

March 30th, 2018

Submitted via email to publiccomment@medicaid.alabama.gov

Alabama Medicaid Agency

P.O. Box 5624

501 Dexter Avenue,

Montgomery, AL 36103-5624

Re: Comments for Alabama Section 1115 Waiver Proposal

To Alabama Medicaid Commissioner Azar:

AIDS Alabama appreciates the opportunity to provide comments on Alabama's proposed Section 1115 Demonstration Application under Section 1115 of the Social Security Act. AIDS Alabama is nonprofit organization that devotes its energy and resources statewide to helping people living with HIV/AIDS live healthy, independent lives and works to prevent the spread of HIV. Since 1986, our agency has operated programs and provided services that assist low-income individuals living with HIV and their families, including housing programs, rental assistance, social work and case management, substance use and mental health treatment, prevention and education outreach, and policy and advocacy work.

AIDS Alabama is deeply concerned about the work requirement policies and changes to Transitional Medical Assistance (TMA) proposed in Alabama Section 1115 waiver and the negative impact they will have on access to care for people living with HIV and efforts to address the HIV epidemic. Like many of its Deep South neighbors, Alabama remains disproportionately impacted by HIV. In 2016, Alabama had the 15th highest new HIV diagnosis rate among all states and the 13th highest new AIDS diagnosis rate.¹ The Medicaid program continues to be a critical source of coverage for HIV treatment and care. Of the 14,042 Alabamians currently living with HIV,² more than 2,500 depend on Medicaid to access life-saving medications and other medical care.³ Alabama's proposed waiver to impose work requirements, however, would erect unnecessary barriers to these vital services and subsequently put many vulnerable community members at risk of losing care.

Engagement in care not only improves the quality of life for people living with HIV, but is also critical to preventing new transmissions. As acknowledged by the NIH⁴ and the CDC,⁵ recent

¹ Centers for Disease Control and Prevention. CDC Atlas Data. <https://gis.cdc.gov/grasp/nchhstpatlas/tables.html>.

² Alabama Department of Public Health, HIV Cases Among Persons Residing in Alabama At Diagnosis By Public Health Area and County (January-December, 2017).

³ Kaiser State Health Facts, 2011, <http://kff.org/hiv/aids/state-indicator/enrollment-spending-on-hiv/>

⁴ Fauci, A. & Dieffenbach, C. (December, 2016). *National Institutes for Health Statement on World AIDS Day for 2016*. <https://www.nih.gov/news-events/news-releases/nih-statement-world-aids-day-2016>.

⁵ McCray, E., Mermin, J. (September, 2017). *Centers for Disease Control and Prevention Dear Colleague Letter*. <https://www.cdc.gov/hiv/library/dcl/dcl/092717.html>.

studies have demonstrated that when an individual living with HIV suppresses the virus to an undetectable level in their body through antiretroviral medications, they are effectively incapable of transmitting HIV. Early diagnosis of an HIV infection enables quicker viral suppression, yet the Alabama Department of Public Health estimates that roughly 1 in 6 Alabamians living with HIV are unaware of their status.⁶ Ensuring access to HIV testing among vulnerable populations is thus key to reducing new HIV transmissions and improving overall health outcomes for both those living with and at risk for HIV. Since each prevented HIV case is estimated to save \$435,200 in lifetime treatment costs,⁷ reducing new transmissions also lowers public health costs.

Alabama Medicaid is an important component of HIV testing, treatment, and retention in care. While AIDS Alabama understands and supports the value of work, we are concerned that the work requirement policy put forth in Alabama's proposed waiver would decrease meaningful access to care for low-income people living with HIV and impede efforts to address the HIV epidemic in our state. This proposal will not only fail to achieve the Medicaid Agency's stated objectives of supporting greater economic independence and improving health outcomes for low-income vulnerable populations, but would also increase long-term public health costs for the state. For the reasons discussed in detail below, we strongly oppose the proposed Alabama Section 1115 Waiver and urge the Alabama Medicaid Agency to rescind the application.

