms qualify an individual as unfit to work before the application can be considered complete.

Another categorical exemption would exclude from the Medicaid work requirement all Medicaid enrollees in the 26 counties with a waiver of SNAP work requirements.<sup>v</sup> The population in the exempted counties is 95 percent white.<sup>vi</sup> Minority communities are concentrated in urban areas. The result of this alignment of waivers is that the racial discrimination in Ohio's SNAP work requirement waiver<sup>vii</sup> would be extended to Medicaid, which is not acceptable. Though counties with high-levels of unemployment and difficult access to transportation should remain exempt, AOF believes cities and other smaller units of government should also be exempt to ensure equal application of the exemption and struggling communities in urban areas have access to care.

The Ohio proposal also creates a new, complex eligibility system as mandated by the General Assembly. Though there are a number of categorical exemptions listed in the waiver, it is likely that many who qualify for an exemption will lose access to coverage due to system glitches: lack of communication and technological compatibility between the multiple benefits and employment support systems in Ohio, and administrative errors by county and state systems. Many of the exemptions require authentication or proof from other state support systems, health care professionals, and educational institutions but the process for validation lacks detail in deference to a separate rulemaking process or interpretation by county agencies. Though AOF will be active in the rulemaking process, it is likely many will fall through the cracks and lose Medicaid coverage. Some may re-enroll, others will not.

The proposal increases the complication of using Medicaid for patients, health care providers, and county agencies which in turn increases the expense of implementation. Though the Ohio Department of Medicaid acknowledges there will be a cost to implementing the proposed requirements, it lacks detail in regards to administrative process and cost for the state and local governments. Given the complexity of the system alignments and administrative training necessary for implementation of the waiver, the cost of implementation would be a significant strain on state and local government resources. The Center for Community Solutions used a methodology used by Cuyahoga County to estimate statewide cost to local governments administering the program and estimate that statewide, the cost will be \$378 million dollars.<sup>viii</sup>

In addition to the harmful proposals within the waiver, the intent of imposing Medicaid work requirements without Congressional approval is illegal. Unlike for TANF or SNAP, Congress never enacted a statute that grants the Center for Medicare and Medicaid Services authority to impose new conditions of eligibility on the Medicaid expansion population. Therefore, CMS's decision to approve them unilaterally through the 1115 Waiver process oversteps its role of implementing the Medicaid program is unlawful. The 1115 Waiver process

is merely a tool for testing novel means of improving care and expanding access. By the Ohio Department of Medicaid's own admission, the Waiver does neither. 1115 Waivers may not be used to circumvent Congress's will and impose wholly new eligibility criteria for the first time in the Medicaid program's history.

In conclusion, the Work Requirements and Community Engagement waiver would reduce access to health care, damage health outcomes for Medicaid enrollees, discriminate on the basis of race and increase the complexity and expense of administering the Medicaid program. Advocates for Ohio's Future asks the federal government to reject the proposed 1115 waiver request for Ohio.

Sincerely,

Leadership of Advocates for Ohio's Future

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<sup>i</sup> Warren, Kate, Census Update: Ohio's Uninsured Rates Continue to Decline, September 14, 2017 at <https://www.communitysolutions.com/census-update-ohios-uninsured/>

<sup>ii</sup> Ohio Department of Medicaid, Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly at <http://medicaid.ohio.gov/portals/0/resources/reports/annual/group-viii-assessment.pdf>

<sup>iii</sup> Ohio Office of Health Transformation, Ohio Medicaid Proposed Work Requirements at <http://healthtransformation.ohio.gov/Portals/0/Ohio%20Medicaid%20Work%20Requirements%20Final.pdf>

<sup>iv</sup> Woodrum, Amanda, Ohio's Medicaid plan puts 300,000 at risk of losing care, June 4, 2018 at [https://www.cleveland.com/metro/index.ssf/2018/06/ohios\\_medicaid\\_plan\\_puts\\_30000.html](https://www.cleveland.com/metro/index.ssf/2018/06/ohios_medicaid_plan_puts_30000.html)

<sup>v</sup> Ohio Department of Job and Family Services, "Federal Fiscal Year 2018: Able-Bodied Adults without Dependents," Family Assistance Letter 165, Sept. 18, 2017.

<sup>vi</sup> Corlett, John, Proposed Ohio Medicaid Waiver Raises Civil Rights and Bias Concerns, March 1, 2018 at <https://www.communitysolutions.com/proposed-ohio-medicaid-waiver-raises-civil-rights-bias-concerns/>

<sup>vii</sup> Civil rights administrative complaint on Ohio's SNAP waiver filed by the Legal Aid Society of Columbus and sent to Assistant Secretary Joe Leonard, Jr., Office of Assistant Secretary for Civil Rights, U.S. Department of Agriculture on August 14, 2014.

<sup>viii</sup> Anthes, Loren, Community Solutions Blog, March 13, 2018, <https://www.communitysolutions.com/research/medicaid-work-requirement-waiver-analysis-budget-neutrality/>

**Advocates for Ohio's Future**

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