MONTANA
BUDGET & POLICY
CENTER

September 28, 2015

Honorable Sylvia Mathews Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

RE: Montana Budget and Policy Center Comments on the State of Montana Health and Economic Livelihood Partnership (HELP) Program 1115 and 1915(b)(4) Waiver Requests to Federal Centers for Medicare & Medicaid Services

Dear Secretary Burwell:

The Montana Budget and Policy Center submits this comment in support of the State of Montana's proposed demonstration waiver pursuant to sections 1115 and 1916(b)(4) of the Social Security Act of 1965 (herein "the waiver"), to extend health care coverage to individuals in Montana with incomes below 138% of the federal poverty line.

Through the incredible work of a bipartisan group of legislators, Montana became the first state in eighteen months to successfully pass Medicaid expansion through its legislative process. MBPC joined a strong coalition of organizations, including low-income advocates, seniors, hospitals and providers, and health workers, in support of the Health and Economic Livelihood Partnership (HELP) Act. This effort will move Montana closer toward closing the coverage gap, reducing uncompensated care, and injecting billions in taxpayer dollars into our local economies. The HELP Act represents a hard fought and intensely negotiated measure to get the health care coverage that tens of thousands of Montanans desperately need.

The state of Montana proposes this waiver under the backdrop of federal actions that came before it. Most notably, CMS approved the state of Indiana's plan in February 2015 (during Montana's legislative session).[1] Indiana's waiver requires all newly eligible enrollees to make monthly premium contributions into health savings accounts. Individuals below the poverty line that fail to pay premiums lose access to the more generous benefits package (including loss of dental and vision coverage) and are subject to copays up to the maximum allowable amount under Medicaid law. As Kaiser Family Foundation has noted, an individual subject to copays may end up paying *more* than she would have in monthly premiums when receiving the more generous benefits plan.[2]

Under the CMS-approved Indiana waiver, individuals that are above the poverty line (and who are not deemed medically frail) are required to pay premiums or risk losing health coverage. These individuals are given a 60-day grace period, and if the premiums go unpaid, the individual is dis-

[1] Letter to Joseph Moser, Medicaid Director, Indiana Family and Social Services Administration, from Marilyn Tavener, Administrator, Centers for Medicare and Medicaid Services. January 27, 2015.
[2] Kaiser Commission on Medicaid and the Uninsured. "Medicaid Expansion in Indiana." February 3, 2015.

enrolled from coverage and "locked out" for 6 months.[3]

CMS also approved Indiana and other state 1115 waivers that eliminated retroactive eligibility, coverage for non-emergency medical transportation, and (through a separate waiver application) higher copays for non-emergency use of the emergency room.[4]

CMS' approval of Indiana's waiver set the stage for the intense, political negotiations among policymakers in the state of Montana that resulted in the enactment of the bipartisan Health and Economic Livelihood Partnership (HELP) Act. It is in this context that Montana proposes this waiver.

MBPC Comments on Montana's Proposed Waiver

MBPC submits the following comments on Montana's draft waiver, submitted to CMS on September 15, 2015.

Exemptions from Enrollment in Third-Party Administered Plan. We appreciate and support Montana's consideration that certain populations may be unable to access a sufficient provider network provided by the Third Party Administrator (TPA). As articulated in the waiver, these populations will be exempt from TPA enrollment and will instead be enrolled in traditional Medicaid. Exempt populations will include American Indians as well as those deemed medically frail. We believe this is an appropriate and efficient way to ensure these individuals are exempt from premiums and cost sharing (as required by federal law).

Most notably, Montana's proposed expansion of Medicaid represents an crucial step in addressing one of the most challenging inequities facing Indian Country: lack of access to comprehensive health care and its impact on health and quality of life. Out of 33 states with significant American Indian populations, Montana ranks the highest of any state in uninsured American Indians (40 percent).[5] American Indians residing in Montana suffer from significant disparities in life expectancy (nearly 20 years) and in nearly every measure of health and illness. The causes of health disparities are complex, but inadequate access to health care is one important and correctable contributor.[6]

MBPC urges CMS to maintain the current exemption from TPA enrollment and to define these exemptions broadly to ensure these difficult-to-serve populations have access to quality coverage.

CMS should ensure that the state's process for determining medically frail should be evidence-based, and the process should allow for determination at any time during the coverage period in the event a change in status has occurred.

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[3] Kaiser Commission on Medicaid and the Uninsured. "Medicaid Expansion in Indiana." February 3, 2015.
[4] Rodowiz, R., Artiga, S., Musumeci, M. "The ACA and Medicaid Expansion Waivers." Kaiser Commission on Medicaid and the Uninsured. February 17, 2015.
[5] Ed Fox, PhD, and Verne Boerner, MPH, "Health Care Coverage & Income of American Indians & Alaska Natives," October 2012.
[6] Donald Warne, MD, MPH, "Research and Educational Approaches to Reducing Health Disparities Among American Indians and Alaska Natives," *Journal of Transcultural Nursing* (July 2006), pp. 1-6.

Premiums and Copays. While MBPC has concerns about the impact of premiums on enrollment and access to coverage, we acknowledge that CMS has previously approved premiums and cost sharing similar to what Montana's waiver imposes.[7] Like Indiana, Montana's waiver imposes premiums on newly-eligible individuals enrolled in the TPA plan, set at 2 percent of household income.[8] The combination of premiums and copays will not exceed 5 percent of quarterly income, consistent with the current Montana Medicaid program.

We appreciate that, consistent with previously approved waivers, Montana's waiver ensures that failure to pay premiums by those below 100% of the federal poverty line will not result in loss of health care coverage. Furthermore, unlike Indiana, failure to pay premiums will *not* result in loss of certain health care benefits, such as dental and vision.

Individuals between 100% and 138% of the federal poverty line that fail to pay premiums may be subject to dis-enrollment (with limited exceptions articulated in the HELP Act). These individuals will be able to re-enroll once unpaid premiums are paid or when the Department of Revenue (DOR) assesses the debt against the individual's income taxes.

We urge CMS to ensure the state provides clear guidance on the process it will undertake in determining when premiums and copays reach the maximum allowable amount under Medicaid law.

Fast Track and Continuous Eligibility. *MBPC strongly supports the state's waiver provisions applying for Fast Track Express Lane Eligibility Waiver, as well as, the proposal for 12-month continuous eligibility.* Utilizing existing data, such as state's Supplemental Nutrition Assistance Program (SNAP) to determine eligibility for Medicaid is an efficient way to reach thousands of Montanans that we already know are eligible for coverage. Providing 12-month continuous eligibility will help reduce churn and provide greater continuity of coverage.

Conclusion

MBPC appreciates the opportunity to submit this comment, and we urge CMS to approve Montana's waiver. We stand ready to help see that Montana is successful in implementing this plan to provide tens of thousands of Montanans access to affordable health care coverage.

Sincerely,

Heather K. O'Loughlin
Co-Director
Montana Budget and Policy Center

[7] Rodowiz, R., Artiga, S., Musumeci, M. "The ACA and Medicaid Expansion Waivers." Kaiser Commission on Medicaid and the Uninsured. February 17, 2015.
[8] Indiana's waiver imposes premiums on those with no income, requiring all individuals to pay at least $1 monthly premium in order to access the more generous benefits plan.