



safe

healthy

educated

connected

employable

JUNE 13, 2018

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

RE: Ohio's Application for a Section 1115 Demonstration Waiver to Apply Work and Community Engagement Requirements to Ohio's Medicaid Expansion Population

Dear Secretary Azar:

Voices for Ohio's Children has reviewed Ohio's application for a Section 1115 Demonstration Waiver submitted April 30, 2018. Ohio seeks to implement a statewide work and community engagement requirement as a condition of eligibility for Medicaid under Group VIII (the Medicaid Expansion). We appreciate this opportunity to comment on the application.

Voices for Ohio's Children's Interest in this Waiver Request

Voices for Ohio's Children is a statewide child advocacy organization. We advocate for policies that will support the health, safety, education, connection and future employability of children. The health of children is heavily influenced by the health of their parents. Parents of minor children in the home constitute about 97,000 of the Group VIII population¹, and for this reason we have a strong interest in the outcome of this waiver request. In addition, for babies to have a healthy start, pre-conception health is very important, and so we advocate for women of child-bearing age who are not yet parents, and therefore without access to an exemption from work and community engagement under Ohio's waiver application.

¹ ODM Medicaid Report CMS64_ENROLLOhio4-2017 for September 2017.

Voices has continually advocated for reducing the red tape and administrative burdens that result in the failure to enroll eligible families. We advocated for parent renewal of coverage on a twelve month basis, like their children, to improve retention. We advocated for other changes including the use of telephone renewal interviews and “presumptive eligibility,” so that certain providers can make an initial finding of eligibility to be confirmed by the County Job and Family Services (JFS), to make sure pregnant women receive care at the earliest opportunity. Voices has been proud to play a role in these streamlining efforts.

The imposition of a general work requirement on Group VIII Medicaid, even with generous exceptions, adds an administrative layer to what Medicaid enrollees and County JFS workers must do. We know from experience that the addition of this burden will result in parents losing Medicaid. Moreover, research shows that the children of parents who have health coverage are more likely themselves to be covered² and vice versa. When parents lose coverage the likelihood that their children themselves will be uninsured grows.

General Comments

The Ohio application sets out a number of exemptions and we are heartened that there is an exemption for parents and other persons with responsibility for minor children. However, the application as submitted is unclear about the caregivers to whom the exemption applies. We will address this in Section I, below.

Overall, we believe that imposition of a work/community engagement requirement will lead to loss of needed coverage and with it the paid work that Group VIII enrollees have achieved.³ Ohio’s own data show that having Medicaid empowers persons to be able to work or seek work. In the Ohio Department of Medicaid (ODM) survey carried out in 2016, a majority of Group VIII respondents reported that Medicaid has made it easier to secure and maintain

² Karpman, M. and (G. Kenney. “Health Insurance Coverage for Children and Parents: Changes Between 2013 and 2017” Urban Institute, September 7, 2017.

³ For example, a Medicaid Group VIII enrollee may be working irregular hours, and may initially meet the requirement, but due to scheduling or illness, may cease to meet the requirement, thereby losing Medicaid and the access to health care that helped the enrollee maintain employment.

employment. Of those enrollees who are currently employed, 52.1% reported that having Medicaid made it easier to continue working. Among unemployed Group VIII enrollees looking for work, 74.8% reported that Medicaid made it easier to look for work.⁴ It is our strong belief that in the association between good health and active work, becoming healthy must come first.

Specific Comments

Section I: The change in the exemption language from “the same house” [as the minor child] to the “same Medicaid Household” [as the minor child] while maintaining other references to the “house” of the child requires the Section 1115 waiver application request be returned to the state for clarification.

The original draft application posted for comment by ODM on February 16, 2018, Section II – Demonstration Eligibility—contains a list of situations that exempt a Group VIII Medicaid recipient from the work/community engagement requirement. Listed at page 7 of that posting is the following exemption:

Parent/caretaker/residing in same house with minor child;

However, in the application submitted to CMS/HHS on April 30, 2018, the exemption, also at page 7, reads as follows:

Parent/caretaker/*individual* residing in same *Medicaid household* with minor child

We have two concerns with this change. First, the language introduces a lack of clarity as to whom is covered by the exemption. Second, depending on the interpretation of the exemption,

⁴ Ohio Department of Medicaid, “Ohio Medicaid Group VIII Assessment,” (2016)
<http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf>

important caregivers of children who were covered in the posted draft application may be excluded from the exemption. We will explain both concerns.