II. The proposed work requirements would result in a "Catch-22" for recipients due to Alabama's income eligibility limits.

Though other states have also sought approval to include work requirements within their Medicaid programs, Alabama is one of the first states to do so that has not previously expanded Medicaid under the Affordable Care Act. Additionally, Alabama's Medicaid program features the strictest income eligibility cap in the nation at 18% of the Federal Poverty Level (FPL).⁸ Despite this fact, however, the proposed Medicaid waiver would require that adult recipients covered under the program's Parents or Caretaker Relatives (POCR) category work at least 35 hours a week (20 hours for parents of children under 6 years old). Due to the program's strict eligibility caps, this requirement effectively creates a "Catch-22" that would strip away access to health care no matter what an individual does.

⁶ Alabama Department of Public Health, Division of HIV/AIDS Prevention and Control, State of Alabama HIV Surveillance 2014 Annual Report (2014), https://www.adph.org/aids/assets/2014_HIVSurveillance_AnnualUpdate_FINAL_reEditedVersion.pdf.

⁷ Schackman, B., et al., The Lifetime Medical Cost Savings from Preventing HIV in the United States, 53 MEDICAL CARE 293-301 (2015).

⁸ Kaiser Family Foundation. Where Are the States Today? Medicaid and CHIP Eligibility Levels for Children, Pregnant Women, and Adults (2017). <https://www.kff.org/medicaid/fact-sheet/where-are-states-today-medicaid-and-chip/>.

Take, for example, a single parent with two children, one of whom is under 6. Under the current income eligibility requirements, a family of three that earns more than \$3,740 a year (or roughly \$312 a month) would be ineligible for Medicaid enrollment. Even if this parent worked only 20 hours a week and was paid the minimum wage of \$7.25 an hour, they would earn \$580 a month and become ineligible for Medicaid. Under the proposed 1115 waiver, they would then receive six months of TMA as opposed to the current twelve months.

Once unenrolled from the program, these parents would face steep obstacles to obtaining health insurance through other means. Less than a quarter of adult Alabamians living below the poverty line are insured by employer-sponsored health plans,⁹ so many of these individuals are unlikely to receive coverage through their place of employment. If they earn less than the Federal Poverty Level (\$20,780 for a family of three), they would also be ineligible to receive subsidies under the ACA to assist with the cost of purchasing a plan through the Marketplace.

Based off the budget neutrality estimates included within the proposed waiver application itself, at least 8,700 parents and caretakers would be removed from Medicaid in the first year of implementation alone.¹⁰ Left without access to other affordable coverage options, the vast majority of these individuals will lose health care coverage, putting them at greater risk of becoming ill and endangering their ability to work. The proposed work requirements will thus create a trap under which many of the state's most vulnerable families will suddenly find themselves without access to the care they need to keep themselves and their loved ones healthy and effectively defeats the stated purpose of the waiver.

II. The proposed waiver doesn't provide additional supportive services to assist recipients with securing and maintaining employment.

The stated purpose of Alabama's proposed work requirements are to "assist abled-bodied POOCR recipients improve their health outcomes and improve their economic stability."¹¹ However, the waiver application features no provision of additional services to actually assist recipients in accomplishing this goal. Under this demonstration, POOCR recipients can satisfy their work requirements by engaging in any of the following activities:

- Employment
- On the job training

⁹ American Community Survey Fact Finder, "Health Insurance Coverage Status and Type by Ratio of Income to Poverty Level in the Past 12 Months by Age" (2016).

https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_1YR_B27016&prodType=table.

¹⁰ Alabama Medicaid Agency, Section 1115 Demonstration Application, "Alabama Workforce Initiative" (February, 2017).

http://www.medicaid.alabama.gov/documents/2.0_Newsroom/2.7_Special_Initiatives/2.7.5_Work_Requirements/2.7.5_Final_Work_Requirements_Waiver_Bookmarked_2-27-18.pdf.

