



January 25, 2018

Eric Hargan, Acting Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: State Medicaid Director Letter, “Opportunities to Promote Work and Community Engagement Among Medicaid Beneficiaries”

Dear Acting Secretary Hargan:

The undersigned organizations are writing as members HIV Health Care Access Working Group (HHCAGW) in response to guidance released on January 11, 2018, indicating support from CMS for states to deny Medicaid eligibility to those that cannot prove they have employment or participated in some form of “community engagement.” We have serious concerns regarding this new guidance and the negative impact it will have on people living with HIV, hepatitis C (HCV), and other chronic health conditions.

The Medicaid program is a critical source of health coverage for life-saving care and treatment for people living with HIV. More than 40% of people living with HIV in care count on the Medicaid program for treatment that keeps them healthy and productive.¹ Ensuring uninterrupted access to effective HIV care and treatment is important both 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 This guidance from CMS encouraging states to condition receipt of medically necessary care on satisfying a work requirement threatens to reverse the progress we have made in providing early access to prevention, care, and treatment to people living with HIV.

A majority of Medicaid enrollees already either work or live in working families, and it is precisely because their health care needs are met by the Medicaid program that these individuals are able to be productive.⁴ Rather than improving health outcomes as CMS proposes, a work requirement as a condition of Medicaid eligibility will harm people living with HIV either by disrupting access to coverage and lifesaving treatment or eliminating health care coverage altogether. While the guidance notes that states both can and should exempt people with disabilities and the “medically frail” from a work requirement, based on past experience with other state and federal programs effective implementation of exemptions will prove difficult and leave eligible individuals without access to health care coverage and services. The history of states administering exemptions for work requirements in other public benefits programs like the Temporary Assistance for Needy Families program shows that even exempt individuals will end up being punished for not satisfying the requirement due to administrative complexity.

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 Kaiser Family Foundation. Understanding the Intersection of Medicaid and Work. Updated January 2018. Online at: <https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/>.

Contact the HIV Health Care Access Working Group co-chairs Robert Greenwald with the Treatment Access Expansion Project (rgreenwa@law.harvard.edu), Amy Killelea with the National Alliance of State and Territorial AIDS Directors (akillelea@NASTAD.org), and Andrea Weddle with the HIV Medicine Association (aweddle@hivma.org) to further discuss issues related to health reform and people living with HIV.

Particularly in states where Medicaid eligibility is restricted to those earning less than half of the federal poverty level (FPL), a work requirement presents an impossible catch-22. Individuals that start working will soon earn too much to qualify for the program. However, because the Affordable Care Act does not provide subsidies to purchase private insurance unless an individual's income is between 100-400% FPL, private insurance will be out of reach, leaving these individuals with no other options for affordable health coverage.

Withholding medical care for not maintaining stable employment will only push people further into poverty, worsen their health outcomes, and lead to higher health care costs. Given the negative consequences work requirements will have on millions of Medicaid beneficiaries including many people living with HIV, HHCAGW urges CMS to reconsider this dangerous policy guidance.

We welcome to opportunity to meet with CMS to discuss the particularized health needs and concerns of people living with HIV and HCV. If CMS continues to approve these types of waivers, we urge you to work closely with states to ensure that medically frail populations are being appropriately and fairly identified, including those living with HIV and HCV who should be automatically exempt from work requirements.

Respectfully submitted by the undersigned organizations:

ADAP Educational Initiative
 AIDS Action Baltimore
 AIDS Alabama
 AIDS Alliance for Women, Infants, Children, Youth & Families
 AIDS Foundation of Chicago
 AIDS Research Consortium of Atlanta
 AIDS Resource Center of Wisconsin
 AIDS United
 American Academy of HIV Medicine
 APLA Health
 Bailey House, Inc.
 Black AIDS Institute
 Communities Advocating Emergency AIDS Relief (CAEAR)
 Community Access National Network (CANN)
 Georgia AIDS Coalition
 Harm Reduction Coalition
 HealthHIV
 HIV Medicine Association
 Housing Works
 John Snow, Inc. (JSI)
 Legal Council for Health Justice
 Michigan Positive Action Coalition
 Minnesota AIDS Project
 National Alliance of State and Territorial AIDS Directors

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National Latino AIDS Action Network
National Viral Hepatitis Roundtable
NMAC
Positive Women's Network - USA
Project Inform
Rocky Mountain CARES
Ryan White Medical Providers Coalition
San Francisco AIDS Foundation
SisterLove
Southern AIDS Coalition
Southern HIV/AIDS Strategy Initiative
The AIDS Institute
Treatment Access Expansion Project
Treatment Action Group

CC:

Alex Azar, Secretary
Seema Verma, Administrator, CMS
Calder Lynch, Senior Council to the CMS Administrator