Use of the term “Medicaid Household” as well as ODM’s responses to comments about the exemption, creates a lack of clarity as to whom the exemption applies.

The use of the word “residing” in the same “Medicaid household” is not internally consistent, since a tax-filer’s Medicaid household under MAGI rules includes all of his tax dependents, regardless of their residence. Persons receiving Medicaid who live under the same roof may not all be in each other’s Medicaid household. For example, a child’s Medicaid household includes his parents (including step-parents), siblings under age 19 and children living with him/her. But the Medicaid household of his parent, with whom he lives, does not include the child if the child is the tax dependent of the non-custodial parent.

Adding to the lack of clarity, at page 19 and page 28 of the application, ODM re-states the parental exemption as originally posted, when responding to comments that urged a broader exemption:

Parents or caretakers of children are exempt from the Requirement so long as they reside in the same house with the minor child. (Emphasis added)

Thus, if the concern is that the child’s parent or caretaker living in the same house should be exempt from the work requirement, then the term Medicaid “Household” is misplaced.

Use of the term “Medicaid Household” to define the exemption may exclude caregivers essential to the daily care of the child.

Under the Affordable Care Act, which is the source of the Medicaid expansion, the Medicaid “household” is the tax filing group with some relevant exceptions. Under these rules people living in the same “house” may have different households for purposes of determining Medicaid income eligibility. Most notably a child who is the tax dependent of the non-custodial parent will still have his custodial parent in his Medicaid household, for purposes of determining the child’s income eligibility for Medicaid. However, the custodial parent will not have the child who is the tax dependent of his non-custodial parent, in the custodial parent’s Medicaid household for purposes of determining the custodial parent’s Medicaid eligibility. Also, if “grandma” or another person lives with the child and is the formal caretaker of the child, but

does not take the child as a dependent on her taxes, this caretaker would *not* have the child in her Medicaid household, nor would the caretaker be in the child's Medicaid household. The purpose of determining the Medicaid household of the parents/caretaker is to determine eligibility for Medicaid under MAGI rules. In the work requirement situation, income eligibility has already been determined. The work and community engagement exemption serves a different purpose, and that is to assure that a child is well cared for by his parent/caretaker.

We urge CMS to send the application back to ODM for clarification.

Section II: Children will be better protected if the waiver exemption for parents and caretakers of minor children in the home is broadened to include (1) both parents of minor children, regardless of whether the parent lives in the home with the minor child and (2) to include other Group VIII enrollees who provide care for children whether paid or unpaid.

Voices urges that the parent/caretaker exemption be written as follows:

Parent/caretaker/INDIVIDUAL residing in same house with minor child; THE NON-RESIDENT PARENT AND ANY OTHER PERSON ENGAGED IN THE ROUTINE CARE OF THE CHILDREN OF THE RESIDENT PARENT

We urge the parental/caretaker exemption to include both parents of a minor child whether living with the children or not. We start with the premise that for children to be healthy, they need healthy parents. Healthy parents are more likely to engage in positive ways with their children. A study published in Health Affairs indicates that the Medicaid expansion reduced distress for low-income parents.⁵ If a child has one parent with a mental illness, it is important

⁵ McMorrow, Stacey et al, "Medicaid Expansion Increased Coverage, Improved Affordability, and Reduced Distress for Low-Income Parents," *Health Affairs* May 2017.



that there is another stable adult in the child's life, and that may well be the non-custodial parent.⁶ A study published in the National Social Workers' Journal finds that "insured children of uninsured parents have worse health status and are at a higher risk of asthma, attention-deficit/hyperactivity disorder, developmental delays learning disabilities, and mental disabilities compared with insured children of insured parents."⁷