¹¹ Ibid.

- Job searching and job readiness activities
- Attendance in high school, GED certification, higher education, vocational, or other job training classes
- Volunteer or community service work
- Technical training

While this list seems expansive, in reality many POCR recipients would face significant barriers to satisfying the proposed work requirements through these activities. Almost all of the listed activities would require an individual to take time away from parenting, necessitating childcare for families with younger children. In addition, all of these activities would likely require one to regularly commute, perhaps over long distances in more rural areas of the state. Finally, nearly all of the satisfactory activities would involve secondary costs, such as the purchase of uniforms for a job, the cost of course enrollment or textbooks to attend a class, or buying equipment for volunteer and community service work.

Since those who are eligible and enrolled in the Alabama Medicaid program are earning little to no income, they are unlikely to have the resources to easily overcome these barriers. Childcare is often prohibitively expensive for many families, even those who are currently employed. The vast majority of these individuals are also unlikely to own a personal vehicle, and public transportation is virtually nonexistent outside of major urban areas. Since all but one of these activities offer no income in return for the time, energy, and money spent by individuals, the majority of options on this list are unrealistic.

Meanwhile, the proposed waiver's only acknowledgement of the obstacles preventing recipients from abiding by the imposed work requirements are a couple statements claiming that the state "plans to link recipients with community supports such as childcare and transportation as currently done in the TANF JOBS Program." Nowhere, though, does the application detail what services will actually be available or how recipients would qualify to receive them. What's more, in many rural and small town communities these services are already overburdened or are nonexistent. While TANF does indeed provide some assistance with childcare (for a fee) and emergency aid to assist with expenses such as vehicle repair costs or the purchase of work uniforms, they require in-person assessments and referrals to receive services.¹² Should the Medicaid program adopt a similar system, as it proposes, individuals subject to work requirements would face almost as many obstacles to accessing the assistance they need to perform required activities as they would in attempting to perform those activities in the first place.

Finally, the significant increase in individuals in need of this assistance would severely tax existing support services, especially in more sparsely populated areas. As outlined in the waiver's budget neutrality analysis, more than 17,000 total recipients are expected to be

¹² Alabama Department of Human Resources. JOBS Program Description. http://dhr.alabama.gov/services/Family_Assistance/JOBS_Program.aspx.

removed from the Medicaid program throughout the five year demonstration period as a result of implementing the proposed waiver. It is doubtful that most community-based organizations would have the capacity to effectively provide services to such a substantially larger client population in so short a time. In summary, though the proposed waiver seeks to assist recipients with obtaining employment, it offers little in the way of actual support to help individuals achieve this goal.

III. The waiver would have a disproportionately negative impact on women, people in rural communities, black Alabamians, and other vulnerable populations.

Since its inception, the Medicaid program has served as an invaluable lifeline for society's most vulnerable communities. For this reason, many of these same individuals who will suffer the most under the proposed 1115 waiver. Alabama's Medicaid program already contains the strictest income eligibility requirements, so recipients by definition earn very little to no income. In the POQR eligibility group, the vast majority (85%) of recipients are women.¹³ As discussed previously, the proposed work requirements will inevitably result in enrollees being removed from Medicaid and, most likely, left without alternative affordable options for health care coverage. This would mean many women would be forced to forego preventative treatment and services, such as breast and cervical cancer screenings, HIV and STI testing, and contraception. Roughly 1 in 4 new HIV transmissions in 2016 occurred among women.¹⁴ The removal of thousands of women from health care coverage would put many at greater risk of contracting HIV or make accessing treatment more difficult for women already living with HIV. Additionally, the Catch-22 created by the waiver's proposed work requirements could have further ramifications for some women's safety. Given the threat of losing health coverage for them and their children, some women in violent and abusive relationships may fear leaving.

