



July 24, 2018

The Honorable Seema Verma
 Administrator
 Centers for Medicare & Medicaid Services
 Department of Health and Human Services
 P.O. Box 8016
 Baltimore, MD 21244-1850

Dear Administrator Verma:

The undersigned organizations represent more than one hundred million Americans living with chronic or serious health conditions, including many who rely on Medicaid as their primary source of healthcare coverage. Together and separately, our non-profit, non-partisan organizations are dedicated to working with the Administration, Members of Congress and State Governments on a bipartisan basis to ensure coverage is affordable, accessible and adequate for patients.

The purpose of Medicaid is to provide healthcare coverage for low-income individuals and families. Over the past eighteen months, many of our organizations have submitted comments asking the Centers for Medicare and Medicaid Services (CMS) to reject states' applications for 1115 demonstration waivers that would create substantial barriers to care for patients and families.ⁱ On May 14, 2018, many of our organizations also sent you a letter urging you to rescind your invitation to states to include work requirement policies in their 1115 demonstration waivers, as these policies are not aligned with the objectives of the Medicaid program and will jeopardize coverage for individuals that we serve.ⁱⁱ

CMS approved Kentucky's 1115 demonstration application, known as Kentucky Health, in January 2018. Over the waiver's five-year demonstration period, the state estimates that 95,000 individuals would lose their healthcare coverage.ⁱⁱⁱ The DC District Court reviewed this approval and on June 29, 2018, the Court concluded that the "Secretary never adequately considered whether Kentucky HEALTH would in fact help the state furnish medical assistance to its citizens, a central objective of Medicaid. This signal omission renders his determination arbitrary and capricious."^{iv} As a result, the Court vacated the approval of Kentucky's waiver.

The Court's decision reaffirms a key point that our organizations have repeatedly made to this Administration: CMS cannot use 1115 demonstration waivers to pursue policies that will not plausibly help furnish healthcare coverage for individuals in the Medicaid program. In light of this decision, our organizations specifically ask CMS to:

- Rescind the January 11, 2018 letter to state Medicaid directors regarding work and community engagement requirements;^v
- Halt implementation of the recently approved 1115 demonstration waivers in Indiana, Arkansas and New Hampshire; and
- Suspend approvals of any additional 1115 demonstration waivers that would reduce coverage or create new barriers to care.

Our organizations would appreciate the opportunity to meet with you to discuss these steps and how we can work together to improve coverage in the Medicaid program. Erika Sward with the American Lung Association will follow-up with your office shortly regarding scheduling.

Sincerely,

American Heart Association
American Liver Foundation
American Lung Association
Chronic Disease Coalition
Crohn's and Colitis Foundation
Cystic Fibrosis Foundation
Epilepsy Foundation
Hemophilia Federation of America
Leukemia and Lymphoma Society
Lutheran Services in America
NAMI National Alliance on Mental Illness
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
March of Dimes
Mended Little Hearts
United Way Worldwide

CC: The Honorable Alex Azar, Secretary
Department of Health and Human Services

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- ⁱ Letter to Secretary Azar Re: KanCare 2.0 Section 1115 Demonstration Renewal Application, Jan. 26, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-to-cms-re-kancare-2-section-1115-renewal.pdf>; Letter to Secretary Azar Re: Centennial Care 2.0 1115 Waiver Application, Jan. 30, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-to-cms-re-centennial-care-1115-waiver-renewal.pdf>; Letter to Secretary Azar Re: Arizona Section 1115 Waiver Amendment Request – Arizona Health Care Cost Containment Works Waiver, Feb. 5, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-to-cms-re-az-1115-waiver-amendment-req.pdf>; Letter to Secretary Azar Re: Mississippi Medicaid Workforce Training Initiative 1115 Demonstration Waiver Application, Feb. 22, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-to-hhs-re-mississippi-1115-waiver.pdf>; Letter to Secretary Azar Re: Request to Extend Wisconsin’s Section 1115 BadgerCare Reform Demonstration Project, Feb. 22, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-to-hhs-re-wisconsin-extend-1115-waiver.pdf>; Letter to Secretary Azar Re: Arizona’s Section 1115 Waiver Amendment Request: Proposal to Waive Prior Quarter Coverage, May 22, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-to-cms-re-az-1115.pdf>; Letter to Secretary Azar Re: Florida Section 1115 Waiver Amendment Request: Proposal on Retroactive Eligibility, June 5, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/health-partners-comments-re-florida-1115-waiver-retroactive-elig.pdf>; Letter to Secretary Azar Re: Ohio’s Section 1115 Waiver Request: Group VIII Work Requirements and Community Engagement, June 14, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/partner-comments-hhs-re-ohio-1115-waiver.pdf>.
- ⁱⁱ Letter to Administrator Verma Re: Work Requirement Policies, May 14, 2018, Available at <http://www.lung.org/assets/documents/advocacy-archive/letter-to-cms-admin-re-medicaid-work-req.pdf>.
- ⁱⁱⁱ Commonwealth of Kentucky Office of the Governor, Kentucky HEALTH 1115 Demonstration Modification Request, July 3, 2017, Available at <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-pa2.pdf>.
- ^{iv} Stewart et al v. Azar (Civil Action No. 18-152 (JEB)) (United States District Court for the District of Columbia, June 29, 2018), Available at: https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv0152-74.
- ^v Centers for Medicare & Medicaid Services, CMS Announces New Policy Guidance for States to Test Community Engagement for Able-bodied Adults, Jan. 11, 2018, Available at <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2018-Press-releases-items/2018-01-11.html>.