

May 9, 2018

The Honorable Alex Azar
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

The undersigned organizations represent millions of Medicaid enrollees, providers, and payers. We write to express our deep concerns regarding the ineffectiveness of Medicaid demonstration waiver evaluations as documented by the Government Accountability Office (GAO).

As the largest single health coverage program in the nation, Medicaid is a critical Department of Health and Human Services (HHS) responsibility. Today, the program covers nearly one-in-five Americans, including nearly 40 percent of children, more than 40 percent of births, and more than 60 percent of people in nursing homes. As you know, your department has approved several high-risk Medicaid waivers in Kentucky, Indiana, and Arkansas, and is expected to approve more. These waivers allow states to implement lockouts from Medicaid eligibility, work and community engagement requirements, and other unprecedented policies.

The GAO titled its recently-released report *Medicaid Demonstrations: Evaluations Yielded Limited Results, Underscoring Need for Changes to Federal Policies and Procedures*.ⁱ Among its findings, the GAO report notes that the federal government has failed to both require complete and timely evaluations, and to make evaluations public. As a result, neither state and federal governments, nor the public, know the impact of Medicaid demonstration waivers. Of particular concern, the GAO notes that “[d]ata and other challenges have significantly limited the scope and progress of CMS’s large, multi-state evaluation and the agency’s evaluation of Indiana’s demonstration. Further, CMS has not released available evaluation results from the multi-state evaluation nor set timeframes for making these and future federal evaluation findings public.”

This is not the first time that the GAO has raised concerns about poor CMS oversight of waiver spending and demonstrations.ⁱⁱ However, CMS is now introducing unprecedented restrictions to the Medicaid program using the demonstration waiver authority. Whether these waivers are allowable under federal law is a question pending in the federal courts. But to undertake these waivers without the basic capacity for federal evaluation evinces a disregard for the HHS’s role in overseeing the Medicaid program as Congress has enacted it. In the past, HHS actions have followed the basic Social Security Act requirements, requiring that waivers be experimental, likely to promote Medicaid’s objectives,ⁱⁱⁱ and focused on ensuring that taxpayer dollars are used wisely. The recent radical scaling back of the federal evaluation of Indiana’s HIP 2.0 demonstration is, in and of itself, a grave abdication, involving both the State of Indiana and CMS, of an obligation to carefully examine the impact of premiums and lockouts on very low-income Medicaid beneficiaries.^{iv}

The GAO noted that since 2014, there had been some positive changes in federal standards for state waiver evaluations. We urge you to build on those and to fully implement all of the GAO recommendations. However, functioning federal evaluation capacity is indispensable before approving additional waivers of unprecedented scope that, by states’ own calculations, will reduce access to health care for hundreds of thousands of low-income people. That capacity is demonstrably not in place

currently. In the absence of federal evaluations that are meaningful, independent, and public, policies that remake the Medicaid program via waiver simply cannot be implemented in what is in essence a blindfolded manner.

The undersigned organizations respectfully request that HHS not approve any new Section 1115 waivers that have the effect of limiting eligibility, reducing enrollment, or curtailing program benefits until, consistent with the GAO's recommendations, it demonstrates that it has the capacity to conduct comprehensive public evaluations of its existing waivers. We appreciate your attention to this request. To discuss further, please contact Shawn Gremminger, Senior Director for Federal Relations at Families USA: sgremminger@familiesusa.org.

Sincerely,

Families USA
ADAP Advocacy Association
Aging Life Care Association
Alaska Children's Trust
American Academy of Nursing
American Association of People with Disabilities
American Association on Health and Disability
American College of Obstetricians and Gynecologists
American Diabetes Association
American Federation of State, County and Municipal Employees (AFSCME)
American Muslim Health Professionals
American Society on Aging
Amida Care
Association of Asthma Educators
Autism Speaks
Caring Across Generations
Center for Law and Social Policy (CLASP)
Center for Medicare Advocacy
Children's Defense Fund
Children's Dental Health Project
Citizen Action of Wisconsin
Coalition on Human Needs
Community Access National Network (CANN)
Community Catalyst
Congregation of Our Lady of Charity of the Good Shepherd, US Provinces
Disability Policy Consortium
Disciples Center for Public Witness
Doctors for America
EverThrive Illinois
Family Voices
First Focus
Franciscan Action Network
GMHC
Harlem United
Health Care for America Now

Heartland Alliance
HIV Medicine Association
Justice in Aging
Kids Forward
Lakeshore Foundation
Legal Action Center
NAACP
National Academy of Elder Law Attorneys
National Advocacy Center of the Sisters of the Good Shepherd
National Alliance on Mental Illness
National Association of County and City Health Officials
National Association of Social Workers
National Consumers League
National Council of Jewish Women
National Health Law Program
National Hispanic Medical Association
National Immigration Law Center
National Latina Institute for Reproductive Health
National Partnership for Women & Families
National Patient Advocate Foundation
National Physicians Alliance
National Respite Coalition
National WIC Association
National Women's Health Network
NETWORK Lobby for Catholic Social Justice
New Jersey Association of Mental Health and Addiction Agencies
Oklahoma Policy Institute
Planned Parenthood Federation of America
Raising Women's Voices for the Health Care We Need
RESULTS
Service Employees International Union
Susan G. Komen
The AIDS Institute
The Center for Reproductive Rights
UnidosUS
Universal Health Care Action Network of Ohio
URGE: Unite for Reproductive & Gender Equity
Wisconsin Alliance for Women's Health
Wisconsin Faith Voices for Justice
Wisconsin Primary Health Care Association (WPHCA)

CC: Seema Verma, Tim Hill

¹ Government Accountability Office, *Medicaid Demonstrations: Evaluations Yielded Limited Results, Underscoring Need for Changes to Federal Policies and Procedures* (Washington, DC: Jan. 19, 2018). Available online at: <https://www.gao.gov/products/GAO-18-220>

ⁱⁱ Government Accountability Office, *Medicaid Demonstrations: Federal Action Needed to Improve Oversight of Spending* (Washington, DC: May 3, 2017). Available one at: <https://www.gao.gov/products/GAO-17-312>; *Medicaid Demonstrations: Approval Criteria and Documentation Need to Show How Spending Furthers Medicaid Objectives* (Washington, DC: May 13, 2015). Available one at: <https://www.gao.gov/products/GAO-15-239>; *Medicaid Demonstrations: More Transparency and Accountability for Approved Spending Are Needed* (Washington, DC: June 24, 2015). Available one at: <https://www.gao.gov/products/GAO-15-715T>; and *Medicaid Demonstration Waivers: Approval Process Raises Cost Concerns and Lacks Transparency* (Washington, DC: July 18, 2013). Available one at: <https://www.gao.gov/products/GAO-13-384>.

ⁱⁱⁱ 42 U.S.C. § 1315 (a) (2010).

^{iv} https://www.reginfo.gov/public/do/PRAICList?ref_nbr=201803-0938-011