August 16, 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

RE: Reopened Kentucky 1115 Medicaid Waiver Proposal

Dear Administrator Verma:

On behalf of the 54 million adults and 300,000 children with doctor-diagnosed arthritis, the Arthritis Foundation appreciates the opportunity to submit comments on the reopened notice regarding Kentucky's request to incorporate work requirements in the state's Medicaid program.

Arthritis is a complex, chronic condition and America's number one cause of disability. For many in the arthritis community, access to health care can mean the difference between a life of chronic pain and disability and a life of wellness and full mobility. According to the most recent data from Medicaid Access and CHIP Payment and Access Commission, 1 in 5 individuals whose primary coverage source was Medicaid, CHIP, or other state sponsored health plan reported having ever been told they had arthritis.[1] More broadly, we know that Medicaid enrollees who are able-bodied – about 60 percent – are already in the workforce either part-time or full-time.[2] Over one-third of those not working are disabled or ill with chronic diseases like arthritis that may limit community engagement or activities of daily living. Individuals with chronic conditions like arthritis often experience lapses in employment due to a diagnosis or may have been directed by a physician to take time away from work as part of their treatment and recovery. People with arthritis need timely access to health care in order to avoid serious complications such as further joint degeneration or hospitalizations.

A common narrative we hear from people with arthritis is that they cannot always make the best health care choices because of the chronic administrative burdens they face on top of their chronic diseases. Insurance policies are often difficult to understand, and the requirements for protocols like prior authorization and appealing denied claims differ across insurers. Ultimately, administrative barriers such as reporting requirements and high costs can lead to drug non-adherence and worsening of disease.

[1] MACPAC, December 2017. https://www.macpac.gov/wp-content/uploads/2015/12/MACStats-Medicaid-CHIP-Data-Book-December-2017.pdf
[2] https://newsatjama.jama.com/2018/01/11/jama-forum-the-problem-with-work-requirements-for-medicaid/

While we appreciate that CMS included an exemptions process for certain individuals with barriers to work, it is unclear how this process would be implemented, monitored, and adjudicated. Even if exemption criteria were better clarified, patients with serious and chronic health conditions, and the caregivers of such individuals, could still be at risk for losing coverage. Exempt enrollees will still have to provide documentation of their conditions to state offices tracking compliance with work and community engagement requirements, which creates opportunities for administrative error that could jeopardize their coverage. No exemption criteria can adequately circumvent this problem without placing undue risk upon the arthritis patients we represent.

In addition, policies that attempt to impose conditions on access to health care coverage are likely to result in people with arthritis either losing access to necessary care or working jobs at times in their lives when doing so could have a markedly negative impact on their health. Therefore, participation in work, work searches, or required community activities as a condition of Medicaid eligibility could discriminate against these individuals and create inappropriate and unwarranted barriers to medical care and good health. Further, a recent Urban Institute analysis predicts that up to 55,000 (one-third) of Medicaid eligible adults who do not qualify for an exemption could lose coverage because they either do not work enough hours, or their work hours are not consistently distributed throughout the year.[3]

The Arthritis Foundation understands the dual need to address poverty while also controlling costs. However, we are concerned that the proposed changes will require substantial state investment in infrastructure that does not align with the Medicaid program's goal of providing access to care. Implementing work requirements as proposed will necessitate costly new administrative processes, demanding considerable financial resources that would be better used providing care. States such as Kentucky, Tennessee, and Virginia have estimated that setting up the administrative systems to track and verify exemptions and work activities will cost tens of millions of dollars.[4]

Further, the administrative burden on beneficiaries to prove they have fulfilled or are exempt from work requirements will likely decrease the number of individuals with Medicaid coverage. Many organizations representing various patient communities have already seen requirements that demand tedious reporting, which means more red tape for beneficiaries. Furthermore, language barriers, disabilities, mental illness, insecure work, frequent moves, limited internet access, and temporary or chronic homelessness are more prevalent among the population, and could be significant

[3] Anuj Gangopadhyay, et al, "Kentucky Medicaid Work Requirements: What Are the Coverage Risks for Working Enrollees?" Urban Institute, August, 2018. Available at: https://www.urban.org/sites/default/files/publication/98893/2001948_kentucky-medicaid-work-requirements-what-are-the-coverage-risks-for-working-enrollees.pdf
[4] Misty Williams, "Medicaid Changes Require Tens of Millions in Upfront Costs," Roll Call, February 26, 2018. Available at: https://www.rollcall.com/news/politics/medicaid-kentucky

barriers to fulfilling these requirements.[5,6,7] Preventing people from maintaining coverage will only exacerbate the many barriers to care they already face, which Medicaid is intended to help beneficiaries overcome.

People with arthritis live with uncertainty every day and count on comprehensive health care to appropriately manage their disease. Significant administrative burdens on top of managing the complexities of their disease is an additional complicating factor. As proposed, inclusion of work requirements in Kentucky's Medicaid program would exacerbate these challenges and run counter to the important role of Medicaid in providing access to needed health care.

Before moving forward with any section 1115 waiver, we urge CMS and the respective states to work with patient groups and other stakeholders to ensure terms like "medically frail" are clearly defined, to ensure that administrative burden and cost will not be increased, to ensure that any new requirements are simple to complete, and to ensure that the policies will not result in coverage losses or other unintended consequences. Please do not hesitate to contact me with any questions or if we can be of assistance.

Sincerely,

Anna Hyde

Anna Hyde
Vice President, Advocacy and Access
Arthritis Foundation

[5] In April, the state of Arkansas indicated that it would implement a work requirement. Beneficiaries of the Arkansas Works Medicaid expansion program, which provides coverage for over 280,000 low-income adults, would be required to report work activity or request an exemption via an online portal despite over 600,000 Arkansans (23 percent) not having access to wired broadband services. (https://broadbandnow.com/Arkansas)

[6] Heather Hahn et al., Work Requirements in Social Safety Net Programs: A Status Report of Work Requirements in TANF, SNAP Housing Assistance, and Medicaid (Urban Institute) (2017), https://www.urban.org/research/publication/work-requirements-social-safety-net-programs-status-report-work-requirements-tanf-snap-housing-assistance-and-medicaid

[7] Yeheskel Hasenfeld et al., *The Logic of Sanctioning Welfare Recipients: An Empirical Assessment*, 78 Social Service Review 304–319 (2004).