CLASP

Policy solutions that work for low-income people

March 30, 2018

Administrative Secretary
Alabama Medicaid Agency
501 Dexter Avenue, P.O. Box 5624
Montgomery, Alabama 36103-5624

Re: State of Alabama Medicaid Workforce Initiative, Section 1115 Demonstration Application

Dear Stephanie Azar,

I am writing on behalf of the Center for Law and Social Policy (CLASP). CLASP is a national, nonpartisan, anti-poverty nonprofit advancing policy solutions for low-income people. We work at both the federal and state levels, supporting policy and practice that makes a difference in the lives of people living in conditions of poverty. In particular, these comments draw on CLASP's deep experience with Temporary Assistance for Needy Families (TANF) and the Supplemental Nutrition Assistance Program (SNAP), two programs where many of the policies proposed in this waiver have already been implemented – and been shown to be significant barriers to low-income people getting and retaining benefits. These comments also draw on CLASP's experience in working with six states under the Work Support Strategies project, where these states sought to dramatically improve the delivery of key work support benefits to low-income families, including health coverage, nutrition benefits, and child care subsidies through more effective, streamlined, and integrated approaches. From this work, we learned that reducing unnecessary steps in the application and renewal process both reduced burden on caseworkers and made it easier for families to access and retain the full package of supports that they need to thrive in work and school.

CLASP submits the following comments in response to the 1115 Waiver Demonstration Application and raises serious concerns about the effects of the waiver, as proposed, on the coverage and health outcomes of low-income Medicaid beneficiaries in Alabama. In particular, the policies would have a dramatic and negative impact on access to care for deeply poor parents (leading to negative effects for their children as well). The state's own estimate is that approximately 8,700 people would lose health insurance through Medicaid in the first year the waiver is implemented, and this is likely an underestimate. There is no reason to believe that these people will be transitioning to employer-sponsored insurance or earning enough to qualify for subsidies under the Affordable Care Act (ACA). Thus, this waiver takes a big step backward in coverage. Therefore, we believe that it is inconsistent with the goals of the Medicaid program, notwithstanding the January 11, 2018 guidance from the Centers for Medicare and Medicaid Services (CMS).

Medicaid plays a critical role in supporting the health and well-being of low-income adults and children. Many work in low-wage jobs where employer-sponsored health care is not offered or is prohibitively expensive. Others may have health concerns that threaten employment stability, and without Medicaid, would be denied access to the medical supports they need to hold a job, such as access to critical medications.

The Medicaid statute is clear that the purpose of the program is to furnish medical assistance to individuals whose incomes are not enough to meet the costs of necessary medical care and to furnish such assistance and services to help these individuals attain or retain the capacity for independence and self-care. States are

allowed in limited circumstances to request to "waive" provisions of the rule but the Secretary of Health and Human Services (HHS) may only approve a project which is "likely to assist in promoting the objectives" of the Medicaid Act.[1] A waiver that does not promote the provision of health care would not be permissible.

This waiver proposal's attempt to transform Medicaid and reverse its core function will result in parents losing needed coverage, poor health outcomes, and higher administrative costs. There is an extensive and strong literature that shows, as a recent New England Journal of Medicine review concludes "Insurance coverage increases access to care and improves a wide range of health outcomes."[2] This waiver is therefore inconsistent with the Medicaid purpose of providing medical assistance and improving health and should be rejected. Moreover, losing health coverage will also make achieving work and education goals significantly more difficult for beneficiaries.

It is important to recognize that limiting parents' access to health care will have significant negative effects on their children as well. Children do better when their parents and other caregivers are healthy, both emotionally and physically.[3] Adults' access to health care supports effective parenting, while untreated physical and mental health needs can get in the way. For example, a mother's untreated depression can place at risk her child's safety, development, and learning.[4] Untreated chronic illnesses or pain can contribute to high levels of parental stress that are particularly harmful to children during their earliest years.[5] Additionally, health insurance coverage is key to the entire family's financial stability, particularly because coverage lifts the burdens of unexpected health problems and related costs. These findings were reinforced in a new study, which found that when parents were enrolled in Medicaid their children were more likely to have annual well-child visits.[6]

Alabama's waiver proposal includes improving child outcomes as a goal and states several times that the state is pursuing this waiver in part to improve children's health and well-being. If the state was sincere in addressing child health outcomes they would ensure that their families had the necessary supports to thrive, including access to affordable health insurance through Medicaid. Ignoring the above data about the impact of parental health and health insurance on that of children calls into question whether the state is truly interested in improving child health outcomes.

