

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

August 23, 2018

The Honorable Alex M. Azar II
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar and Administrator Verma:

We are writing to express grave concern that recent actions by the Trump Administration to promote new work requirements for Medicaid could cause many low-income Americans and their families to lose their health insurance simply by complying with these new requirements. This is a perverse result that even the proponents of these new requirements should oppose.

On January 11, 2018, the Centers for Medicare and Medicaid Services (CMS) issued guidance to state Medicaid Directors, encouraging them to impose work requirements on Medicaid beneficiaries. According to the guidance:

CMS will support state efforts to test incentives that make participation in work or other community engagement a requirement for continued Medicaid eligibility or coverage for certain adult Medicaid beneficiaries in demonstration projects authorized under section 1115 of the Social Security Act ... in furtherance of Medicaid program objectives.¹

¹ Letter from Brian Neale, Director, Center for Medicaid and CHIP Services, Centers for Medicare and Medicaid Services, Department of Health and Human Services, to State Medicaid Directors (Jan. 11, 2018) (online at www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf).

Since then, 11 states have submitted proposals to impose work requirements on Medicaid beneficiaries to CMS for review.² Other states are in the process of drafting similar proposals, including Oklahoma and South Carolina.³

When Congress passed the Affordable Care Act, we authorized states to expand Medicaid eligibility to individuals making up to 138% of the federal poverty line, but 17 states have opted not to do so.⁴

Proposals for work requirements—especially in these non-expansion states—could result in coverage losses for low-income individuals who become ineligible for Medicaid, but are unable to afford private insurance. In effect, work requirements may lock these individuals out of affordable coverage.

For example, in Mississippi—which did not expand Medicaid under the Affordable Care Act—parents or caregivers are currently eligible for Medicaid if their income is at or below 27% of the federal poverty line, or \$467 per month.⁵ According to the Center for Children and Families at Georgetown University, 91% of Medicaid beneficiaries in Mississippi are mothers, and 71% are black.⁶

Mississippi has proposed requiring Medicaid beneficiaries in the state to work at least 20 hours per week. A mother working 20 hours per week at minimum wage in Mississippi would earn \$580 per month.⁷ This would make her ineligible for Medicaid because her monthly earnings would exceed the state's threshold for Medicaid eligibility by \$113. In addition, since this mother would earn so little, she would not qualify for the Affordable Care Act's premium

² Kaiser Family Foundation, *Medicaid Waiver Tracker: Which States Have Approved and Pending Section 1115 Waivers?* (online at www.kff.org/medicaid/issue-brief/which-states-have-approved-and-pending-section-1115-medicaid-waivers) (accessed Aug. 22, 2018).

³ Families USA, *1115 Waivers in Oklahoma* (online at www.familiesusa.org/waivers-oklahoma) (accessed Aug. 22, 2018); *SC Medicaid Agency Wants to Add Work Requirements, Child Advocate Calls Proposal 'Cruel,'* Post and Courier (June 24, 2018) (online at www.postandcourier.com/health/s-c-medicaid-agency-wants-to-add-work-requirements-child/article_4f454fd4-70a6-11e8-a3ec-0339e569160e.html).

⁴ Kaiser Family Foundation, *Status of State Action on the Medicaid Expansion Decision* (online at www.kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act) (accessed Aug. 22, 2018).

⁵ Kaiser Family Foundation, *Medicaid Income Eligibility Limits for Adults as a Percent of the Federal Poverty Level* (online at www.kff.org/health-reform/state-indicator/medicaid-income-eligibility-limits-for-adults-as-a-percent-of-the-federal-poverty-level) (accessed Aug. 22, 2018).

⁶ Georgetown University Center for Children and Families, *How Mississippi's Proposed Medicaid Work Requirement Would Affect Low-Income Families with Children* (Aug. 2018) (online at <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Proposed-Medicaid-Work-Requirement-Mississippi.pdf>).

