

October 15, 2015

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

Re: Comments on Montana's Proposed Health and Economic Livelihood Partnership (HELP) Program

Dear Secretary Burwell,

Community Catalyst appreciates the opportunity to comment on Montana's proposal to expand Medicaid through a Section 1115 Medicaid demonstration, known as the Health and Economic Livelihood Partnership (HELP) Program.

Community Catalyst is a national non-profit advocacy organization dedicated to quality affordable health care for all. Since 1997, Community Catalyst has been working to build the consumer and community leadership required to transform the American health system. With the belief that this transformation will happen when consumers are fully engaged and have an organized voice, Community Catalyst works in partnership with national, state and local consumer organizations, policymakers, and foundations, providing leadership and support to change the health care system so it serves everyone - especially vulnerable members of society.

We commend Montana for developing a bipartisan compromise to close the coverage gap. While there are individual elements in this compromise that we do not support because we believe they may harm access to care for beneficiaries, we support this compromise as a whole because it provides a path to affordable coverage for 70,000 low-income Montanans who would otherwise be left behind. Given the political realities in Montana, we believe this waiver proposal represents the state's best chance at closing the coverage gap. We urge HHS to negotiate a waiver agreement with the state that allows these coverage gains to be realized.

We also strongly support Montana's proposal to implement 12-month continuous eligibility for all MAGI adults in the state. This policy will reduce churn, promote improved assessment of health care quality, and reduce administrative burdens of states and individuals. We urge HHS to grant this waiver.

Despite our support, we do have concerns with how certain provisions in the proposed waiver will impact low-income beneficiaries. **To the extent possible, while ensuring that the coverage gains in this proposed waiver are realized, we urge HHS to reach a compromise with Montana that reduces or eliminates the following barriers to coverage and care for low-income beneficiaries:**

- **Premiums for enrollees.** Montana proposes that newly eligible adults pay a premium equal to 2 percent of their income. Community Catalyst generally opposes waivers to charge premiums in Medicaid for those earning below 150% FPL, because a substantial body of literature demonstrates that even nominal premiums deter enrollment into the program. This is especially true among the lowest-income enrollees, who are struggling to afford basic necessities like housing and food. Premiums would no doubt impose severe financial hardship and/or deter these families from enrolling in coverage.

While we appreciate that this proposal does not charge higher premiums than were approved in Indiana, we have concerns about the proposal's intention to couple these premiums with cost-sharing at maximum levels allowed under Medicaid. In Indiana's waiver, beneficiaries who were charged premiums were *not* charged most co-payments. The combination of premiums and maximum allowable costs is likely to increase financial hardship on already-financially-strapped families.

If HHS approves this level of premiums and cost-sharing for beneficiaries, we urge inclusion of the following provisions that can help limit the impact of these costs on beneficiaries' access to coverage and to care:

- *Limit total premiums for a couple to 2 percent of income.* The current wording in the waiver proposal is ambiguous on this issue, but we recommend limiting the total premiums for a couple on Medicaid to 2% of household income, rather than allowing the state to charge each adult a premium equal to 2% of household income (which would total to 4% of household income.)
- *Hardship exemption.* In Iowa, where the state has permission to charge premiums to beneficiaries with income between 50 and 100 percent of the poverty line, the monthly invoices sent to beneficiaries subject to premium make it clear that beneficiaries can attest to hardship, in which case premiums are waived entirely. We encourage HHS to work with Montana to develop a similar hardship waiver to exempt those who would face dire financial situations as a result of these premiums.
- *Enrollment in coverage effective prior to premium payment.* Our read of Montana's proposed waiver is that an enrollee can enroll in Medicaid even if they have not yet paid their premium. Requiring upfront premium payment before the enrollee's coverage becomes effective would only exaggerate the deterrent effect of premiums on enrollment. We urge HHS to ensure that this essential consumer protection remains in the final negotiated waiver.
- **Disenrollment for non-payment of premiums.** Montana's proposal says enrollees with incomes above the poverty line who fail to pay their premiums "will be disenrolled from coverage until they pay overdue premiums or until the Department of Revenue assesses the premium debt against their income taxes." Community Catalyst generally opposes waivers to allow a state to disenroll a beneficiary for failure to pay premiums, because it would undoubtedly lead to lower enrollment in Medicaid and cause individuals to undergo periods without coverage and therefore delay or forgo needed care.