Work Requirements

CLASP does not support Alabama's proposal to implement work for the non-disabled Parent or Caretaker Relative (POCR) eligibility group. Our comments that follow focus on the harmful impact the proposed work requirements will have on low-income Alabamians and the state.

Alabama is proposing to implement a work requirement for the POCR eligiblity group. To become eligible for the POCR eligibility group, "an individual must be a parent or close relative of a child under age 19 in the home, and have family income at or below 13 percent of the federal poverty level." Parents and caretaker relatives with a child under age six will have to work or participate in 20 hours of work activities to stay enrolled in Medicaid, and others will have to work or participate in other qualifying activities for 35 hours per week. Alabama notes that some populations, such as individuals meeting the work requirement or already determined exempt under TANF, will be exempt from the work requirement. The penalty for not complying with the work requirement is termination from Medicaid.

CLASP strongly opposes work requirements for Medicaid beneficiaries and urges Alabama to withdraw this request. Work requirements—and disenrollment for failure to comply—are inconsistent with the goals of Medicaid because they would act as a barrier to access to health insurance, particularly for those with chronic conditions and disabilities, but also for those in areas of high unemployment, or who work the variable and unpredictable hours characteristic of many low-wage jobs. In addition, while the purported goal of this provision is to promote work, the reality is that denying access to health care makes it less likely that

people will be healthy enough to work. This provision would also increase administrative costs of the Medicaid program and reduce the use of preventive and early treatment services, ultimately driving up the costs of care while also leading to worse health outcomes.

The request for a work requirement is especially troublesome given Alabama's extremely low income eligibility limit for Medicaid for the POCR group. Non-disabled adults in Alabama are only eligible for Medicaid if they are living in extremely deep poverty and raising dependent children (under 18 percent of the poverty level, equivalent to just $3,744 *annually* for a family of three). These families are facing enormous struggles to make ends meet. Placing extra burdens on these families for the adults to receive health care is not only immoral but may actually make it harder for them to find and keep employment.

In addition, section 1931 of the Social Security Act ensures Medicaid eligibility for adults with children who would have been eligible for the Aid to Families with Dependent Children (AFDC) program according to 1996 income guidelines, regardless of whether they currently receive cash assistance. Alabama's request to implement a work requirement for this population (if they don't qualify for an exemption) would effectively eliminate this guarantee of coverage. This request by Alabama appears to be in direct conflict with the law.

Work Requirements Do Not Promote Employment

Using TANF as a model to create a work requirement for Medicaid is misguided and short-sighted. Lessons learned from other programs demonstrate that work requirement policies are not effective in connecting people to living-wage jobs that provide affordable health insurance and other work support benefits, such as paid leave.[7] A much better focus for public policy is to develop skills training for jobs that are in high demand and pay living wages, help people get the education they need to climb their career ladder and foster an economy that creates more jobs.

The waiver application says that "Alabama Medicaid plans to utilize the resources that have been successful in these programs [SNAP and TANF] to assist Medicaid recipients in gaining the tools necessary to become more self-sufficient." However, the state's own data about TANF employment services cast serious doubt on whether the program has the capacity to serve additional Medicaid enrollees. In fiscal year 2016, only 2,331 families in Alabama were counted as participating in TANF employment activities. Of these families, 1,942—or more than 83 percent—were in the "unsubsidized employment" category, meaning they had obtained jobs and were working and not necessarily receiving any employment services from the state.[8] In fact, Alabama is serving so few people through the TANF employment support program that it is almost inconceivable that the state will be able to absorb the number of Medicaid enrollees who will be subject to the work requirement. For example, only 61 people were in the "job search" category and only 113 people were in the "vocational education" category.[9] It is highly unlikely the state's existing training and employment support available through TANF would be able to absorb additional persons subject to the Medicaid work requirement. There is also little evidence that Alabama's TANF services are effective, as in the most recent year for which data are available nearly twice as many people left TANF due to sanctions or other compliance-related reasons as left due to increased earnings or other resources.[10]

It's also unlikely that other job training programs in Alabama will be able to serve everyone subject to the Medicaid work requirement. For example, from April 2015 through March 2016, only 5,097 people in Alabama, received any services funded through Title I of the Workforce Innovation and Opportunity Act (WIOA).[11] WIOA Title I provides adults, dislocated workers, and youth a wide variety of services from low-touch job search to occupational training.