The proposed waiver would also worsen health disparities among communities of color in Alabama. Nearly 60% of POQR enrollees are black or African American.¹⁵ In Alabama, black residents are at a significantly higher risk for contracting HIV, with black men being 5.3 times as likely as white men to be living with HIV and black women being 10.2 times as likely to be living with HIV as their white peers.¹⁶ Due to existing disparities in access to care, black Alabamians are also twice as likely as any other race to be living with AIDS,¹⁷ often as the result of a late

¹³ Georgetown University Health Policy Institute, Center for Children and Families. "The Impact of Alabama's Proposed Medicaid Work Requirement on Low-Income Families with Children," (2018). <https://ccf.georgetown.edu/wp-content/uploads/2018/03/AL-Work-Requirements-3-19.pdf>.

¹⁴ Centers for Disease Control and Prevention. CDC Atlas Data. <https://gis.cdc.gov/grasp/nchhstpatlas/tables.html>.

¹⁵ Georgetown University Health Policy Institute, Center for Children and Families. "The Impact of Alabama's Proposed Medicaid Work Requirement on Low-Income Families with Children," (2018). <https://ccf.georgetown.edu/wp-content/uploads/2018/03/AL-Work-Requirements-3-19.pdf>.

¹⁶ AIDSvu (www.aidsvu.org). Emory University, Rollins School of Public Health. Accessed March 20th, 2018. <https://aidsvu.org/state/alabama/>.

¹⁷ Kaiser Family Foundation. Estimated Rates of AIDS Diagnoses (per 100,000), Adults and Adolescents, by Race/Ethnicity (2015). <https://www.kff.org/hiv/aids/state-indicator/estimated-rates-per-100000-of-aids-diagnoses-adults-and-adolescents-by->

diagnosis or falling out of treatment. The proposed waiver would only exacerbate these disparities further by forcing even more African American individuals out of care or unable to access effective preventative measures.

The proposed work requirements would also have a disproportionate impact on Alabama's rural and small town communities. Approximately 14% of adults in these areas are covered by Medicaid as opposed to 11% in urban areas, and rural Alabama counties typically have rates of Medicaid coverage in rural areas and small towns above the national average.¹⁸ Often in these communities, residents must travel longer distances to access needed health services that may not be available at local facilities. Without affordable health coverage, barriers to accessing preventative services and other comprehensive health care will become even greater. Already, it is often rural counties that bear the worst brunt of public health crises, such as the recent tuberculosis outbreak in Perry County¹⁹ or the staggering increase in overdose deaths in Walker County.²⁰ People living with HIV are also more likely to reside in rural and suburban areas in Alabama and many other Southern states compared to other regions.²¹ Removing health care coverage for thousands of these residents will worsen public health outcomes in these areas.

Due to the disproportionate share of women, African Americans, and rural residents who receive Medicaid coverage, the proposed 1115 waiver would have a significantly greater negative impact on Alabama's most vulnerable populations. Individuals in these communities often already face steep barriers to accessing care and typically have fewer resources available to receive health services. Ultimately, by imposing new work requirements which effectively remove individuals from the Medicaid program, the proposed waiver will increase racial, gender, and geographic health disparities in the state.

IV. The waiver's design and complexity mean the work requirements will have unforeseen administrative costs, which would disproportionately affect people with living HIV, HCV, and other chronic health conditions

Work requirements in other contexts have been the subject of rich research. This research demonstrates that work requirements carry high administrative costs and the complexity

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¹⁸ Georgetown University Center for Children and Families, "Medicaid in Small Towns and Rural American: A Lifeline for Children, Families, and Communities." (June, 2017).

¹⁹ AL Media Group. "Paying for testing turns up 100 TB infections in small Alabama town." (January, 2016). www.al.com/news/index.ssf/2016/01/post_88.html.

²⁰ University of Chicago, NORC. "Drug Overdose Deaths in Appalachia." Accessed March 21st, 2018. <https://overdosemappingtool.norc.org>.

