

May 9, 2018

The Honorable Alex Azar  
Secretary of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Azar:

The undersigned organizations represent millions of Medicaid enrollees, providers, and payers. We write to express our deep concerns regarding the ineffectiveness of Medicaid demonstration waiver evaluations as documented by the Government Accountability Office (GAO).

As the largest single health coverage program in the nation, Medicaid is a critical Department of Health and Human Services (HHS) responsibility. Today, the program covers nearly one-in-five Americans, including nearly 40 percent of children, more than 40 percent of births, and more than 60 percent of people in nursing homes. As you know, your department has approved several high-risk Medicaid waivers in Kentucky, Indiana, and Arkansas, and is expected to approve more. These waivers allow states to implement lockouts from Medicaid eligibility, work and community engagement requirements, and other unprecedented policies.

The GAO titled its recently-released report *Medicaid Demonstrations: Evaluations Yielded Limited Results, Underscoring Need for Changes to Federal Policies and Procedures*.<sup>i</sup> Among its findings, the GAO report notes that the federal government has failed to both require complete and timely evaluations, and to make evaluations public. As a result, neither state and federal governments, nor the public, know the impact of Medicaid demonstration waivers. Of particular concern, the GAO notes that “[d]ata and other challenges have significantly limited the scope and progress of CMS’s large, multi-state evaluation and the agency’s evaluation of Indiana’s demonstration. Further, CMS has not released available evaluation results from the multi-state evaluation nor set timeframes for making these and future federal evaluation findings public.”

This is not the first time that the GAO has raised concerns about poor CMS oversight of waiver spending and demonstrations.<sup>ii</sup> However, CMS is now introducing unprecedented restrictions to the Medicaid program using the demonstration waiver authority. Whether these waivers are allowable under federal law is a question pending in the federal courts. But to undertake these waivers without the basic capacity for federal evaluation evinces a disregard for the HHS’s role in overseeing the Medicaid program as Congress has enacted it. In the past, HHS actions have followed the basic Social Security Act requirements, requiring that waivers be experimental, likely to promote Medicaid’s objectives,<sup>iii</sup> and focused on ensuring that taxpayer dollars are used wisely. The recent radical scaling back of the federal evaluation of Indiana’s HIP 2.0 demonstration is, in and of itself, a grave abdication, involving both the State of Indiana and CMS, of an obligation to carefully examine the impact of premiums and lockouts on very low-income Medicaid beneficiaries.<sup>iv</sup>

The GAO noted that since 2014, there had been some positive changes in federal standards for state waiver evaluations. We urge you to build on those and to fully implement all of the GAO recommendations. However, functioning federal evaluation capacity is indispensable before approving additional waivers of unprecedented scope that, by states’ own calculations, will reduce access to health care for hundreds of thousands of low-income people. That capacity is demonstrably not in place

currently. In the absence of federal evaluations that are meaningful, independent, and public, policies that remake the Medicaid program via waiver simply cannot be implemented in what is in essence a blindfolded manner.

**The undersigned organizations respectfully request that HHS not approve any new Section 1115 waivers that have the effect of limiting eligibility, reducing enrollment, or curtailing program benefits until, consistent with the GAO's recommendations, it demonstrates that it has the capacity to conduct comprehensive public evaluations of its existing waivers.** We appreciate your attention to this request. To discuss further, please contact Shawn Gremminger, Senior Director for Federal Relations at Families USA: [sgremminger@familiesusa.org](mailto:sgremminger@familiesusa.org).

Sincerely,

Families USA  
ADAP Advocacy Association  
Aging Life Care Association  
Alaska Children's Trust  
American Academy of Nursing  
American Association of People with Disabilities  
American Association on Health and Disability  
American College of Obstetricians and Gynecologists  
American Diabetes Association  
American Federation of State, County and Municipal Employees (AFSCME)  
American Muslim Health Professionals  
American Society on Aging  
Amida Care  
Association of Asthma Educators  
Autism Speaks  
Caring Across Generations  
Center for Law and Social Policy (CLASP)  
Center for Medicare Advocacy  
Children's Defense Fund  
Children's Dental Health Project  
Citizen Action of Wisconsin  
Coalition on Human Needs  
Community Access National Network (CANN)  
Community Catalyst  
Congregation of Our Lady of Charity of the Good Shepherd, US Provinces  
Disability Policy Consortium  
Disciples Center for Public Witness  
Doctors for America  
EverThrive Illinois  
Family Voices  
First Focus  
Franciscan Action Network  
GMHC  
Harlem United  
Health Care for America Now

Heartland Alliance  
HIV Medicine Association  
Justice in Aging  
Kids Forward  
Lakeshore Foundation  
Legal Action Center  
NAACP  
National Academy of Elder Law Attorneys  
National Advocacy Center of the Sisters of the Good Shepherd  
National Alliance on Mental Illness  
National Association of County and City Health Officials  
National Association of Social Workers  
National Consumers League  
National Council of Jewish Women  
National Health Law Program  
National Hispanic Medical Association  
National Immigration Law Center  
National Latina Institute for Reproductive Health  
National Partnership for Women & Families  
National Patient Advocate Foundation  
National Physicians Alliance  
National Respite Coalition  
National WIC Association  
National Women's Health Network  
NETWORK Lobby for Catholic Social Justice  
New Jersey Association of Mental Health and Addiction Agencies  
Oklahoma Policy Institute  
Planned Parenthood Federation of America  
Raising Women's Voices for the Health Care We Need  
RESULTS  
Service Employees International Union  
Susan G. Komen  
The AIDS Institute  
The Center for Reproductive Rights  
UnidosUS  
Universal Health Care Action Network of Ohio  
URGE: Unite for Reproductive & Gender Equity  
Wisconsin Alliance for Women's Health  
Wisconsin Faith Voices for Justice  
Wisconsin Primary Health Care Association (WPHCA)

CC: Seema Verma, Tim Hill

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<sup>1</sup> Government Accountability Office, *Medicaid Demonstrations: Evaluations Yielded Limited Results, Underscoring Need for Changes to Federal Policies and Procedures* (Washington, DC: Jan. 19, 2018). Available online at: <https://www.gao.gov/products/GAO-18-220>

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<sup>ii</sup> Government Accountability Office, *Medicaid Demonstrations: Federal Action Needed to Improve Oversight of Spending* (Washington, DC: May 3, 2017). Available one at: <https://www.gao.gov/products/GAO-17-312>; *Medicaid Demonstrations: Approval Criteria and Documentation Need to Show How Spending Furthers Medicaid Objectives* (Washington, DC: May 13, 2015). Available one at: <https://www.gao.gov/products/GAO-15-239>; *Medicaid Demonstrations: More Transparency and Accountability for Approved Spending Are Needed* (Washington, DC: June 24, 2015). Available one at: <https://www.gao.gov/products/GAO-15-715T>; and *Medicaid Demonstration Waivers: Approval Process Raises Cost Concerns and Lacks Transparency* (Washington, DC: July 18, 2013). Available one at: <https://www.gao.gov/products/GAO-13-384>.

<sup>iii</sup> 42 U.S.C. § 1315 (a) (2010).

<sup>iv</sup> [https://www.reginfo.gov/public/do/PRAICList?ref\\_nbr=201803-0938-011](https://www.reginfo.gov/public/do/PRAICList?ref_nbr=201803-0938-011)