Another consequence of a work requirement could be, ironically, making it harder for people to work. When additional red tape and bureaucracy force people to lose Medicaid, they are less likely to be able to work. People must be healthy in order to work, and consistent access to health insurance is vital to being healthy

enough to work.[12] Medicaid expansion enrollees from Ohio[13] and Michigan[14] reported that having Medicaid made it easier to look for employment and stay employed. Making Medicaid more difficult to access could have the exact opposite effect on employment that supporters of work requirements claim to be pursuing.

Work Requirements Do Not Lead to Employer-Sponsored Insurance

The waiver request assumes that if participants become employed, they will be able to transition to affordable employer-sponsored insurance (ESI). Unfortunately, this is simply not the reality of many jobs in America. Only 49 percent of people in this country receive health insurance through their jobs—and only 16 percent of poor adults do so.[15] The reality is that many low-wage jobs, particularly in industries like retail and restaurant work, do not offer ESI, and when they do, it is not affordable.[16] In fact, in 2017, only 24 percent of workers with earnings in the lowest 10 percent of wages were offered employer insurance, and only 14 percent actually received coverage under in their employer offered insurance.[17] People working multiple part-time jobs or in the gig economy are particularly unlikely to have access to ESI.

A recent report reinforces this point for Alabama.[18] If parents work the number of hours required by this proposal and earn Alabama's minimum wage, they would be ineligible for Medicaid because they would earn too much money. These working parents would likely be ineligible for tax credits to purchase private insurance because they would likely make too little money. And, less than one-quarter of Alabama adults in poverty are covered by employer insurance, demonstrating that the vast majority of low-wage jobs do not provide an avenue for health insurance. Alabama is creating a no-win situation for poor parents. This no-win situation is made worse by the waiver's proposal to shorten Transitional Medical Assistance (TMA) from 12 months to six months.

Work Requirements Grow Government Bureaucracy and Increase Red Tape

The addition of a work requirement to Medicaid would add new red tape and bureaucracy to the program and only serve as a barrier to health care for enrollees. In the waiver request, Alabama notes that their Medicaid program has the third lowest cost per recipient nationally. Tracking work hours, reviewing proof of work, and keeping track of who is and is not subject to the work requirement is a significant undertaking that will require new administrative costs and possibly new technology expenses to update IT systems. Lessons from other programs show that the result of this new administrative complexity and red tape is that ***eligible*** people will lose their health insurance because the application, enrollment, and on-going processes to maintain coverage are too cumbersome.

Work Requirements Do Not Reflect the Realities of Our Economy

Work requirements do not reflect the realities of today's low-wage jobs. For example, seasonal workers may have a period of time each year when they are not working enough hours to meet a work requirement and as a result will churn on and off the program during that time of year. Or, some may have a reduction in their work hours at the last minute and therefore not meet the minimum numbers of hours needed to retain Medicaid. Many low-wage jobs are subject to last-minute scheduling, meaning that workers do not have advance notice of how many hours they will be able to work.[19] This not only jeopardizes their health coverage if Medicaid has a work requirement but also makes it challenging to hold a second job. If you are constantly at the whim of random scheduling at your primary job, you will never know when you will be available to work at a second job.

Alabama's proposal to require 35 hours of work per week throughout the entire year for some families is incredibly blind to the reality of low-wage work. An analysis by the Urban Institue found that Medicaid enrollees in Kentucky who will be subject to the state's work requirement and are working an average of 36 hours in the weeks they do have work, but that inconsistency among work hours throughout the year would

make it difficult for them to maintain their Medicaid eligibility from month-to-month.[20] This dynamic will be exacerbated for families subject to the 35-hour threshold year-round. The waiver language assumes that people will be able to find steady employment with near full-time hours, and this simply is not the reality of many jobs in America.

