November 1, 2019

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

RE: Idaho Medicaid Reform Waiver

Dear Administrator Verma:

AARP, on behalf of our nearly 38 million members and all older Americans nationwide, welcomes the opportunity to submit comments on Idaho’s Department of Health and Welfare Section 1115 Demonstration Waiver Application – the Idaho Medicaid Reform Waiver. AARP supports expanding Idaho’s Medicaid program to help close the health care coverage gap for the nearly 91,000 low-income Idaho adults, including the thousands of Idahoans age 50-64, who would qualify under Medicaid expansion as set forth in the Affordable Care Act (ACA). Idaho voters clearly expressed their support for a straightforward Medicaid expansion with over 60 percent of voters approving Proposition 2 in November 2018. AARP continues to be concerned that the proposed demonstration waiver is inconsistent with the will of Idaho voters and a serious step backwards from ensuring that all Idahoans receive the health insurance coverage they need.

Work and Community Engagement Requirements

The work and community engagement requirements reflected in the Idaho Medicaid Reform Waiver are likely to worsen the health outcomes of the state’s most at-risk citizens, create significant financial hardship for many Idaho Medicaid beneficiaries in need of coverage, increase the state’s administrative costs, and result in increased uncompensated care costs for Idaho’s health providers.

The Idaho Medicaid Reform Waiver application would require certain individuals with income at or below 138 percent of the federal poverty level (FPL) to engage in work or community engagement activities. Beneficiaries not working, participating in job training or volunteering at least 20 hours a week, or who are not enrolled in post-secondary education at least half-time,
would lose Medicaid coverage for at least two months. Beneficiaries would be required to submit monthly reports demonstrating their compliance with these requirements. We appreciate that the state will seek to use administrative data from the Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) programs to identify individuals who are already in compliance with work requirements required in these programs. However, we remain concerned that individuals will still fall through the cracks and lose access to their Medicaid coverage.

AARP believes that the waiver provision seeking to impose a work and community engagement requirement is inconsistent with federal law because it is not “likely to assist in promoting the objectives” of the Medicaid Act. 42 U.S.C. § 1315(a). Specifically, this provision is not likely to assist in promoting the objective of enabling the state of Idaho “to furnish medical assistance [to individuals and families] whose income and resources are insufficient to meet the costs of necessary medical services and rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care.” 42 U.S.C. § 1396- 1.

The work and community engagement requirements set forth in the proposed waiver would also present an unnecessary barrier to health coverage for a sector of Idaho’s population that is most in need of coverage. This includes the many individuals who have recurring periods of illness due to chronic and behavioral health conditions who may not be exempt from the work or job search/training requirements. Moreover, the recent court rulings in the Stewart v. Azar, Gresham v. Azar, and Philbrick v. Azar cases reaffirmed these concerns, stating that work requirements do not help to furnish medical coverage consistent with Medicaid program objectives.1 Such requirements would also prove challenging for Idaho to administer. In fact, a recent report from the United States Government Accountability Office found that Medicaid work requirements have led to significant administrative costs for states with work/community engagement requirements, ranging from an estimated $6 million to over $250 million per state in the first five states that received CMS approval.2

Despite our opposition to work and community engagement requirements, AARP welcomes the inclusion of a list of qualifying exemptions and good cause exemptions, including categories based on age, physical and mental ability, providing care to a person with a disability or serious medical condition, participating in substance abuse treatment and other categories. AARP believes that additional clarity is needed regarding how the exemptions will be defined and how they would be determined, in particular the exemptions of those “physically or intellectually unable to work” and those caring for someone with a “serious illness.” AARP also urges that the caregiver exemptions be broadened so that all Medicaid beneficiaries who are family caregivers – including all who are caring for adults or children, regardless of a disability designation – would qualify for an exemption from the work/community engagement requirements. In this regard, we would ask CMS to keep in mind that in many instances, family caregivers save the

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1 More than 18,000 vulnerable individuals lost coverage in Arkansas when the state implemented its Medicaid work requirements before the federal court halted the program in that state. [Link](https://www.aarp.org/content/dam/aarp/ppi/2019/06/the-new-medicaid-waivers-coverage-losses-for-beneficiaries-higher-costs-for-states.doi.10.26419-2Fppi.00066.001.pdf)

state and federal government considerable amounts of money by providing unpaid care in community settings, saving millions of dollars that would otherwise be required to pay for costly institutional care.

Currently, the Idaho Medicaid Reform Waiver application exempts individuals “over the age of 59 years” from the work and community engagement requirements. We request that the Department lower the age to “over the age of 49.” This is critical because research demonstrates that older adults—including those between ages 49 and 59—experience significant difficulty re-entering the labor force after long periods of unemployment and are likely to face age discrimination in hiring practices. Idahoans are not exempt from these findings. The situation is likely even more difficult for people over age 50 who live in rural communities where employment opportunities are even more limited. AARP is concerned that these Idahoans—who face significant barriers to employment that are beyond their control—would lose their Medicaid coverage, leaving them more vulnerable just when they reach the typical age of onset of chronic illnesses, like diabetes and hypertension—conditions which, left untreated, can lead to serious heart disease, stroke, and other negative health outcomes.

In the event that CMS approves the state’s proposal to condition receipt of Medicaid on work/community engagement, it will be critical to maintain an individual’s due process rights and all existing Medicaid protections. Furthermore, AARP urges CMS to require that disputes will be fairly and expeditiously resolved; that individuals will continue to receive adequate notice of state agency actions and a meaningful opportunity to have unfavorable administrative decisions reviewed with reasonable promptness; that coverage of care will continue pending resolution of an appeal; and that Medicaid applicants and beneficiaries will retain their right to request a fair hearing on eligibility determinations and coverage issues, offers of proof, and to request a new assessment if their situation changes.

