

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 20, 2018

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to request that you issue a subpoena to compel the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) to produce documents the Trump Administration has withheld regarding efforts to impose burdensome new work requirements on beneficiaries of the Medicaid program.

On August 23, 2018, we wrote to HHS Secretary Alex Azar and CMS Administrator Seema Verma requesting information and documents regarding potential coverage losses that low-income Americans and their families may face as a result of proposed Medicaid work requirements.¹

Because these proposed work requirements have not been adequately thought through, they could cause many low-income Americans and their families to lose their health insurance simply by complying with these new requirements. This is a perverse result that even the proponents of these new requirements should oppose.

We explained that these new work requirements—especially in states that did not expand Medicaid as provided by the Affordable Care Act—could result in coverage losses for low-income individuals who become ineligible for Medicaid, but are still unable to afford private insurance. In effect, work requirements may lock these individuals out of affordable coverage.

¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Raja Krishnamoorthi, Subcommittee on Health Care, Benefits, and Administrative Rules, to Secretary Alex M. Azar, Department of Health and Human Services, and Administrator Seema Verma, Centers for Medicare and Medicaid Services (Aug. 23, 2018) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-07.EEC%20to%20Azar-HHS%2C%20Verma-CMS%20re%20ACA%20Website%20information.pdf).

For example, in Mississippi—which did not expand Medicaid under the Affordable Care Act—parents or caregivers are currently eligible for Medicaid if their income is at or below 27% of the federal poverty line, or \$467 per month.²

Mississippi has proposed requiring Medicaid beneficiaries in the state to work at least 20 hours per week. A mother working 20 hours per week at minimum wage in Mississippi would earn \$580 per month.³ This would make her ineligible for Medicaid because her monthly earnings would exceed the state's threshold for Medicaid eligibility by \$113. However, she would still make too little to qualify for the ACA's premium tax credits, which are designed to help individuals who do not qualify for Medicaid afford insurance on the private market.⁴

Because Mississippi declined to expand Medicaid to individuals earning up to 138% of the federal poverty line, the state's proposal would result in coverage loss for this mother and other low-income individuals in these circumstances. According to the Center for Children and Families at Georgetown University, 91% of Medicaid beneficiaries in Mississippi are mothers, and 71% are black.⁵

In response to these concerns, Mississippi revised its proposal to allow some parents to remain on Medicaid temporarily, and CMS reopened the proposal for public comment.⁶ However, according to the Mississippi's own calculations, approximately 20,000 low-income parents—many of whom are black mothers—will lose Medicaid coverage over the next five years under Mississippi's revised proposal.⁷

As more states move forward with proposals to condition Medicaid eligibility on work-related activities, still more low-income beneficiaries will face coverage losses. More than 4,300 Arkansans were dropped from the state's Medicaid program this month alone for failing to comply with work requirements, and even more are expected to lose their coverage next month.⁸

² Kaiser Family Foundation, *Medicaid Income Eligibility Limits for Adults as a Percent of the Federal Poverty Level* (online at www.kff.org/health-reform/state-indicator/medicaid-income-eligibility-limits-for-adults-as-a-percent-of-the-federal-poverty-level) (accessed Sept. 18, 2018).

³ Georgetown University Center for Children and Families, *Summary of Mississippi's Revised Section 1115 Medicaid Waiver Proposal* (Aug. 9, 2018) (online at <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Short-Summary-of-Mississippi-Revised-Medicaid-Waiver.pdf>).

⁴ Internal Revenue Service, *Eligibility for the Premium Tax Credit* (online at www.irs.gov/affordable-care-act/individuals-and-families/eligibility-for-the-premium-tax-credit) (accessed Sept. 18, 2018).

⁵ Georgetown University Center for Children and Families, *How Mississippi's Proposed Medicaid Work Requirement Would Affect Low-Income Families with Children* (Aug. 2018) (online at <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Proposed-Medicaid-Work-Requirement-Mississippi.pdf>).

⁶ Centers for Medicare and Medicaid Services, *Mississippi Medicaid Workforce Training Initiative—Updated* (online at <https://public.medicare.gov/connect.ti/public.comments/viewQuestionnaire?qid=1897411>) (accessed Sept. 18, 2018).

⁷ Georgetown University Center for Children and Families, *Summary of Mississippi's Revised Section 1115 Medicaid Waiver Proposal* (Aug. 9, 2018) (online at <https://ccf.georgetown.edu/wp-content/uploads/2018/08/Short-Summary-of-Mississippi-Revised-Medicaid-Waiver.pdf>).

⁸ *Work Requirement Bars Over 4,000 From Receiving Medicaid Coverage in the First Round of Coverage*

In response to our request, neither HHS nor CMS produced any of the documents and information we requested. It is imperative that the documents we requested in our August 23, 2018, letter be produced to Congress so we can understand the potential impacts of the Trump Administration's efforts to impose work requirements on low-income Americans across the country.

For all of these reasons, we request that you issue a subpoena to compel the Department to produce the following documents:

- (1) all internal and external analyses of the expected impact of imposing work requirements on coverage for low-income individuals;
- (2) all documents relating to how the Administration intends to ensure coverage for those projected to lose it as a result of work requirements;
- (3) any internal or external analyses regarding whether imposing work requirements could violate Title VI of the Civil Rights Act;
- (4) all communications referring or relating to Medicaid work requirements between or among Administration officials and to or from outside groups or individuals;
- (5) all communications between or among Administration officials and officials in states with current or pending Section 1115 demonstration waivers pertaining to work requirement-related coverage losses;
- (6) all communications between or among Administration officials and officials in states that have communicated their intent to submit Section 1115 demonstration waivers pertaining to work requirement-related coverage losses; and
- (7) all communications between or among Administration officials and officials with the State of Mississippi regarding the decision to reopen the public comment period for the Mississippi Workforce Training Initiative demonstration waiver proposal.

If you decide not to issue this subpoena, then we ask that you place this matter on the agenda for our next regularly scheduled business meeting so all Committee Members will have the opportunity to debate and vote on this motion.

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings
Ranking Member



Raja Krishnamoorthi
Ranking Member
Subcommittee on Health Care,
Benefits, and Administrative Rules

cc: The Honorable Jim Jordan
Chairman, Subcommittee on Health Care, Benefits, and Administrative Rules