CLASP

Policy solutions that work for low-income people

February 5, 2018

Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Re: Arizona Section 1115 Waiver Amendment Request – AHCCCS Works Waiver

Dear Secretary Azar,

I am writing on behalf of the Center for Law and Social Policy (CLASP). CLASP is a national, nonpartisan, anti-poverty nonprofit advancing policy solutions for low-income people. We work at both the federal and state levels, supporting policy and practice that makes a difference in the lives of people living in conditions of poverty. These comments draw on CLASP's deep experience with Temporary Assistance for Needy Families (TANF) and the Supplemental Nutrition Assistance Program (SNAP), two programs where many of the policies proposed in this waiver have already been implemented – and been shown to be significant barriers to low-income people getting and retaining benefits. These comments also draw on CLASP's experience in working with six states under the Work Support Strategies project, where these states sought to dramatically improve the delivery of key work support benefits to low-income families, including health coverage, nutrition benefits, and child care subsidies through more effective, streamlined, and integrated approaches. From this work, we learned that reducing unnecessary steps in the application and renewal process both reduced burden on caseworkers and made it easier for families to access and retain the full package of supports that they need to thrive in work and school.

CLASP submits the following comments in response to the Arizona Section 1115 Waiver Amendment Request and raises serious concerns about the effects of the waiver, as proposed, on the coverage and health outcomes of low-income Medicaid beneficiaries in Arizona. The proposed policies would have a dramatic and negative impact on access to care for vulnerable groups and takes a big step backwards in coverage. We therefore believe that it is inconsistent with the goals of the Medicaid program, notwithstanding the January 11, 2018 guidance from the Centers for Medicare and Medicaid Services (CMS).

Medicaid plays a critical role in supporting the health and well-being of low-income adults and children. Many work in low-wage jobs where employer-sponsored health care is not offered or is prohibitively expensive. Others may have health concerns that threaten employment stability, and without Medicaid, would be denied access to the medical supports they need to hold a job, such as access to critical medications.

The Medicaid statute is clear that the purpose of the program is to furnish medical assistance to individuals whose incomes are not enough to meet the costs of necessary medical care and to furnish such assistance and services to help these individuals attain or retain the capacity for independence and self-care. States are allowed in limited circumstances to request to "waive" provisions of the rule but the Secretary of Health and Human Services (HHS) may only approve a project which is "likely to assist in promoting the objectives"[1] of the Medicaid Act. A waiver that does not promote the provision of health care would not be permissible. This

waiver proposals' attempt to transform Medicaid and reverse its core function will result in many adults losing needed coverage, poor health outcomes, and higher administrative costs. There is an extensive and strong literature that shows, as a recent New England Journal of Medicine review concludes "Insurance coverage increases access to care and improves a wide range of health outcomes."[2] This waiver is therefore inconsistent with the Medicaid purpose of providing medical assistance and improving health and should be rejected. Moreover, losing health coverage will also make achieving work and education goals significantly more difficult for beneficiaries.

Our specific comments below focus on two elements of the waiver amendment request: work requirements and time limits.

Work Requirements

Arizona is requesting to implement a work requirement for the Medicaid expansion population. The state lists the populations that would be exempt from the work requirement. For those subject to the work requirement, they will have to work, be attending school full-time, or participating in other identified activities for a total of 20 hours per week. Arizona is proposing a six-month grace period before disenrollment.

CLASP strongly opposes work requirements for Medicaid beneficiaries and urges CMS to reject this request. Work requirements—and disenrollment for failure to comply—are inconsistent with the goals of Medicaid because they would act as a barrier to access to health insurance, particularly for those with chronic conditions and disabilities, but also for those in areas of high unemployment, or who work the variable and unpredictable hours characteristic of many low-wage jobs. In addition, while the purported goal of this provision is to promote work, the reality is that denying access to health care makes it less likely that people will be healthy enough to work. This provision would also increase administrative costs of the Medicaid program and reduce the use of preventative and early treatment services, ultimately driving up the costs of care while also leading to worse health outcomes.

Work Requirements Do Not Promote Employment

Suggesting that work requirements will lead to employment that offers living wages and health benefits is misguided and short-sighted. Lessons learned from other programs demonstrate that work requirement policies are not effective in connecting people to living-wage jobs that provide affordable health insurance and other work support benefits such as paid leave.[3] A much better focus for public policy is to develop skills training for jobs that are in high demand and pay living wages, help people get the education they need to climb their career ladder and foster an economy that creates more jobs.

