

August 18, 2018

The Honorable Alex Azar, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar:

The Bazelon Center for Mental Health Law submits these comments in response to the revised Mississippi Medicaid Workforce Training Initiative 1115 Demonstration Waiver Application. The Bazelon Center is a national non-profit legal advocacy organization that promotes equal opportunity for individuals with mental disabilities in all aspects of life, including health care, community living, housing, education, employment, voting, and other areas. We are attaching our prior comments on Mississippi's proposal which were not addressed in the state's proposed revisions.¹ We continue to believe that Mississippi's proposal does not promote the objectives of the Medicaid program and is not an experiment, pilot, or demonstration of the sort contemplated by the Medicaid statute.

In addition to reiterating our prior comments, we draw CMS' attention to additional facts confirming that this proposal is not an experiment, pilot, or demonstration of the sort contemplated by the Medicaid statute and does not promote the objectives of the Medicaid program.

Mississippi's proposal would create a catch-22 for 98 percent of individuals subject to the work requirements ensuring no experimental value to the proposal.

Analysis by the Georgetown University Center for Children and Families, the Mississippi Health Advocacy Program, and the Mississippi Center for Justice found that: "Under the waiver proposal, Mississippi's poorest parents would be required to work at least 20 hours a week, which at minimum wage would equal an annual salary of \$7,540. That would be nearly \$2,000 too high to qualify for Medicaid in Mississippi."² This means that these parents would lose Medicaid coverage if they worked, and would lose Medicaid coverage if they did not work. The same analysis found that the limited, temporary fix offered in Mississippi's revised proposal helps only 2 percent of the individuals. A proposal that results in large numbers of individuals

¹ Bazelon Center for Mental Health Law, Comments in Response to the Mississippi Medicaid Workforce Training Initiative 1115 Demonstration Waiver Application (Feb. 22, 2018), http://www.bazelon.org/wp-content/uploads/2018/02/Bazelon_MS-Comments_2-22-18.pdf.

² Georgetown University Center for Children and Families, the Mississippi Health Advocacy Program, and the Mississippi Center for Justice, *How Mississippi's Proposed Medicaid Work Requirement Would Affect Low-Income Families with Children* (August 2018), <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Proposed-Medicaid-Work-Requirement-Mississippi.pdf>.

losing coverage no matter what they do is not an experiment likely to promote the objectives of the Medicaid program.

The Georgetown analysis also found that only “49 percent [of individuals who would be impacted by the work requirement] are not in the workforce, often because they are caring for someone else or have an illness or disability.” It is extremely unlikely that these individuals could pay for alternative caregivers or for services that many people with disabilities need to work, and Mississippi has provided no additional detail or proposal of how to ensure people with disabilities have access to the services they need to obtain jobs or continue to work. Mississippi continues to fail to identify a problem that would be solved by this work requirement, and to provide a solution for the problems that this requirement would *create*. Accordingly, the waiver should not be approved.

Mississippi’s proposal will cause individuals to lose coverage which directly contradicts the objectives of the Medicaid program.

In addition, the analysis by the Georgetown University Center for Children and Families found that “the state’s own estimates suggest that about 5,000 of these Mississippi parents will lose their Medicaid coverage in the first year if the Centers for Medicare and Medicaid Services (CMS) approves the state’s request.” As we discussed in our comments on the original waiver application, the primary purpose of the Medicaid program is to “Improve access to high-quality, person-centered services that produce positive health outcomes for individuals . . .”³ Given that providing health care is fundamentally the purpose of Medicaid, CMS cannot approve as consistent with the objectives of Medicaid a waiver that will cause individuals to lose coverage, and Mississippi’s proposal should be rejected on this basis as well.

We appreciate the opportunity to provide comments on the revised Mississippi Application. Our comments include citations to supporting research and our prior comments, including direct links for the benefit of HHS in reviewing our comments. We direct HHS to the studies cited and made available to the agency through active hyperlinks, and we request that the full text of each of the studies cited, along with the full text of our current and prior comments, be considered part of the administrative record in this matter for purposes of the Administrative Procedure Act.

Respectfully submitted,



Jennifer Mathis
Director of Policy and Legal Advocacy

³ Centers for Medicare & Medicaid Services, About Section 1115 Demonstrations, <https://www.medicare.gov/medicaid/section-1115-demo/about-1115/index.html>.

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