March 14, 2018

Director Barbara Sears

Ohio Department of Medicaid

50 W. Town St.; 5th Floor

Columbus, OH 43215

Dear Director Sears,

This letter contains The MetroHealth System’s formal comments on the Ohio Department of Medicaid’s Group VIII Work Requirement and Community Engagement 1115 Demonstration Waiver. MetroHealth has been able to provide health care to tens of thousands of people because of Medicaid expansion. At MetroHealth, we believe that being healthy provides an individual with the first building block of being able to work or pursue additional training and education opportunities. We take great pride in helping people access health and wellness services so they may progress along a pathway to work and/or active, life-giving engagement with the community in which our patients live.

Providing care to individuals now eligible under Group VIII in Cuyahoga county started before expansion in the other 87 counties because of the partnership between the Ohio Department of Medicaid (ODM) and MetroHealth through the early expansion 1115 waiver.  The benefits of that 1115 waiver are documented in the evaluation of the waiver and the benefits of expansion can be found in the Ohio Medicaid Group VIII report.  Creating new eligibility requirements that are requested in the Group VIII Work Requirement and Community Engagement 1115 Demonstration Waiver will lead to people both intentionally and unintentionally losing access to healthcare coverage through Medicaid, which in turn will lead to worse health outcomes and higher healthcare costs. Therefore, MetroHealth does not support this waiver and recommends that ODM should not submit it to the Department of Health and Human Services (DHHS).

While the requirement to submit the waiver is in law, it may be prudent for ODM to delay its action; there is precedent for this.  The most recent example is when the Director of ODM was unsuccessful in publishing rules on price transparency that were required in law.  Rules were not published because the requirements would be onerous on medical providers as they would be nearly impossible to implement.  Similarly, this waiver would create onerous rules for a person in Group VIII to maintain their Medicaid eligibility as well as County Departments of Jobs and Family Services to administer such a program.

If, however, ODM does decide to submit the waiver to DHHS, MetroHealth recommends the following changes:

**People who are incarcerated**

The waiver does not provide an exception from the work or community engagement requirements for people who are incarcerated.  People who are incarcerated should be exempted so that if they do have an inpatient stay while in a county jail or state prison, ODM can still claim Federal matching dollars for that stay.  If this change is not made, Ohio would lose access to millions of federal dollars that would have to be replaced by state dollars, further stretching the Medicaid budget.

**Reentry Population**

Additionally, there should be no less than a twelve-month exception for people who have been released from incarceration.  It is well established that people who have been released and have a felony record have a difficult, if not nearly impossible, time finding not only a job but a location where they could even potentially volunteer.  Adding another hurdle for these individuals to reintegrate back into society after paying their debt is the opposite of policies promoted by both Director Mohr of the Ohio Department of Corrections and Governor Kasich.  It is unnecessary and harmful to add another requirement that could cause them to lose access to health care.

**Overcoming the Administrative Challenges of Implementing Work Requirements**

While it is estimated that 18,000 individuals will lose coverage due to these new requirements, all 700,000 Group VIII members will bear the burden of proof that they qualify for an exemption or meet one of the other standards to qualify for coverage. Thousands of additional individuals stand to lose coverage with the administrative challenges that will come with this program. We are also concerned about how well these complex new requirements will be understood by those affected, even with extensive communication efforts from the Departments of Medicaid and Jobs and Family Services. Individuals will fall through the cracks and they will lose coverage due to challenges that were also seen a few years ago as part of the implementation of the redetermination process.

In addition, as part of this process we would like greater detail on how sensitive health information that could be used as part of an exemption would be protected and/or shared with Jobs and Family Services.

Finally, we believe that Group VIII individuals who are not currently exempt from or deemed to be meeting the SNAP or ABAWD work requirements should be allowed to self-attest to meeting an exemption from the Work and Community Engagement Requirement as part of their annual redetermination process.

