FEDERAL AIDS POLICY PARTNERSHIP
HIV HEALTH CARE ACCESS WORK GROUP

August 2, 2017

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

Dear Secretary Price:

The HIV Health Care Access Working Group (HHCAWG) appreciates the opportunity to comment on several amendments to Kentucky's proposal for a demonstration project under section 1115 of the Social Security Act, known as Kentucky HEALTH. HHCAWG is a coalition of over 100 national and community-based HIV service organizations representing HIV medical providers, public health professionals, advocates, and people living with HIV who are all committed to ensuring access to critical HIV- and Hepatitis C-related health care and support services.

The Medicaid program is a critical source of health coverage for life-saving care for people with HIV in Kentucky and throughout the United States. More than 40 percent of people with HIV in care count on the Medicaid program for the healthcare and treatment that keeps them healthy and productive.[1] Ensuring uninterrupted access to effective HIV care and treatment is important to the health of people living with HIV and to public health.[2] When HIV is effectively managed, the risk of transmitting the virus drops to near zero.[3] The amendments that Kentucky proposes threaten to reverse the progress in providing early access to prevention, care, and treatment and reducing healthcare costs made over the past several years. For instance, a third-year survey of the impact of Medicaid expansion on three states—Kentucky, Arkansas, and Texas—shows that gaining coverage under the Affordable Care Act "was associated with a 41-percentage point increase in having a usual source of care, a $337 reduction in annual out-of-pocket spending, significant increases in preventive health visits and glucose testing, and a 23-percentage point increase in "excellent" self-reported health."[4]

We are concerned that the changes Kentucky is proposing to its original waiver proposal will increase the harm to low-income people living with HIV who depend on the Medicaid program, and we urge CMS to reject these modifications. Our concerns are outlined below.

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[1] Kates, Jennifer and Lindsey Dawson. Insurance Coverage Changes for People with HIV Under the ACA. Kaiser Family Foundation. February 2017.
[2] Panel on Antiretroviral Guidelines for Adults and Adolescents. Guidelines for the use of antiretroviral agents in HIV-1-infected adults and adolescents. Department of Health and Human Services. Available at http://www.aidsinfo.nih.gov/ContentFiles/AdultandAdolescentGL. pdf.
[3] Cohen, MS., et al. Antiretroviral Therapy for the Prevention of HIV-1 Transmission. N Engl J Med 2016; 375:830-839. September 1, 2016.
[4] Benjamin D. Sommers, *et al.*, "Three-Year Impacts of the Affordable Care Act: Improved Medical Care and Health among Low-Income Adults," *Health Affairs,* May 2017.

CHANGES TO WORK REQUIREMENT WOULD CAUSE FURTHER LOSS OF COVERAGE

Kentucky wants to replace the graduated hours for work or work-related activities in its original proposal with a flat 20-hour per week requirement. This is solely to make it easier for the state to track work or work-related activities reportedly to hold down vendor costs for tracking the hours people should be working. We are very concerned that Kentucky's work requirement provisions will harm people living with HIV, and we strongly urge CMS to uphold federal law[5] by denying approval for the work requirement for those who are unable to work. Many low-income people with HIV who are able do work, but they often work at low-paying, seasonal or temporary positions. Their healthcare coverage cannot be seasonable or time-limited if they are going to successfully manage HIV and stay healthy so that they are able to work. Nearly 8 in 10 non-disabled adults with Medicaid coverage live in working families, and nearly 60 percent are working themselves.[6] Of those not working, more than one-third reported that illness or a disability was the primary reason, 28 percent reported that they were taking care of home or family, and 18 percent were in school.[7] Simply put, Kentucky's modification only makes a harmful proposal worse.