²¹ Centers for Disease Control and Prevention. (2016). CDC Issue Brief: HIV in the Southern United States. <https://www.cdc.gov/hiv/pdf/policies/cdc-hiv-in-the-south-issue-brief.pdf>. 2016.

required to administer them yields high error rates that deny otherwise eligible individuals benefits, including individuals living with disabilities and chronic illnesses.²² Yet Alabama's proposed waiver fails to answer the question of how the work requirement will be tracked, merely pointing to already existing work requirements other benefits programs have, including TANF and SNAP. To the extent that the proposal does indicate how the requirement will be tracked, it outlines cost and labor-intensive activities that will likely lead to high administrative costs, including entering into a data sharing agreement with other branches of state government to identify and track those subject to the work requirement and monitoring activity of those participating in alcohol or other drug abuse treatment programs. Despite this, however, the proposal unrealistically does not include administrative costs in its budget neutrality calculation. This suggests that the State will be unprepared to implement the work requirement if it is approved, potentially leading to the arbitrary denial of benefits down the road.

Individuals living with HIV, HCV, and other chronic illnesses and disabilities stand to be disproportionately harmed by the combined effect of these proposals. Many individuals who live with a chronic illness that is not classified severe enough by the Medicaid program to be considered a disability but that make maintaining employment impossible would be subject to the work requirement. Chronic illnesses can produce symptoms or disabilities that are not visible, yet serve as impediments to steady employment. Additionally, some chronic conditions like HIV produce periods of inability to work due to medication side effects or symptom flare-ups; employees with these conditions require flexible work arrangements that can be hard to find or keep. Episodic disabilities can produce an uneven work history, which in turn can make it more difficult for a person to find consistent employment. These burdens particularly affect people living with chronic illnesses or disabilities, as consistent access to medical care is key to the management of symptoms and overall long-term wellness.

Individuals living with HIV, HCV, and other chronic health conditions have historically been the most likely to suffer adverse effects from work requirements,²³ something that would be no different under Alabama's proposal. Alabama's proposed waiver would exempt, among other categories, "anyone who has a disability, is medically frail, or has a medical condition that would prevent them from complying with the work requirements...including anyone receiving Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI)."²⁴ However,

²² USDA Office of Inspector General, FNS Controls over SNAP Benefits for Able-Bodied Adults Without Dependents, September 2016, <https://www.usda.gov/oig/webdocs/27601-0002-31.pdf>. ("[I]mplementation of ABAWD requirements can be error prone, and when ABAWD policy is applied inaccurately, eligible ABAWDs are denied SNAP benefits, while otherwise ineligible ABAWDs are provided benefits.")

²³ MaryBeth Musumeci and Julia Zur, "Medicaid Enrollees and Work Requirements: Lessons from the TANF Experience," Kaiser Family Foundation, August 2017, https://www.kff.org/report-section/medicaid-enrollees-and-work-requirements-issue-brief/#endnote_link_232243-15.

²⁴ Alabama Medicaid Agency, Section 1115 Demonstration Application, "Alabama Workforce Initiative" (February, 2017). http://www.medicaid.alabama.gov/documents/2.0_Newsroom/2.7_Special_Initiatives/2.7.5_Work_Requirements/2.7.5_Final_Work_Requirements_Waiver_Bookmarked_2-27-18.pdf.

half of Medicaid beneficiaries with disabilities do not receive SSI or SSDI,²⁵ which means they would be subject to a discretionary exemption. Further, an analysis of Alabama's current enrollees reveals that among non-SSI adult enrollees, 43% are already working, and those that are not working face some significant barrier to work, with 41% citing an illness or disability as reasons for not working and an additional 23% citing caretaking responsibilities.²⁶ The waiver gives no indication of how exemption requests would be evaluated, or how the application or evaluation process would work. In short, like the administrative hurdles to tracking compliance with the work requirement generally, the proposed application does not indicate how it would tackle logistical hurdles that would result from implementation and would subject thousands of individuals living with a disability to uncertainty as to whether they will lose their health care coverage. As a result, individuals living with HIV, HCV, and other chronic health conditions will be disproportionately impacted.