⁷ Georgetown University Center for Children and Families, *Summary of Mississippi's Revised Section 1115 Medicaid Waiver Proposal* (Aug. 9, 2018) (online at <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Short-Summary-of-Mississippi-Revised-Medicaid-Waiver.pdf>).

tax credits, which are designed to help individuals who do not qualify for Medicaid afford insurance on the private market.⁸

Because Mississippi declined to expand Medicaid to individuals earning up to 138% of the federal poverty line, the state's proposal would result in coverage loss for this mother and other low-income individuals in these circumstances.

In response to these concerns, Mississippi revised its proposal to allow some parents to remain on Medicaid temporarily, and CMS reopened the proposal for public comment.⁹ However, according to the state's own calculations, approximately 20,000 low-income parents—many of whom are black mothers—will still lose Medicaid coverage over the next five years under Mississippi's revised proposal.¹⁰

The disproportionate impact that these coverage losses will have on black mothers in particular raises serious concerns that may implicate Title VI of the Civil Rights Act, which prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.¹¹

Especially in non-expansion states, these proposals threaten coverage for low-income parents, caretaker relatives, and the children of these beneficiaries as research shows an association between parent and child coverage status.¹²

It remains unclear how CMS intends to ensure that low-income individuals in Mississippi and other states considering work requirements are not locked out of coverage. For these reasons, we request that you produce the following documents by September 6, 2018:

- (1) all internal and external analyses of the expected impact of imposing work requirements on coverage for low-income individuals;
- (2) all documents relating to how the Administration intends to ensure coverage for those projected to lose it as a result of work requirements;

⁸ Internal Revenue Service, *Eligibility for the Premium Tax Credit* (online at www.irs.gov/affordable-care-act/individuals-and-families/eligibility-for-the-premium-tax-credit) (accessed Aug. 22, 2018).

⁹ Centers for Medicare and Medicaid Services, Mississippi Medicaid Workforce Training Initiative – Updated (online at <https://public.medicaid.gov/connect.ti/public.comments/viewQuestionnaire?qid=1897411>) (accessed Aug. 22, 2018).

¹⁰ Georgetown University Center for Children and Families, *Summary of Mississippi's Revised Section 1115 Medicaid Waiver Proposal* (Aug. 9, 2018) (online at <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Short-Summary-of-Mississippi-Revised-Medicaid-Waiver.pdf>).

¹¹ 42 U.S.C. § 2000d.

¹² Urban Institute, *QuickTake: Health Insurance Coverage for Children and Parents: Changes Between 2013 and 2017* (online at <http://hrms.urban.org/quicktakes/health-insurance-coverage-children-parents-march-2017.html>).

- (3) any internal or external analyses regarding whether imposing work requirements could violate Title VI of the Civil Rights Act;
- (4) all communications referring or relating to Medicaid work requirements between or among Administration officials and to or from outside groups or individuals;
- (5) all communications between or among Administration officials and officials in states with current or pending Section 1115 demonstration waivers pertaining to work requirement-related coverage losses;
- (6) all communications between or among Administration officials and officials in states that have communicated their intent to submit Section 1115 demonstration waivers pertaining to work requirement-related coverage losses; and
- (7) all communications between or among Administration officials and officials with the State of Mississippi regarding the decision to reopen the public comment period for the Mississippi Workforce Training Initiative demonstration waiver proposal.

In addition, we request that the Department provide a briefing to Committee staff by the same date on these matters. If you have any questions about this request, please contact Miles Lichtman of the Democratic Committee staff at (202) 225-5051. Thank you for your prompt attention to this request.

Sincerely,



Elijah E. Cummings
Ranking Member



Raja Krishnamoorthi
Ranking Member
Subcommittee on Health Care,
Benefits, and Administrative Rules

cc: The Honorable Trey Gowdy
Chairman, Committee on Oversight and Government Reform

The Honorable Jim Jordan
Chairman, Subcommittee on Health Care, Benefits, and Administrative Rules