Congress of the United States

Washington, DC 20510

March 23, 2018

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Comptroller Dodaro,

In light of recent unprecedented Section 1115 demonstration waiver approvals, we write with strong concern that the Medicaid program administered jointly by the states and the Centers for Medicare and Medicaid Services (CMS) is incurring substantial and unknown administrative costs at the expense of providing health services to beneficiaries. As the Ranking Members of the Congressional committees of jurisdiction, it is our responsibility to ensure CMS's appropriate stewardship of the Medicaid program and to protect against wasteful and reckless spending of limited federal resources. Accordingly, we request that the Government Accountability Office (GAO) investigate both state and federal administrative burdens and costs associated with recent Section 1115 demonstrations to understand the impact these complex and restrictive policies may have on federal spending, state budgets, and the beneficiaries who depend on the Medicaid program.

On January 12th, for the first time in the Medicaid program's history, CMS approved an amendment to a Section 1115 waiver to condition access to health care on work.[1] Statements, guidance, and subsequent Section 1115 waiver approvals from the agency have demonstrated CMS's intent to continue approving state proposals to impose work requirements and other eligibility restrictions on beneficiaries, including lock-out periods, onerous premiums and cost-sharing requirements, and so-called "beneficiary engagement" or "personal responsibility" policies that create barriers to care for low-income Americans.[2]

---

[1] Letter from Brian Neale, Director for the Center for Medicaid and CHIP Services (CMCS), to Adam Meier, Deputy Chief of Staff, Office of Governor Matthew Bevin (Jan. 12, 2018), https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-ca.pdf.

[2] *See, e.g.*, Letter from Demetrios Kouzoukas, Principal Deputy Administrator, to Allison Taylor, Medicaid Director, Indiana Family and Social Services Administration (Feb. 1, 2018), https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/in/Healthy-Indiana-Plan-2/in-healthy-indiana-plan-support-20-ca.pdf; Letter from Brian Neale, Director for CMCS, to State Medicaid Directors (Jan. 11, 2018), https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf ("Letter to State Medicaid Directors").

Studies of other public programs for low-income Americans have shown that implementing these restrictive policies incurs substantial and counterproductive administrative costs. Applying work requirements to the Temporary Assistance for Needy Families (TANF) program, for example, forced states to commit limited staff and financial resources to the tracking and verification of beneficiaries' participation in work activities, or pushed states to spend substantial funds to contract out these services.[3] Beyond depleting resources, these administrative burdens undermined the services provided through the TANF program, as a study found that state staff spent over half of their time on documentation instead of the provision of direct services when working with TANF recipients.[4]

Kentucky's recently-approved Section 1115 demonstration illustrates how imposing work requirements on Medicaid coverage will similarly result in the spending of limited taxpayer dollars to make it harder for individuals to get health care. According to reports, Kentucky is estimated to need $374 million over the next two years alone—the majority of that amount in federal dollars—to add work requirements and punitive lockouts to its Medicaid program, largely to create a new system to document and verify beneficiaries' compliance.[5] These funds may not even be enough, as concerns have been raised regarding Kentucky's ability to construct an effective and accurate system in the timeframe the state proposed.[6] Once implemented, work requirements and other harmful changes will lead to an estimated 15 percent drop in adult Medicaid enrollment by the fifth year.[7] Nearly 100,000 people could lose coverage for an entire year, with many more beneficiaries likely to experience gaps in coverage.[8] Thus, the state will have drained precious financial resources to provide health care to fewer people.

The high and counterproductive administrative costs Kentucky's Medicaid program will spend to implement barriers to health coverage are not an outlier. In 2015, Arkansas abandoned a Section 1115 program to impose cost-sharing requirements on certain Medicaid beneficiaries when these requirements became too expensive for the state.[9] Further, an assessment of Section 1115 demonstrations imposing cost-sharing and "beneficiary engagement" requirements in Michigan and Indiana suggested both programs required substantial administrative costs to implement complex new electronic systems.[10]