V. The waiver will result in greater public health costs and increase the economic burden on hospital systems, particularly in rural communities.

As discussed in detail in the above sections, the proposed waiver would result in several thousand individuals losing healthcare coverage, the majority of whom reside in rural areas and small towns. Many of these communities already feature overburdened health care systems, with seven hospitals closing across the state within the last eight years, the second highest closure rate in the country.²⁷ As current POCR enrollees are removed from the state Medicaid program due to the proposed work requirements and find themselves without affordable alternatives for coverage, they and their families will be forced to forego routine wellness checks and preventative care. As a result, they will be more likely to develop preventable health conditions or see existing conditions worsen until they require emergency care. Preventative care is generally more cost-effective than emergency or chronic care, and the added expense will strain many rural hospitals and threaten to increase the rate of closures in these areas. This will ultimately lead to a feedback loop as a reduction in local health care facilities will increase barriers to care for even insured individuals.

Eventually, some of these individuals may develop conditions that permanently prevent them from obtaining stable employment, effectively defeating the purpose of the proposed waiver and circumventing any supposed cost-savings. Strangely, the proposed waiver application makes no acknowledgement of this possibility, simply assuming that all recipients removed from Medicaid as a result of the proposed work requirements will inevitably find alternative

²⁵ Rachel Garfield, Robin Rudowitz, Anthony Damico, Kaiser Family Foundation, *Understanding the Intersection of Medicaid and Work*, <http://files.kff.org/attachment/Issue-Brief-Understanding-the-Intersection-of-Medicaid-and-Work> (Updated Jan. 2018).

²⁶ Rachel Garfield, Robin Rudowitz, Anthony Damico, Kaiser Family Foundation, *Understanding the Intersection of Medicaid and Work*, <http://files.kff.org/attachment/Issue-Brief-Understanding-the-Intersection-of-Medicaid-and-Work> (Updated Jan. 2018).

²⁷ AL Media Group. "Deeply Saddened": Another rural Alabama hospital closes." (November, 2017). www.al.com/news/mobile/index.ssf/2017/11/deeply_saddened_another_rural.html.

health care coverage and never require Medicaid assistance again. In reality, it is likely that a significant number of these individuals will instead develop debilitating health conditions that would place them back on Medicaid's rolls but at greater cost to the State. Alabamians living with HIV could turn to coverage under Ryan White and the AIDS Drug Assistance Program, but both programs have received flat-funding in recent years and the resultant increase in enrollment could result in waiting lists that leave individuals without access to life-saving care. Coupled with the increased administrative measures required to implement the waiver and the associated costs, the proposed waiver is unlikely to remain budget neutral and will only exacerbate Alabama's frequent budget shortfalls.

Conclusion

In sum, we have grave reservations regarding the Section 1115 waiver application proposed by the Alabama Medicaid Agency and are deeply concerned about its potential impact on the state's most vulnerable communities. The work requirements put forward in the waiver would create an impossible Catch-22 that would leave thousands of parents and their families without health care coverage whether they are able to obtain employment or not. Meanwhile, the waiver makes no provision for additional resources to support individuals in satisfying work requirements. The demographic breakdown of Medicaid enrollees would result in women, black Alabamians, and those living in rural areas or small towns experiencing the worst consequences of this policy, and the administrative complexity needed to implement the waiver would disproportionately impact people living with HIV, HCV, and other chronic conditions. Finally, the proposed waiver will ultimately further tax the state's budget by increasing the cost of program administration and public health spending.

We appreciate the opportunity to provide comments on the proposed waiver. For the reasons described above, we urge the Alabama Medicaid Agency to rescind the application and consider alternative proposals that would improve health outcomes among recipients by increasing access to comprehensive health care. Please contact Matt Pagnotti, Director of Policy and Advocacy for AIDS Alabama, at matthew.pagnotti@aidsalabama.org with any questions.