



August 17, 2018

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

RE: Kentucky's proposal for a demonstration project under section 1115 of the Social Security Act

Dear Secretary Azar:

The Children's Defense Fund (CDF) appreciates the opportunity to submit comments in response to the state of Kentucky's proposal for a demonstration project under section 1115 of the Social Security Act that would condition Medicaid eligibility on compliance with a work/community engagement requirement and make significant other changes to Kentucky's highly successful Medicaid expansion. CDF's Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective and independent voice for *all* the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor children, children of color and those with disabilities. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, drop out of school, get into trouble or suffer family breakdown.

CDF has worked for many years, in collaboration with others, to expand health coverage that is comprehensive, accessible and affordable for all children. Central to that goal has been to preserve and protect Medicaid, which today ensures coverage to 37 million low-income children and children with disabilities – as well as millions of low-income parents and other caregivers. **Medicaid is a powerful anti-poverty tool that helps struggling parents get ahead by providing access to health coverage that can help them provide and care for their families. CDF remains very concerned that *any* work requirements being implemented in Medicaid will harm children as parents and caregivers lose the health coverage they need to work and offer quality care to their children. For this reason, we strongly urge the U.S. Department of Health and Human Services (HHS) to reject Kentucky's 1115 waiver application.**

Kentucky's proposal for work requirements in Medicaid is one of several changes being proposed in its waiver request that we believe will be harmful to parents, caregivers and their children. The waiver application also proposes to charge unprecedented premiums up to 4 percent of household income, impose coverage lockouts for people who do not renew or report changes in their circumstances on time, and eliminate non-emergency transportation and retroactive coverage. These changes will reverse Kentucky's gains in coverage and care – the state itself estimated 95,000

people would lose Medicaid – and cause undo harm to children and families. First, we believe children will be harmed by the imposition of work requirements alone in three major ways:

**1) Healthier parents are better parents. When work requirements lead to a loss of Medicaid coverage and access to health care for parents, children will be harmed as well.**

- Medicaid helps parents address their underlying health concerns so they can be physically and mentally able to work and care for their children, and maintain stable employment. For example, Medicaid provides health coverage to 27 percent of adults with serious mental illness, and the expansion of Medicaid to low-income parents has helped those struggling with opioids and other addictions get the health care they need to work.<sup>1</sup> Children benefit when their parents are healthy, can work and help meet their needs.
- When parents have health coverage, their children are more likely to be covered and to have their health care needs met.<sup>2 3</sup> By causing parents to lose coverage, work requirements will also lead to a decrease in stability of child health coverage and well-being, and an increase in uninsured children. Even short breaks in child coverage can have consequences by disrupting provider relationships and ongoing care.
- Kentucky’s work requirement proposal will likely keep eligible people from enrolling in coverage and keep others from getting the care they need. While there is no evidence Medicaid expansion has resulted in fewer people working, there is a great deal of evidence that in Kentucky, as in other states, it has reduced the number of uninsured people. Kentucky has made impressive progress in expanding health coverage under the Affordable Care Act (ACA). It has added more than 400,000 newly eligible people to its Medicaid program. A study which compared the impact of Kentucky’s Medicaid program to Texas, which has not yet expanded Medicaid, found the expansion in Kentucky “was associated with a 41-percentage point increase in having a usual source of care, a \$337 reduction in annual out-of-pocket spending, significant increases in preventive health visits and glucose testing, and a 23-percentage point increase in “excellent” self-reported health.”<sup>4</sup>

**2) Parents who lose Medicaid coverage are more likely to experience greater household financial stress and suffer poor health.**

- Medicaid is an effective poverty reduction program.<sup>5</sup> There is evidence that parents who gain Medicaid coverage under the Affordable Care Act expansion have greater financial security than those who are uninsured; they have less trouble paying medical bills and are less likely to declare bankruptcy.<sup>6</sup> Family financial stress affects every member of a household, including children, with potential long term consequences: children who experience persistent stress in

<sup>1</sup> <https://www.kff.org/medicaid/issue-brief/medicaids-role-in-financing-behavioral-health-services-for-low-income-individuals/>

<sup>2</sup> <http://hrms.urban.org/quicktakes/health-insurance-coverage-children-parents-march-2017.html>

<sup>3</sup> <https://www.kff.org/health-reform/issue-brief/childrens-health-coverage-medicare-and-the-aca>.

<sup>4</sup> <https://www.ncbi.nlm.nih.gov/pubmed/28515140>

<sup>5</sup> <https://www.sciencedirect.com/science/article/abs/pii/S016762961300091X>

<sup>6</sup> <https://familiesusa.org/blog/2016/09/medicaid-expansion-improves-people%E2%80%99s-financial-stability>

childhood are at higher risk for developmental delays and serious health conditions into adulthood.

**3) The imposition of a work requirement fails to recognize the nature of low-wage employment and the challenges it already creates for families.**

- Most adults in Medicaid are already working and most who do not have a major work impediment, such as poor health, a disability, or caregiving responsibility.<sup>7</sup>
- The structure of employment in today’s economy has changed significantly over the last few decades, and a full- or part-time job with relatively stable hours is now the exception rather than the rule for low-wage workers. Many low-wage jobs are characterized by erratic or seasonal schedules, subject to last minute changes that do not guarantee a stable number of working hours per week, making it at times impossible to meet inflexible work requirements.
- The paperwork/work documentation requirements will make it especially difficult for Medicaid enrollees to keep Medicaid coverage. We are concerned that some parents and caregivers likely to lose Medicaid coverage will be those who work regularly and the requisite number of hours, but are not able to report hours in a timely manner or an acceptable manner under state rules. When states add paperwork requirements to Medicaid, enrollment falls.<sup>8</sup> The demands of daily living can be a challenge for many low-income families and make onerous paperwork requirements impossible to deal with; they may be even more challenging for parents with children with disabilities who face even greater demands.