To minimize the disruption in coverage and care caused by a disenrollment policy, we encourage HHS to work with Montana to structure any disenrollment policy like the one approved in Iowa and Pennsylvania. In these states, beneficiaries who lose coverage because of failure to pay can promptly re-enroll in coverage.

If HHS does approve a disenrollment period wherein enrollees cannot re-enroll without paying back-owed premiums, we urge them to limit how long that disenrollment period can last. In particular, we strongly urge HHS to limit any disenrollment period to no greater than six months.

Additionally, we appreciate that unlike in Indiana where a six-month lockout period was approved, the proposed Montana waiver would enable an individual to re-enroll once they have paid their back-owed premiums *or* once the individual has been assessed for the premium debt – whichever comes first. This would allow someone with a specific time-sensitive medical need to pay their back-owed premiums and continue getting coverage. We urge CMS to ensure that this protection remains in the final approved waiver.

Finally, the Montana proposal says that certain populations with incomes above the poverty line “may be exempt from disenrollment if they engage in a wellness program”, but there is no information on how such a program would work. We urge CMS and Montana to develop a wellness protocol that is achievable by most people, such as the one in Michigan, in which beneficiaries have their co-payment obligations reduced if they see a primary care physician at some point during the year. It would be especially helpful if individuals could engage in this wellness program within the first 90 days of enrollment. Under that set-up, individuals who were not able to afford their premiums would be able to remain continuously enrolled in the program by participating in the wellness program during their initial premium payment grace period.

We also urge HHS to work with Montana to more explicitly define who is an individual with “exceptional health care needs.” Montana’s proposal says that individuals who have a medical, mental health or developmental condition will not be enrolled in the waiver and instead will be covered by the state’s regular Medicaid program. Such an exemption is a critical feature of this demonstration, and the special terms and conditions should more clearly define what qualifies as an “exceptional” need and the process for determining when someone meets the standard. It is important to define both how someone will get screened for having “exceptional health care needs” at initial enrollment, as well as a process for determining when an existing beneficiary has developed a qualifying condition and therefore is eligible to switch enrollment to the state’s regular Medicaid program.

It is also worth noting that unlike the proposed Michigan waiver currently before CMS that would limit the amount of time some beneficiaries could stay enrolled in the traditional Medicaid program as it exists today, the proposed Montana waiver would not put burdens or requirements on the Medicaid expansion population earning over 100 percent of poverty that go beyond those placed on beneficiaries who qualify for Advanced Premium Tax Credits in the Marketplace. Community Catalyst believes that under no circumstances should barriers to coverage or care be imposed on Medicaid beneficiaries that would not be allowed in the Marketplace.

Of course, this should not be the sole factor in deciding whether a proposal is acceptable - it is a necessary but not sufficient criterion. Since the Medicaid population is on average frailer and more vulnerable than those eligible for Marketplace plans, meaningful access requires that they should typically be subject to fewer barriers to coverage and care. This standard is embodied in the Medicaid statute. Proposals that seek to waive financial protections for Medicaid beneficiaries must, among other things, present a strong rationale, and require close monitoring and careful evaluation, in order to ensure that the waiver of protections or benefits typically available to Medicaid beneficiaries is not causing harm.

Again, while we have concerns with individual elements in this proposed waiver as outlined above, overall we support this compromise. We urge HHS to work with Montana to reach a compromise that ensures that the coverage gains inherent in the proposed waiver are realized.

Thank you for your willingness to consider our comments. If you would like any additional information, please contact Katherine Howitt, Associate Director of Policy, at khowitt@communitycatalyst.org or 617-275-2849.

Respectfully submitted,

A handwritten signature in cursive script that reads "Robert Restuccia".

Robert Restuccia
Executive Director
Community Catalyst