



July 15, 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 appreciates the opportunity to comment on Wisconsin's Medicaid proposed amendment to its 1115 waiver, the BadgerCare Reform Demonstration Project.

The Medicaid program is a critical source of health coverage for life-saving care for people with HIV in Wisconsin 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.<sup>i</sup> Ensuring uninterrupted access to effective HIV care and treatment is important to the health of people living with HIV and to public health.<sup>ii</sup> When HIV is effectively managed, the risk of transmitting the virus drops to near zero.<sup>iii</sup>

We applaud Wisconsin for the innovative care the state has provided to its Medicaid population through waivers and other innovative initiatives, such as health homes for people with HIV and the HIV Affinity Group collaborative project between Medicaid and the state HIV program. We are concerned that the waiver amendment under consideration would represent a set back rather than progress for Wisconsin's Medicaid program, and threaten access to critical healthcare for low-income Milwaukee residents, including people with HIV. We highlight our key concerns below.

#### **EVEN NOMINAL PREMIUMS AND COST-SHARING CREATE BARRIERS TO TREATMENT FOR PEOPLE WITH HIV AND OTHERS WITH CHRONIC CONDITIONS.**

Nearly 50 percent of people with HIV in the U.S. live at or below the federal poverty level or just over \$12,000 a year for 2017. The Wisconsin amendment would require individuals and families with incomes above 50 percent of the poverty line, which is just over \$6,000 a year or \$500 a month, to pay \$8 monthly premiums or risk losing coverage for up to six months. The harmful impact of imposing premiums and cost sharing on low-income individuals is well documented, and was recently analyzed by the Kaiser Family Foundation (KFF). In the KFF report, the authors concluded that people with incomes under 100% of poverty were the most sensitive and affected by premiums.<sup>iv</sup> Once people with HIV, and others with chronic care, lose their healthcare coverage, they are likely to go without medically necessary care and treatment, and they are likely to get sicker and require more costly medical interventions. Wisconsin's application cites other state waivers that have imposed additional cost sharing on the low-income childless adult population (e.g., Iowa and Indiana), but it's important to note that these states were required to exempt "medically frail" populations from these benefits packages. At a minimum, people living with complex, chronic conditions, such as HIV and hepatitis, should be exempt from additional cost sharing in Wisconsin's waiver.

The impact of premiums on low-income individuals' access to health coverage and services is well documented and does not require further study. While we recognize cost sharing will be limited to a five percent cap, cost sharing of this level is unreasonable and has not and should not be allowed for individuals living on such low income levels.

**EMERGENCY DEPARTMENT COPAYMENTS WILL DETER MEDICALLY NECESSARY CARE AND LEAVE SOME MEDICAID BENEFICIARIES SICKER AND IN NEED OF MORE COSTLY CARE.**

Imposing a co-pay of \$8 copayment for an emergency department visit for adults without children regardless of the purpose of their visit will deter some people with HIV from accessing treatment when they are most in need. We urge CMS to reject this provision in the Wisconsin amendment.

Urgent medical situations arise when people with HIV and others are unable to access medical care from their outpatient medical provider or when their provider recommends that they seek emergency care. If they are unable to obtain the appropriate treatment in a timely manner their condition or infection will worsen and require more intensive medical care, including costly hospitalizations. This policy is short-sighted and will not only harm low income individuals in need of emergency care but will lead to higher medical costs in some cases.

**WORK REQUIREMENTS AND TIME LIMITS ARE COUNTER TO THE INTENT OF THE MEDICAID PROGRAM AND THREATEN THE UNINTERRUPTED HEALTH COVERAGE THAT PEOPLE WITH HIV NEED TO STAY HEALTHY AND PREVENT DISEASE PROGRESSION.**

We are very concerned by Wisconsin's proposal to impose work requirements and time limits 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.<sup>v</sup> 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.<sup>vi</sup>

Furthermore, we are deeply concerned about the administrative costs and ability of Wisconsin to effectively implement this provision as intended without unintentionally leaving some Medicaid beneficiaries without healthcare coverage despite being exempt from the requirements or meeting the requirements. A significant body of literature and evaluation data from the TANF Program indicates that it is very difficult to implement work requirements and ensure they are applied as intended without causing undue harm.<sup>vii</sup> **This provision will leave people with HIV and others with chronic conditions sick and disabled and further limit their ability to work. We strongly urge CMS to uphold federal law<sup>ix</sup> by denying approval for the work requirement and time limited coverage for those we are unable to work.**

**DRUG TESTING WOULD DETER PEOPLE WITH ADDICTION DISORDERS FROM ACCESSING THE HEALTH CARE AND TREATMENT THAT THEY NEED TO IMPROVE THEIR HEALTH.**

We strongly support Wisconsin's goal of expanding access to treatment for substance use disorders, but we are concerned that requiring drug testing to access the healthcare coverage that provides access to medical care, including addiction treatment, will deter people most in need of substance use treatment and other healthcare services from accessing it. Screening for substance use and other healthcare

conditions should be conducted by medical providers with the appropriate expertise to do so and should not create an unintended barrier to accessing healthcare coverage.

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.<sup>x</sup> **We strongly urge CMS to reject the request to require drug use screening and drug testing for Medicaid beneficiaries.**

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

Respectfully submitted by the undersigned organizations,

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  
Human Rights Campaign  
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  
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

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<sup>i</sup> Kates, Jennifer and Lindsey Dawson. [Insurance Coverage Changes for People with HIV Under the ACA](#). Kaiser Family Foundation. February 2017.

<sup>ii</sup> 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>. [Discontinuation or Interruption of Antiretroviral Therapy].

<sup>iii</sup> Cohen, MS., et al. [Antiretroviral Therapy for the Prevention of HIV-1 Transmission](#). N Engl J Med 2016; 375:830-839. September 1, 2016.

<sup>iv</sup> Artiga, Samantha, Petry Ubri, and Julia Zur. [The Effects of Premiums and Cost Sharing on Low-Income Populations: Updated Review of Research Findings](#). KFF. June 1, 2017.

<sup>v</sup> Musumeci, M. [Medicaid and Work Requirements](#). KFF. March 23, 2017.

<sup>vi</sup> IBID.

<sup>vii</sup> LaDonna Pavetti, Michelle Derr, and Emily Sama Martin, "Assisting TANF Recipients Living with Disabilities to Obtain and Maintain Employment: Conducting In-Depth Assessments," Mathematica Policy Research, Inc., February 2008.

<sup>viii</sup> LaDonna Pavetti, "Work Requirements Don't Cut Poverty, Evidence Shows," Center on Budget and Policy Priorities, June 2016.

<sup>ix</sup> 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>.

<sup>x</sup> 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.