In addition to our objections to the imposition of a work requirement in Medicaid, Kentucky has asked for permission to impose several other policies that will cause harm to children and families and result in a reduction in the number of insured residents, including:

1. Coverage lock-outs for failure to promptly renew Medicaid eligibility and failure to report within a set number of days changes in circumstances, whether material to Medicaid eligibility or not.

As it is, Medicaid is the only type of health insurance coverage that requires the submission of annual documentation for redetermination of eligibility. This process can result in many people briefly losing coverage, and then coming back on Medicaid – known as “churn” – once they resolve the documentation issues affecting their renewal. As it is, churn rates naturally range from 25 to 50 percent at Medicaid renewal, a percentage that would only be exacerbated by these new bureaucratic hurdles, particularly for this population. This policy will also likely lead to coverage losses, as it fails to recognize the number of challenges facing low-income residents that make it difficult for them to renew their eligibility and respond to changes in circumstances in a timely manner. Such obligations will interfere with treatment for people with serious illness, including those with mental health issues or seeking treatment for substance abuse, are punitive and will ultimately result in disruptions in care and lead to poor health outcomes and increases costs.

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<sup>7</sup> <https://www.kff.org/medicaid/state-indicator/distribution-by-employment-status-4/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>8</sup> <https://www.nytimes.com/2018/01/18/upshot/medicaid-enrollment-obstacles-kentucky-work-requirement.html>

2. Medicaid premium requirements for Medicaid enrollees designed to disenroll and lock individuals out of coverage for failure to pay.

Numerous studies have found that requirements for premium payments in Medicaid reduce enrollment,<sup>9</sup> increase disenrollment,<sup>10</sup> and increase the number of uninsured in a states. In addition, states' implementation of premiums in Medicaid has been associated with an increase in uninsured patients, and increases in emergency department use by the uninsured.<sup>11</sup>

3. Eliminating non-emergency medical transportation.

While non-emergency medical transportation (NEMT) is a required benefit under the ACA's Medicaid expansion, Kentucky is seeking to eliminate this requirement which will make it harder for Medicaid enrollees to access appropriate care at the appropriate time. For Medicaid enrollees, lack of transportation is a major barrier to timely access to care<sup>12</sup> and this benefit helps lower-income individuals with Medicaid coverage get the health care they need *before* it becomes an emergency. NEMT is cost effective, has a high rate of return, and has been associated with fewer emergency visits and can ensure the state better addresses residents' serious health care needs.<sup>13 14 15</sup> NEMT also saves money.<sup>16</sup>

4. Eliminating retroactive coverage.

Kentucky has proposed to waive Medicaid's three-month retroactive coverage provision which helps fill gaps in coverage when churn occurs. It can temporarily assist Medicaid enrollees living in poverty and reduce uncompensated care. Eliminating retroactive coverage has also been found to result in an approximately five percent loss in Medicaid revenue for safety-net hospitals.<sup>17</sup> Those hospitals—which are often teaching hospitals, major trauma centers, and major area employers—depend heavily on Medicaid revenue. This proposal is a direct hit to critical hospitals in the state, and would hurt the health system for all state residents.

Thank you for the opportunity for the Children's Defense Fund to comment on the state of Kentucky's proposal for a demonstration project under section 1115 of the Social Security Act. We strongly urge HHS to reject Kentucky's 1115 waiver application – and any future applications from

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<sup>9</sup> <http://www.healthlaw.org/about/staff/david-machledt/all-publications/Medicaid-Premiums-Cost-Sharing#.WqcdLSVG0W4><http://www.healthlaw.org/about/staff/david-machledt/all-publications/Medicaid-Premiums-Cost-Sharing>

<sup>10</sup> <http://www.pnhp.org/news/2016/march/medicaid-and-chip-premiums-increase-disenrollment>

<sup>11</sup> <https://www.kff.org/medicaid/issue-brief/the-effects-of-premiums-and-cost-sharing-on-low-income-populations-updated-review-of-research-findings/view/print/>

<sup>12</sup> [https://www.annemergmed.com/article/S0196-0644\(12\)00125-4/abstract?code=yem-site](https://www.annemergmed.com/article/S0196-0644(12)00125-4/abstract?code=yem-site)

<sup>13</sup> <http://www.trb.org/Publications/Blurbs/156625.aspx>

<sup>14</sup> <http://web1.ctaa.org/webmodules/webarticles/articlefiles/NEMTpaper.pdf>

<sup>15</sup> <http://web1.ctaa.org/webmodules/webarticles/articlefiles/NEMTreportfinal.pdf>

<sup>16</sup> <http://www.trb.org/Publications/Blurbs/156625.aspx>

<sup>17</sup> [https://www.commonwealthfund.org/sites/default/files/documents/\\_media\\_files\\_publications\\_fund\\_report\\_2017\\_jun\\_dobson\\_ahca\\_impact\\_safety\\_net\\_hospitals\\_v2.pdf](https://www.commonwealthfund.org/sites/default/files/documents/_media_files_publications_fund_report_2017_jun_dobson_ahca_impact_safety_net_hospitals_v2.pdf)

states proposing to impose work requirements in Medicaid or other provisions that create barriers to Medicaid coverage – as they will cause harm to children as parents and caregivers lose the health coverage they need to work and offer quality care to their children. We appreciate your consideration of our comments and would be pleased to discuss them with you further.

Sincerely yours,

A handwritten signature in cursive script that reads "MaryLee Allen".

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