Alabama attempts to justify their waiver by pointing to data showing a growing Medicaid caseload for the waiver's target population and suggesting that does not align with the state's historically low unemployment rate. CLASP counters that the growing number of extremely low-income parents eligible for Medicaid during a time of record unemployment shows that job opportunities are not equally spread across the socio-economic spectrum and that many low-income families are not benefitting from Alabama's employment opportunities. Attempting to force people to obtain a job by threatening their health insurance will not engage people in a meaningful way.

Work Requirements are Likely to Increase Churn

The addition of work requirements is likely to increase churn. As people are disenrolled from Medicaid for not meeting work requirements, possibly because their hours get cut one week or they have primarily seasonal employment (like construction work), they will cycle back on Medicaid as their hours increase or the seasons change. People may be most likely to seek to re-enroll once they need healthcare, and be less likely to receive preventive care if they are not continuously enrolled in Medicaid.

Work Requirements Will Harm Persons with Illness and Disabilities

Many people who are unable to work due to disability or illness are likely to lost coverage because of the work requirement. Although Alabama is proposing to exempt individuals who have a disability, are medically frail, or have a medical condition that would prevent them from complying, including receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), in reality, many people are not able to work due to disability or disease are likely to not receive an exemption due to the complexity of paperwork. A Kaiser Family Foundation study found that 36 percent of unemployed adults receiving Medicaid—but who are not receiving Disability/SSI—reported illness or disability as their primary reason for not working.[21] In Alabama, this rate increases to 41 percent.

And, an Ohio study found that one-third of the people referred to a SNAP employment program that would allow them to keep their benefits reported a physical or mental limitation. Of those, 25 percent indicated that the condition limited their daily activities,[22] and nearly 20 percent had filed for Disability/SSI within the previous two years. Additionally, those with disabilities may have a difficult time navigating the increased red tape and bureaucracy put in place to administer a work requirement. The result is that many people with disabilities will, in fact, be subject to the work requirement and be at risk of losing health coverage.

Shortening Transition Medical Assistance is Punitive and at Odds with Claimed Goal of Promoting Employment

Alabama's proposal in this waiver to shorten the eligibility period for TMA from 12 months to six months is both punitive and hypocritical. TMA exists for the purpose to support people who begin to earn too much money to qualify for Medicaid—the purported goal of the work requirement request in the waiver. Shortening the eligibility period for TMA makes it harder for people to work and serves no purpose other than cutting people off Medicaid sooner and saving the state money. The state's estimate is that 1,330 fewer people will be eligible for TMA in 2023.

The reduction in eligible TMA months is even crueler considering Alabama's incredibly low eligibility for Medicaid. If Alabama was sincere about encouraging work and supporting Medicaid enrollees who transition into employment, they would be seeking to provide TMA for a longer period rather than cutting the

program. Expanding Medicaid as intended by the ACA would be the strongest way for Alabama to demonstrate support for low-income workers and their families.

Implementation timeline is rushed

Alabama is proposing to implement their waiver within six months of receiving anticipated CMS approval. As laid out in these comments, Alabama is proposing significant changes to their Medicaid program that will affect some of its poorest families. Rushing implementation will result in even more confusion among enrollees and loss of Medicaid health insurance. Given the operational and programmatic changes that must be in place to implement the state's proposal, they should revise their timeline to allow for a thoughtful, rather than rushed, implementation.

For all the reasons laid out above, the state should reconsider their approach to encouraging work. If Alabama is serious about encouraging work, helping people move into jobs that allow for self-sufficiency (and affordable ESI), and job creation, the state would be committed to ensuring that all adults have access to health insurance to ensure people are healthy enough to work. Alabama could opt to expand Medicaid as intended by the ACA, which will ensure that people have consistent access to Medicaid and close the coverage gap. Instead, the state is asking to place additional barriers between the state's most vulnerable families and their health care.

Thank you for considering CLASP's comments. Contact Suzanne Wikle (**swikle@clasp.org**) with any questions.

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