Another consequence of a work requirement could be, ironically, making it harder for people to work. When additional red tape and bureaucracy force people to lose Medicaid, they are less likely to be able to work. People must be healthy to work, and consistent access to health insurance is vital to being healthy enough to work.[4] Medicaid expansion enrollees from Ohio[5] and Michigan[6] reported that having Medicaid made it easier to look for employment and stay employed. Making Medicaid more difficult to access could have the exact opposite effect on employment that supporters of work requirements claim to be pursuing.

Work Requirements Grow Government Bureaucracy and Increase Red Tape

The addition of a work requirement to Medicaid would add new red tape and bureaucracy to the program and only serve as a barrier to health care for enrollees. Tracking work hours, reviewing proof of work, and keeping track of who is and is not subject to the work requirement is a significant undertaking that will require new administrative costs and possibly new technology expenses to update IT systems. Lessons from other programs show that the result of this new administrative complexity and red tape is that *eligible*

people will lose their health insurance because the application, enrollment, and on-going processes to maintain coverage are too cumbersome.

As part of the waiver application, Arizona is asking permission to increase Medicaid redeterminations from annual to bi-annual redeterminations. This is exactly the type of administrative bureaucracy that leads to disenrollment. For example, when Washington state began redetermining Medicaid bi-annually instead of annually more than 30,000 children became unenrolled.[7] When redeterminations reverted back to an annual basis, 30,000 more children became enrolled, suggesting that the extra paperwork burden created by more frequent redeterminations caused tens of thousands of eligible children to lose health insurance. If Arizona were to conduct redeterminations bi-annually instead of annually the outcome is likely to mirror that of Washington – tens of thousands of people losing health insurance because of procedural reasons, and not particularly due to ineligibility.

Furthermore, the waiver seeks authority for Arizona to redetermine Medicaid every three months for "individuals who have a change in circumstance that results in non-compliance with AHCCCS Works requirements." The proposal is unclear exactly who would be subject to this frequent redetermination. Arizona's requests to increase the frequency of redeterminations are unnecessary as Medicaid requires most beneficiaries to renew their coverage once a year as well as to report changes in income, employment and other circumstances that affect their eligibility within 10 days.

Work Requirements Do Not Reflect the Realities of Our Economy

Work requirements do not reflect the realities of today's low-wage jobs. For example, seasonal workers may have a period of time each year when they are not working enough hours to meet a work requirement and as a result, will churn on and off the program during that time of year. Or, some may have a reduction in their work hours at the last minute and therefore not meet the minimum numbers of hours needed to retain Medicaid. Many low-wage jobs are subject to last-minute scheduling, meaning that workers do not have advance notice of how many hours they will be able to work.[8] This not only jeopardizes their health coverage if Medicaid has a work requirement but also makes it challenging to hold a second job. If you are constantly at the whim of random scheduling at your primary job, you will never know when you will be available to work at a second job. This would lead to greater "churn" in Medicaid as people who become disenrolled reapply and enroll when they meet the work requirements.

Work Requirements Will Harm Persons with Illness and Disabilities

Many people who are unable to work due to disability or illness are likely to lost coverage because of the work requirement. A Kaiser Family Foundation study found that 36 percent of unemployed adults receiving Medicaid—but who are not receiving Disability/SSI—reported illness or disability as their primary reason for not working.[9] In Arizona, this rate is 37 percent. New data shows that of people with a disability and insured by Medicaid, only 43 percent receive SSI while 57 percent self-identify as disabled but without SSI. In Arizona, 55 percent of persons with disabilities and Medicaid are not receiving SSI.[10] This population is identified as having a disability according to the American Community Survey definition, which classifies a person as having a disability if the person reports serious difficultly with hearing, vision, cognitive functioning, mobility, self-care, or independent living. All of these limitations could contribute to an inability to work.

An Ohio study found that one-third of the people referred to a SNAP employment program that would allow them to keep their benefits reported a physical or mental limitation. Of those, 25 percent indicated that the condition limited their daily activities,[11] and nearly 20 percent had filed for Disability/SSI within the previous two years. Additionally, those with disabilities may have a difficult time navigating the increased red tape and bureaucracy put in place to administer a work requirement. The result is that many people with disabilities will, in fact, be subject to the work requirement and be at risk of losing health coverage.

For all the reasons laid out above, the state should reconsider their approach to encouraging work. If Arizona is serious about encouraging work and helping people move into jobs that allow for self-sufficiency (and affordable employer-sponsored insurance) the state would be committed to ensuring that all adults have access to health insurance to ensure they are healthy enough to work. Instead, the state is asking to place additional barriers between low-income Arizonians and their health care.

Time Limits

Above and beyond the work requirements, Arizona proposes to impose a 60-month time limits on Medicaid eligibility, unless exempt from work requirements. All the above reasons that work requirements are ill-conceived are also true for a time limit. However, a time limit goes further by assuming that people will not be in poverty without access to other insurance for more than five years of their adult life.