**Appraisal by County Department of Job of Family Services:**

The waiver request states:

*Group VIII individuals not participating in the SNAP program will be provided information regarding Work and Community Engagement Requirement in their notice of Medicaid eligibility. The individual will be notified that he or she must participate in an “appraisal” to assist him/her with meeting the requirements. The appraisal, which will not require a face-to-face interview, will be initiated by the CDJFS within 30 days of Medicaid authorization and must be completed within 30 days of initiation.*

The waiver is not clear what happens if the CDJFS misses the 30-day timeline.  A Medicaid recipient should not be penalized if the CDJFS falls behind on its workload.  The requirement should be changed to, “The appraisal, which will not require a face-to-face interview, will be initiated by the CDJFS and must be completed within 30 days of initiation by the CDJFS.  The CDJFS may also grant up to three (3) 30-day extensions.”  The extensions are necessary in the event of unforeseen circumstances. The need for flexibility should not be an option, but a requirement for the program.

Within the draft waiver’s description of the appraisal process, it mentions four factors that will be used to examine eligibility for individuals who do not meet the SNAP or ABAWD requirements. The fourth factor requires the CDJFS to assess if an individual “faces barriers to participating in work or community engagement activities.” We believe a significant barrier to participating in work or community engagement activities is access to health care and health coverage. If you were to lose your health coverage and had a chronic or persistent health condition that requires regular medical treatment or prescription drugs, it easily could be argued that you would become unfit for employment or faced a barrier to participating in the workforce. We believe that the Department of Medicaid considers such circumstances in their draft waiver but would ask for further clarity on how such an assessment would be performed and who would conduct the assessment.

**Number of Hours**

The waiver request is unclear on the number of hours that need to be completed to qualify for coverage.  It states:

*Work or participate in a community engagement activity (or combination of the two) for a minimum of 20 hours per week (80 hours averaged monthly);*

Is the requirement 20 hours per week or is it 80 hours in a month or is it an average of 80 hours across months?  Or can it be all three?  Our recommendation is that the Department of Medicaid should be explicit in stating that the requirement should be an average of 80 hours a month, averaged over a period of at least six months.  That would help mitigate changes in work schedules and mitigate the impacts of seasonal employment, while allowing a person to “bank” hours across months.

**Good Cause Exemptions**

First and foremost, we applaud the Department of Medicaid for including a good cause exemption for individuals who are victims of domestic violence. It is essential that their access to healthcare coverage isn’t done at the expense of their physical and mental well-being.

Second, the waiver request should add another good cause exemption - a lack of available jobs. Just because a work requirement is implemented doesn’t mean that there are jobs available that meet the skillsets of those who are seeking Medicaid coverage. A requirement to work at least 20 hours weekly does not mean that a job with sufficient hours will be available. We can’t and shouldn’t be comfortable taking away someone’s ability to have health coverage simply because they can’t find employment through no fault of their own. In some parts of the state, there are simply not enough jobs to employ everyone who wants a job, or there is a mismatch in the required skillset of a job and the skills of the workforce. Therefore, we recommend creating the abovementioned good cause exemption. In creating such an exemption, it should be for high unemployment and/or poverty areas that is measured not at a county level, as the waiver proposes, but by municipality, which is a more accurate reflection of available and accessible jobs.

We also would argue for a good cause exemption for individuals who make a good faith effort to meet the documentation deadlines imposed by this waiver but miss them through circumstances beyond their control. Such instances may include a death in the family, eviction or displacement, lack of computer access, or lack of transportation. Such instances should be uncommon, but the County Jobs and Family Services Department should have the discretion to take these circumstances into account.

**Additional Populations for Consideration:** The following groups also should be considered by the Department of Medicaid for inclusion in the 1115 Waiver.

* Non-parent custodial caretakers
* Seasonal workers
* Individuals who lack access to 20 hours a week jobs
* Reentry population
* Individuals who are actively looking for work
* Individuals who have been diagnosed with a Substance Use Disorder (SUD) who are on a waiting list for treatment

Of greatest concern to us is the reentry population. Is the Department of Medicaid confident that individuals with a criminal record can find a job? Economic opportunity has been uneven for those who face discrimination because of their past involvement with the criminal justice system.

As a partner with ODM on many projects during the Kasich Administration, MetroHealth would be more than willing to have a meeting with you to discuss our concerns.  Additionally, if you decide a waiver will be submitted, we are more than willing to meet with you and your staff to work towards making changes to the waiver request so that it is fair to people on the program and clear in its requirements.

Sincerely,

Akram Boutros, M.D., FACHE

President and CEO

The MetroHealth System