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MICHAEL B. SHEEDY
EXECUTIVE DIRECTOR



February 10, 2020

The Honorable Josie Tomkow
Florida House
1301 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300

RE: Opposition to HB 1367 Medicaid Work Requirements

Dear Representative Tomkow:

While we believe in the dignity of work, everyone should have access to comprehensive, quality health care. Access should not depend on a person's employment or lack thereof. Our concerns with authorizing the Agency for Health Care Administration (AHCA) to seek a waiver for a Medicaid work requirement as outlined in HB 1367 are as follows:

Significant consequences for the poor

Despite the stated goal of ensuring able-bodied adults are employed if they are receiving Medicaid benefits, the potential for significant harmful consequences is all too real. In states that have implemented the requirement, disenrollment has reduced Medicaid enrollment and increased the churning of individuals in and out of the program. The result is a disruption of the continuity of care, which hinders the ability of health care providers to effectively manage and deliver coordinated care while precipitating a decrease in the overall health of the most vulnerable.

The work requirement will most likely affect people who are already working or exempt by imposing new reporting requirements to document compliance or exemption. Research indicates that administrative requirements in Medicaid create barriers to maintaining compliance, resulting in unintended administrative disenrollment.¹ This will result in an increase of the number of uninsured in Florida, a state that already has the fourth-highest rate of uninsured residents in the country.²

Arkansas, the first state to implement a work requirement in Medicaid in 2018, reported 18,164 adults lost Medicaid coverage because of "noncompliance" with work reporting rules.³ The state also reported that only 11%, or 1,910, had reapplied for and regained coverage in 2019.⁴ This data shows that Medicaid work requirements expose these recipients, many living below the poverty line, to diminished access to care resulting in individuals delaying needed care, increasing emergency room use and ultimately worsening health for the poor and straining the health delivery system.

¹ Rachel Garfield, Robin Rudowitz and Mary Beth Musumeci, *Implications of a Medicaid Work Requirement: National Estimates of Potential Coverage Losses*, Kaiser Family Foundation (2018) <https://www.kff.org/medicaid/issue-brief/implications-of-a-medicaid-work-requirement-national-estimates-of-potential-coverage-losses/>

² Ibid

³ Robin Rudowitz, MaryBeth Musumeci, and Cornelia Hall, *February State Data for Medicaid Work Requirements in Arkansas*, Kaiser Family Foundation (2019), <https://www.kff.org/medicaid/issue-brief/state-data-for-medicaid-work-requirements-in-arkansas/>

⁴ ibid

Medicaid work requirements mired in litigation

Recent federal court rulings have called into question the nature of work requirement proposals. Under the federal Administrative Procedures Act (APA), federal agencies may not take actions that are “arbitrary or capricious.” If they do, federal courts are instructed to hold the action unlawful and set it aside. Federal courts have ruled that that the Arkansas⁵ waiver and Kentucky⁶ waiver, containing work requirements, were arbitrary and capricious. Michigan worker requirements, set to take affect January 1, 2020, have been delayed by a class action lawsuit claiming that the requirement violates the intent of the federal Medicaid Act of 1965.⁷

Most States with work requirements expanded Medicaid first

Most of the states seeking the waiver in their Medicaid programs have done so *after* expanding their Medicaid population, applying the work requirement only to those covered under the expansion: not all beneficiaries. If AHCA should receive approval to amend Florida’s Section 1115 waiver to include a work requirement, it would be among the first non-expansion states to do so.

Cost of Implementation is not well quantified

The bill contains significant ongoing reporting requirements for Medicaid recipients, generating additional workload of agency staff to process, monitor and administer the work verification requirements. Staff analysis provides only a vague reference to potential program costs, stating, “The bill would have an operational impact on AHCA, but could be supported using existing resources.” Given the substantial increase in reporting, monitoring and administration, and presuming current efficiencies at AHCA, this assertion is at best questionable.

Health care is a human necessity and needed for human flourishing

Health care is an essential human good and should be genuinely within reach for everyone, especially the poor. As outlined by St. Pope John XXIII’s teaching in *Pacem in Terris*, access to a reasonable standard of health care meets the criteria of basic human rights: “(every person) has the right to bodily integrity and to the means necessary for the proper development of life, particularly food, clothing, shelter, medical care, rest, and, finally, the necessary social services.” This theme has been advanced by the popes and Florida bishops. The right to health care flows from the sanctity of human life and the dignity that belongs to all human persons who are made in the image and likeness of God.

While we oppose HB 1367, we would be happy to discuss, at your request, alternatives to work requirements from other states such as the creation of work training programs with local colleges for Medicaid recipients. These helpful, rather than punitive, approaches better promote and protect the inherent dignity of every individual.

Sincerely,



Ken Kniepman, M. Ed.
Associate for Health

cc: Most Rev. Thomas Wenski, Archbishop of Miami and FCCB President
Most Rev. Enrique Delgado, Auxiliary Bishop of Miami and Health Moderator
Michael B. Sheedy

⁵ *Gresham v. Azar*, Civil Action No. 18-1900(JEB) (D.C. Cir. 2019)

⁶ *Stewart v. Azar*, Civil Action No. 18-152(JEB) (D.C. Cir. 2019)

⁷ *Young V. Azar*, Civil Action No. 19-3526 (D.C. Cir. 2019)