Our request that the exemption apply to other Group VIII enrollees who care for children without a formal caretaker status is based on the difficulty of accessing childcare among low wage workers. There are many formal and informal arrangements to care for children. Paid childcare is expensive, and not all low wage working parents qualify for childcare subsidies. In Ohio, Group VIII enrollees between 130% and 138% of the poverty level do not qualify for a child care subsidy as a new applicant. In addition, even with a subsidy, childcare may not always be available and accessible to low wage workers who work changing shifts and late shifts. For this reason, the custodial parent may depend on the non-custodial parent, or other individuals or family members to care for their/her children, whether they live in the same house or not. It is important to assure continuity of childcare for the sake of the children, and to protect the working custodial parent's foothold in the job market. For this reason we support the addition of the word "individual" in the exemption, but still advocate for the exemption to not be tied to resident parent or caretaker status.

⁶ "Mental Illness in Families" American Academy of Child and Adolescent Psychiatry No. 39, Updated December 2008. https://www.aacap.org/aacap/families_and_youth/facts_for_families/FFF-Guide/Children-Of-Parents-With-Mental-Illness-039.aspx

⁷ Akobirshoev, I. "Does Parental Health Mediate the Relationship between Parental Uninsurance and Insured Children's Health Outcomes? Evidence from a U.S. National Survey," Health and Social Work, May 2017.



Section III. Work requirements as a condition of Medicaid eligibility will ultimately negatively impact families and children.

Voices for Ohio's Children recognizes that this waiver is being submitted pursuant to HB 49, and appreciates ODM's effort to protect the care-givers of children within the waiver through the exemption process. However, we do want to go on the record expressing our concern about the general impact of a work /community engagement requirement such as is proposed to CMS.

Any eligibility condition that requires an additional interaction(s) between the Medicaid enrollee and a local Job and Family Services worker will likely result in some people losing benefits, which will include parents or other caregivers who are unsuccessful in establishing their exemption. Such failures of communication happen because JFS workers are stretched thin and enrollees operate with limited communication tools. This can result in a missed notice or a missed response that leads to disenrollment. In addition, the proposal does not clarify the steps the exempt person will need to take to document the facts that support the exemption, and these steps may be difficult to navigate.⁸ The waiver proposal states that self-attestation will be accepted for the determination of exemptions, but this process is not described, and it remains to be seen what level of documentation will need to accompany the self-attestation.

Further, there is another category of non-exempt persons whose loss of Medicaid will impact children. These are women of child-bearing age who don't have minor children living with them. A key strategy in combatting infant mortality and improving birth outcomes is providing coverage to women who have not yet become pregnant.⁹ Women without children whose

⁸ Musumeci, Mary Beth, et al, "Medicaid and Work Requirements: New Guidance, State Waiver Details and Key Issues," Kaiser Family Foundation (January 16, 2018) <https://www.kff.org/medicaid/issue-brief/medicaid-and-work-requirements-new-guidance-state-waiver-details-and-key-issues/> The Kaiser Family Foundation notes that, "Because of complex documentation and administrative processes, some eligible individuals could lose coverage. There is a real risk of eligible people losing coverage due to their inability to navigate these processes, miscommunication, or other breakdowns in the administrative process."

⁹ Anthes, L, "Work Requirement Waiver," Center for Community Solutions (February 21, 2018)



income does not exceed 138 percent of the federal poverty level are most likely to access Medicaid through Group VIII. It is very important that this mom be healthy at the onset of pregnancy, which may be planned or unplanned. Her future child will pay the price if she is not healthy.

Conclusion

We appreciate the effort that ODM has made to apply a work requirement/community engagement requirement in a way that protects children. However, we urge CMS to return the application to ODM, and request that the Department clarify which parents/caretakers it is proposing to exempt. In addition we believe there is some additional exemption language (noted above in Section II) that could further improve the protection of children. We also renew our objection to the work/community engagement requirement as a whole because we believe that due to administrative burden involved in the imposition of a new condition of eligibility on such a large group (700,000+), some persons entitled to exemptions are likely to lose their Medicaid. A child's need for two healthy parents is so strong that we believe it is not advisable to make such a major change in the Group VIII Medicaid program because even with best efforts some parents are bound to lose their Medicaid coverage.

Thank you for this opportunity to comment.

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