

December 5, 2015

**VIA ELECTRONIC SUBMISSION**

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
P.O. Box 8016  
Baltimore, MD 21244-8016

**Re: Arizona's proposed new Section 1115 Medicaid demonstration, the Arizona Health Care Cost Containment System AHCCCS CARE program**

Dear CMS:

Policy Matters Ohio, The Ohio Poverty Law Center and the undersigned Ohio organizations are public interest advocates working to advance access to quality health care and protect the legal rights of low-income and underserved people. We appreciate the opportunity to provide comments on behalf of our constituents and clients on Arizona's proposed § 1115 demonstration project, the Arizona Health Care Cost Containment System (AHCCCS) CARE program.

Arizona is the first state to request a waiver to alter implementation of its Medicaid expansion after using a state plan amendment to take advantage of the Medicaid expansion of the Affordable Care Act. Arizona's uninsured rate has dropped from 20.4 percent to 14.5 percent since health reform's coverage provisions took effect in 2014.<sup>1</sup> The program is successful.

Like Arizona, Ohio implemented its Medicaid expansion through a state plan amendment. More than 630,000 Ohioans have enrolled. The legislature, however, has mandated that Ohio also apply for a Section 1115 waiver that looks very much like the proposed Arizona waiver and that will threaten the success of our Medicaid expansion here.

The 2016-2017 state budget bill requires the Ohio Department of Medicaid to apply to the federal government for permission to waive fundamental Medicaid rules. The waiver would require all non-disabled, non-elderly adults on Medicaid who currently qualify based on income (between 0 and 138 percent of the federal poverty level) to pay premiums into a state-administered health care account, sometimes referred to as a "modified health savings account." The premium requirement will apply to over one million adult Ohioans who are currently enrolled through the state's 2014 expansion of the Medicaid program under the provisions of the Affordable Care Act or as parents under previous Medicaid categories on the basis of income.<sup>2</sup>

If this waiver is granted to Arizona, it sets a precedent for other states like Ohio. Successful Medicaid expansions will be threatened by "demonstration" projects that raise costs and create barriers to access. Granting program concessions in states that have expanded Medicaid threatens all other expansion states.

Arizona's proposed demonstration project is targeted at adults of the expansion population. The strategies are similar to approaches being tested in several states already and very much like the waiver proposal Ohio's legislature has imposed. Like Arizona, program elements of the Ohio demonstration proposal will

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<sup>1</sup> Dan Witters, "In U.S., Uninsured Rates Continue to Drop in Most States," *Gallup*, August 10, 2015, <http://www.gallup.com/poll/184514/uninsured-rates-continue-drop-states.aspx>.

<sup>2</sup> See \ Center for Community Solutions, "New Medicaid Waiver Proposal Will Disrupt Coverage and Increase Costs," [http://www.communitysolutions.com/assets/docs/Public\\_Policy\\_incl\\_testimony/1115%20waiver%20fact%20sheet\\_healty%20ohio\\_11232015.pdf](http://www.communitysolutions.com/assets/docs/Public_Policy_incl_testimony/1115%20waiver%20fact%20sheet_healty%20ohio_11232015.pdf)

include premiums for Medicaid participants all the way down the income scale; a lockout period for missing payments or paperwork; highly complex health care “accounts;” and benefit limits and caps on care.

Arizona’s proposal is equating Medicaid with health insurance plans available in the marketplace. However, Medicaid is not just a way to cover one more aggregation of people, it is the coverage program specifically designed to meet the needs of low-income individuals.<sup>3</sup> The strategies Arizona’s Governor Ducey proposes have been found to work against the goals of Medicaid by presenting barriers to access (premiums)<sup>4</sup> and driving up the costs of program administration.<sup>5</sup> The Georgetown Center for Children and Families and the Center on Budget and Policy Priorities have submitted detailed comments on the substantive concerns about the Arizona proposal. We concur with their analysis.

If the Arizona waiver is approved, coverage losses will occur and it will be harder for CMS to reject the Ohio proposal, which in turn will lead to coverage losses here.

The Affordable Care Act is one of the most significant legislative and policy initiatives of our lifetimes. It promises all Americans access to health care. We should protect that promise and not allow it to be eroded into a shadow of itself. For all of these reasons, we request that HHS reject the Arizona application as submitted.

Thank you for this opportunity to comment on Arizona’s Section § 1115 demonstration application. If you have questions, or would like to discuss this further, please contact Wendy Patton at [wpatton@policymattersohio.org](mailto:wpatton@policymattersohio.org) or Linda Cook at [lcook@ohiopovertylaw.org](mailto:lcook@ohiopovertylaw.org)

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<sup>3</sup> Leo Cuello, “What Makes Medicaid, Medicaid: Five Reasons Why Medicaid Is Essential to Low-Income People,” January 14, 2015, <http://www.healthlaw.org/issues/medicaid/waivers/what-makes-medicaid-medicaid-five-reasons-why-medicaid-is-essential-to-low-income-people#.VmBOetIrlGg>

<sup>4</sup> Office of the Assistant Secretary for Planning and Evaluation, “Financial Condition and Health Care Burdens of People in Deep Poverty,” July 16, 2015, <http://aspe.hhs.gov/basic-report/financial-condition-and-health-care-burdens-people-deep-poverty>. See also Brendan Saloner, Ph.D., Lindsay Sabik, Ph.D., and Benjamin D. Sommers, M.D., Ph.D. “Pinching the Poor? Medicaid cost sharing under the ACA,” *New England Journal of Medicine* 2014; 370:1177-1180 [DOI: 10.1056/NEJMp1316370](https://doi.org/10.1056/NEJMp1316370) and Laura Dague, “The effect of Medicaid premiums on enrollment: A regression discontinuity approach,” *Journal of Health Economics* 37 (2014) 1–12.

<sup>5</sup> Tricia Brooks. *Handle with Care: How Premiums Are Administered in Medicaid, CHIP and the Marketplace Matters*. Georgetown University Health Policy Institute, Center for Children and Families. <http://www.healthreformgps.org/wp-content/uploads/Handle-with-Care-How-Premiums-Are-Administered.pdf#sthash.4zQfh6Mv.dpuf>