Proposing a time limit on access to health care is perhaps the most extreme and immoral request of all.

The imposition of a lifetime time limit on Medicaid implies that people are able to quickly move out of deep poverty and into employment *that offers affordable employer-sponsored insurance (ESI).* Unfortunately, this is simply not the reality of many jobs in America. Only 49 percent of people in this country receive health insurance through their jobs – and only 16 percent of poor adults do so.[12] The reality is that many low-wage jobs, particularly in industries like retail and restaurant work, do not offer ESI, and when they do, it is not affordable.[13] In 2017, just 14 percent of workers earning the lowest 10 percent of wages had employer-provided health insurance.[14]

Low-wage work in America does not fit into the "9-to-5" conception that many politicians and state administrators have of work. About half of low-wage hourly workers have schedules outside the traditional Monday-Friday, 9-5 routine and are patching together two or more part-time jobs to support their families.[15] Frequently, they aren't getting traditional employment benefits (such as health insurance) that middle- and upper-income Americans receive with their jobs. Recent data show that 5 million workers reported working part-time, despite wanting full-time jobs.[16] Involuntary part-time work is a symptom of the low-wage labor market that makes it difficult for people to gain economic security. People working multiple part-time jobs or in the gig economy are particularly unlikely to have access to employer-provided insurance.

This population needs a medical safety-net *in order to stay healthy enough to remain in the workforce*.

A lifetime limit incentivizes people to enroll in Medicaid only when they are sick, rather than using their limited months during times when they are well. This will have negative consequences for enrollees and for the program. People will not receive preventive care, early treatment for new illnesses, or consistent treatment of chronic diseases. As a result, when people are enrolled in Medicaid their health costs will be high.

Once someone reaches the 60-month lifetime limit, they will have no medical safety-net left for future crises or hard economic times. Even if they would later qualify for an exemption to the time limit, they are unlikely to know that they are eligible if they have previously been turned away by the state.

There is no possible justification for claiming that a time limit will in any way further a purpose of Medicaid. This is solely an attempt to reduce the number of people receiving Medicaid and cut spending.

Faulty Evaluation Design

Arizona's proposed goals, hypotheses, and policies included in their waiver amendment do not promote the objectives of Medicaid and are faulty in nature. The hypotheses put forth by Arizona are simply linked to increased employment and are not linked to improvements in health or health outcomes. The hypotheses

are not even linked to employment *that offers affordable health insurance.*

Arizona lists several objectives of the waiver, including reduced enrollment in Medicaid and a reduction in churn. Arizona's own estimate is that nearly 270,000 Arizonians would be at risk of losing coverage under their proposal. Section 1115 waivers have never been used to limit eligibility and reduce enrollment, as these goals are not consistent with the purpose of 1115 waivers for Medicaid. Furthermore, Arizona's stated objective of reducing churn is Orwellian; rather, the red tape and bureaucracy created by Arizona's proposed policies around work requirements and time limits will increase churn.

Thank you for consideration of these comments. If you have questions, please contact Suzanne Wikle (**swikle@clasp.org**).

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[3] Jessica Gehr, "Doubling Down: How Work Requirements in Public Benefit Programs Hurt Low-Wage Workers," CLASP, June 2017, **http://www.clasp.org/resources-and-publications/publication-1/Doubling-Down-How-Work-Requirementsin-Public-Benefit-Programs-Hurt-Low-Wage-Workers.pdf**.
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[5] The Ohio Department of Medicaid, "Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly," January 2017, **http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf**.
[6] Renuka Tipirneni, Jeffrey Kullgren, John Ayanian, Edith Kieffer, Ann-Marie Rosland, Tammy Chang, Adrianne Haggins, Sarah Clark, Sunghee Lee, and Susan Goold, "Medicaid Expansion Helped Enrollees Do Better at Work or in Job Searches," University of Michigan, June 2017, **http://ihpi.umich.edu/news/medicaid-expansion-helped-enrollees-do-better-work-orjobsearches**.
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[9] Rachel Garfield, Robin Rudowitz, and Anthony Damico, "Understanding the Intersection of Medicaid and Work, February 2017, **http://kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/**.
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[11] Ohio Association of Foodbanks, Comprehensive Report: Able-Bodied Adults Without Dependents, 2015, **http://admin.ohiofoodbanks.org/uploads/news/ABAWD_Report_2014-2015-v3.pdf**.
[12] Kaiser Family Foundation, "Health Insurance Coverage of the Total Population," 2016, **http://www.kff.org/other/stateindicator/totalpopulation/** and KFF "Health Insurance Coverage of Adults 19-64 Living in Poverty (under 100% FPL)" 2016, **https://www.kff.org/other/state-indicator/poor-adults**.
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