The proposal notes that "medically frail" individuals will be exempt from these requirements. While , we very much support this protection for vulnerable populations if work requirements are put in place, we are concerned that it may be difficult to accurately screen for medically frail individuals in a non-discriminatory way. We support the description provided in Kentucky's original waiver application submitted in August of 2016, including providing multiple ways to identify this population (e.g., provider referral, self-identification, and claims data review). We urge CMS to require the state to screen all beneficiaries for this exemption and to automatically exempt any Medicaid enrollee with an HIV diagnosis. To identify people living with HIV who should be exempt from this and other waiver provisions, the state Medicaid program should work with the state health department HIV/AIDS bureau, and we urge CMS to encourage and support states to do this.

DISENROLLMENT FOR FAILURE TO REPORT CHANGES WILL CAUSE HARMFUL DISRUPTIONS IN CARE

The proposal to lock Medicaid beneficiaries out of Medicaid coverage for six months for failure to submit timely renewal paperwork or to report nominal changes in income and work-related activities will undermine continuity of care and create significant disruptions in access to prevention and care services.

Punishing beneficiaries for failing to report changes in income, employment, and other factors beyond those that impact eligibility is punitive and will harm people living with or at risk for HIV and other chronic, complex conditions. The Medicaid program should strive to support continuous access to care and treatment and prevent harmful gaps in coverage, instead of creating unnecessary hurdles and barriers to maintaining coverage. While people living with HIV would fall under the "medically frail" exemption from disenrollment, many other individuals with chronic conditions or those at risk of contracting HIV, could suffer from lapses in coverage. We urge CMS to reject this provision as counter to the goals and mission of the Medicaid program.

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[5] MaryBeth Musumeci, "Medicaid and Work Requirements," Kaiser Family Foundation, March 23, 2017; *see also:* Department of Health and Human Services, Letter to Mr. Tom Betlach, September 30, 2016, https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/az/Health-Care-Cost-Containment-System/az-hccc-demo-ext-09302016.pdf.

[6] Musumeci, M. Medicaid and Work Requirements. KFF. March 23, 2017.

[7] IBID.

APPROVAL OF THE WAIVER COULD HINDER THE ABILITY OF THE STATE TO ADDRESS THE OPIOID EPIDEMIC

Finally, the opioid epidemic has a dangerous intersection with infectious diseases, including HIV, hepatitis C and endocarditis. At this time of a heightened response to preventing further escalation of opioid use and associated medical conditions, we should be reducing rather than creating barriers to healthcare coverage and services. Of the 220 counties that the Centers for Disease Control and Prevention have identified as vulnerable to an HIV or hepatitis C outbreak, 54 of these counties are in Kentucky.[8]

We urge CMS to uphold federal law and the intent of the Medicaid program as it considers Kentucky's proposed amendments to its Section 1115 waiver. Please contact Amy Killelea with the National Alliance of State and Territorial AIDS Directors at akillelea@nastad.org or Andrea Weddle at aweddle@hivma.org with the HIV Medicine Association with questions regarding how people with HIV would be affected by Kentucky's proposed amendments.

Respectfully submitted by:

ADAP Educational Initiative | AIDS Alabama | AIDS Action Baltimore | AIDS Alliance for Women, Infants, Children, Youth & Families | AIDS Foundation of Chicago | AIDS Research Consortium of Atlanta | AIDS United | American Academy of HIV Medicine | APLA Health | AIDS Resource Center of Wisconsin Community Access National Network (CANN) | Georgia AIDS Coalition | Harm Reduction Coalition | HealthHIV | HIV Medicine Association | Lambda Legal | Legal Council for Health Justice | Michigan Positive Action Coalition | Minnesota AIDS Project | National Alliance of State and Territorial AIDS Directors | National Latino AIDS Action Network | NMAC |National Viral Hepatitis Roundtable | Project Inform | Rocky Mountain CARES | San Francisco AIDS Foundation | SisterLove | Southern AIDS Coalition | Southern HIV/AIDS Strategy Initiative | The AIDS Institute | Treatment Access Expansion Project

[8] Van Handel, MM, et al. County-Level Vulnerability Assessment for Rapid Dissemination of HIV or HCV Infections Among Persons Who Inject Drugs, United States. JAIDS Journal of Acquired Immune Deficiency Syndromes: Nov 1 2016: 323–331.