**Suspension and Lock-outs**

AARP also has serious concerns with the proposal to suspend Medicaid eligibility for failure to comply with the work and community engagement requirements. As is the case with work and community engagement requirements, this policy runs contrary to the clear objectives of the Medicaid statute. According to the state’s own estimates, approximately four percent of the state’s Medicaid population would not comply with or meet an exemption from the requirements and would therefore be subject to suspension. Any lockout from Medicaid coverage for any length of time could adversely affect the health of enrollees and increase overall health care costs for the state.

This is especially true for enrollees undergoing lifesaving treatments or receiving treatment for chronic conditions, such as diabetes or high blood pressure. Imposing lockouts on low-income Medicaid enrollees with serious health needs would have particularly harsh consequences on individuals, their families, their caregivers and the healthcare system. For example, an enrollee with a chronic health condition may lose access to lifesaving medication like insulin or anti-hypertensives. The coverage gaps created by lockout periods would invariably lead to worsened health conditions that would be more costly to treat later, the inability to manage care over time,
and added uncompensated care costs for providers. In addition, worsened health status created by lock-outs makes it more difficult for people to find and keep jobs.

The Idaho Medicaid Reform Waiver application notes that this “at least two-month suspension” is not a fixed lock-out period, but the language in the proposed waiver contradicts this assertion. On one hand, the waiver application notes, “[u]nder Idaho law, a Medicaid member who fails to comply with the Requirements shall be ineligible for Medicaid for a period of two months.” On the other hand, the application states, “[s]ince individuals may demonstrate compliance at any time within the two-month penalty period and regain Medicaid eligibility, this penalty period is not a fixed eligibility lock-out.” In light of these competing statements, AARP asks for more clarity on how the two-month suspension differs from a “fixed” lock-out period and the process by which individuals can have their Medicaid eligibility reinstated. Specifically, we ask that the following questions be addressed: If an individual shows evidence of compliance, when would the state reinstate his/her benefits? If an individual has his/her Medicaid eligibility suspended and then does nothing and the two-month suspension passes, is that individual automatically re-enrolled in Medicaid without taking any action or does he/she have to re-enroll? Must any suspension last for the minimum two-month period or can reinstatement happen earlier? If an individual is allowed to be reinstated earlier, to what date is eligibility made retroactive?

Additionally, the Idaho Medicaid Reform Waiver application lacks clarity on how the six-month verification periods will be administered. Thus, AARP urges CMS to clarify what will occur if an individual’s exempt status changes (e.g., a caregiver’s loved one does not meet the criteria for “serious illness” at a certain point), and whether that individual would be subject to the same suspension rules, and if they would have an opportunity for reinstatement.

**Administrative Procedures**

The state’s waiver application to impose work and community engagement requirements on individuals in the expansion population will require new and robust outreach and education efforts, as well as new administrative processes, procedures, and funding. As we have seen in other states, many individuals who were subject to work and community engagement requirements were unaware of the requirement. Additionally, the process for beneficiaries to report compliance information to the state on how they are complying with the work and community engagement requirements has been expensive and challenging for individuals without broadband or internet access or the appropriate knowledge on how to utilize the proposed reporting system.

The Idaho Medicaid Reform Waiver application notes that the Department will seek to minimize administrative burden by leveraging “many of the same eligibility systems and processes used to verify and monitor compliance across” the SNAP and TANF programs. Even so, AARP remains concerned that significant changes in policy, like the imposition of work and community engagement requirements, will result in new and significant administrative costs to the state, including new staffing needs required to develop or expand reporting systems, verify the accuracy of beneficiary reporting, and conduct fact-finding hearings. Other states that are
preparing for work requirements have increased administrative budget amounts by as much as 40 percent.  

Moreover, Idaho’s application proposes an unusual timeline for implementing its Medicaid expansion that will leave a gap of four or five months, at a minimum, during which the state will operate a standard expansion, without the unique waiver elements. The state must begin enrolling individuals in the expansion population on January 1, 2020. However, the state does not anticipate implementing the Idaho Medicaid Reform Waiver policy proposals until “about six months after initial CMS approval.” The Idaho Medicaid Reform Waiver application recognizes that the state will need to transition individuals from a standard expansion to an expansion that would require work and community engagement activities as a condition of Medicaid eligibility.

We appreciate that the state recognizes that people operating under one set of rules will have to transition to a new set of rules in order to maintain their Medicaid coverage. However, such recognition does not take into account the difficulty of this undertaking for the state or the challenges for individuals forced to make this change, many of whom may be gaining health coverage for the first time. CMS should seek assurances from the state that the transition will go smoothly for beneficiaries, including requiring the state to publicly describe the ways in which it will help persons become aware of (e.g., letters and calls to beneficiaries, partnerships with community-based and other organizations, and outreach to providers) and transition to (e.g., new workforce training opportunities) Medicaid envisioned under the Idaho Medicaid Reform Waiver application.

**Conclusion**

The Idaho Medicaid Reform Waiver application represents a significant change to Idaho’s Medicaid program and is a serious step backwards from the Medicaid expansion proposition passed by Idaho voters. The proposed work and community engagement requirements will likely lead to significant coverage losses, worsen health outcomes for the state’s most vulnerable residents, create significant financial hardship for many Idaho Medicaid beneficiaries in need of coverage, increase the state’s administrative costs, and result in increased uncompensated care costs for Idaho’s health providers. If you have any additional questions, feel free to contact me or have your staff contact Amy Kelbick on our Government Affairs staff at akelbick@aarp.org or 202-434-2648.

Sincerely,

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs

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