---

[3] MaryBeth Musumeci and Julia Zur, "Medicaid Enrollees and Work Requirements: Lessons from the TANF Experience," *Kaiser Family Foundation* (Aug. 18, 2017).
[4] Testimony of Boyd Brown, Committee on Ways and Means, U.S. House of Representatives (Jul. 15, 2015), http://waysandmeans.house.gov/wp-content/uploads/2015/07/Boyd-Brown-Testimony-071515-HR6.pdf.
[5] Deborah Yetter, "Bevin's Medicaid Changes Actually Mean Kentucky Will Pay More to Provide Health Care," *Louisville Courier Journal* (Feb. 14, 2018), https://amp.courier-journal.com/amp/319384002?__twitter_impression=true.
[6] Misty Williams, "Medicaid Changes Require Tens of Millions in Upfront Costs," *Roll Call* (Feb. 26, 2018), https://www.rollcall.com/news/politics/medicaid-kentucky.
[7] Judith Solomon, "Kentucky Waiver Will Harm Medicaid Beneficiaries," *Center on Budget and Policy Priorities* (Jan. 16, 2018), https://www.cbpp.org/research/health/kentucky-waiver-will-harm-medicaid-beneficiaries.
[8] *Id.*
[9] Virgil Dickson, "Arkansas cancels cost-sharing for poorest in Medicaid expansion," *Modern Healthcare* (Jun. 8, 2015), http://www.modernhealthcare.com/article/20150608/NEWS/150609910.
[10] MaryBeth Musumeci et al., "An Early Look at Medicaid Expansion Waiver Implementation in Michigan and Indiana," *Kaiser Family Foundation* (Jan. 31, 2017), https://www.kff.org/medicaid/issue-brief/an-early-look-at-medicaid-expansion-waiver-implementation-in-michigan-and-indiana.

If CMS continues to approve work requirements and other restrictions on Medicaid, the consequences could be severe for federal spending and the sustainability of the Medicaid program. Nearly all of these administrative costs will likely be federal dollars because the federal government pays an enhanced match rate of 75 to 90 percent for the development, installation, and operation of Medicaid eligibility and enrollment systems.[11] Increased spending on administrative costs would put further pressure on federal Medicaid spending and state budgets that should be devoted to the delivery of essential medical care and not red tape. Moreover, CMS does not include the federal share of administrative costs when evaluating whether a proposed Section 1115 waiver will be budget neutral to the federal government, giving states little accountability—and little transparency for the public—over the cost of implementing these proposals.[12]

The public should have complete information about the consequences of proposed Section 1115 waivers to ensure limited taxpayer dollars are being used efficiently, appropriately, and towards the goal of promoting, not obstructing, access to health care. Therefore, we ask GAO to conduct a report examining the following:

1. A detailed summary of the administrative costs—including state-projected costs for staffing, the development of electronic systems, and other administrative or oversight requirements—associated with implementing work requirements and other eligibility restrictions on beneficiaries, such as lock-out periods, onerous premiums and cost-sharing requirements, and so-called "beneficiary engagement" or "personal responsibility" policies that create barriers to care;

2. In light of the federal government's enhanced match for the design and modification of Medicaid eligibility and enrollment systems and other enhanced matching related to data systems, a summary of the federal government's share of these administrative costs and the types of costs (e.g., staffing needs, electronic systems development) for which the federal government is responsible;

3. A summary of whether states are using contractors to implement and administer the new eligibility restrictions and other beneficiary requirements such as health behavior requirements or personal responsibility accounts proposed in these new Section 1115 demonstrations, and if so, how states are awarding, overseeing, evaluating potential state and federal conflicts of interest, and making information about these contracts public;

---

[11] Medicaid Program; Mechanized Claims Processing and Information Retrieval Systems (90/10), 80 Fed. Reg. 75817 (Jan. 1, 2016), https://www.federalregister.gov/documents/2015/12/04/2015-30591/medicaid-program-mechanized-claims-processing-and-information-retrieval-systems-9010.

[12] Medicaid and CHIP Payment and Access Commission, *Comparing Section 1332 and Section 1115 Waiver Authorities* (Aug. 2016), https://www.macpac.gov/wp-content/uploads/2016/08/Comparing-Section-1332-and-Section-1115-Waiver-Authorities.pdf.

4. A summary of whether CMS is taking administrative costs such as those associated with work requirements into consideration when approving or denying Section 1115 demonstrations and evaluating the impact of these demonstrations on federal Medicaid spending; and

5. CMS's policies, procedures, and actions for ensuring that states provide ongoing necessary and relevant data to CMS regarding the administrative costs associated with Section 1115 demonstrations, and the agency's policies and procedures for guaranteeing that such information, including the federal government's share of such costs, is made publicly available.

Thank you in advance for your attention to this request.

Sincerely,

Ron Wyden
Ranking Member
Senate Committee on Finance

Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce