

Partnership for Medicaid Partnership for Medicaid

August 24, 2012

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C., 20201

Dear Secretary Sebelius:

On behalf of the Partnership for Medicaid – a nonpartisan, nationwide coalition of safety-net providers, counties, labor and health plans – we write to offer our thoughts on the expansion of Medicaid eligibility stipulated in the Affordable Care Act (ACA). While the Supreme Court ruling upheld the Medicaid coverage expansion as mandatory for states, by removing critical federal enforcement mechanisms the expansion is effectively voluntary.

We would like the opportunity to meet with you and/or your staff to talk about the role of Partnership members in the viability of the Medicaid program and how we can work together to ensure the best possible outcomes for the coverage expansion beginning in 2014.

Maximize Coverage While Preserving the Existing Program

The Partnership for Medicaid strongly believes in the value of health care coverage. Recent studies have demonstrated that Medicaid coverage demonstrably improves health care outcomes and financial security for beneficiaries compared to being uninsured.ⁱ One recent study found that having Medicaid coverage saves lives.ⁱⁱ While Medicaid has proven its value in improving the lives of children, pregnant women, and the disabled, millions of vulnerable adults remain without basic health care coverage.

Women stand to significantly benefit under the Medicaid expansion. Because there will no longer be a categorical requirement for eligibility, low-income women without children or who are not pregnant will be able to gain insurance coverage. Estimates suggest that this will help as many as 10 million women. Further, low-income parents who currently do not qualify for Medicaid coverage in the typical state will gain coverage. The typical state covers working parents with incomes only up to 63 percent of the poverty line and unemployed parents with incomes up to only 37 percent of the poverty line.

Studies have shown that low-income families with uninsured parents are three times as likely to include eligible but uninsured children as families with parents covered by private insurance or Medicaid.ⁱⁱⁱ Thus, the Medicaid expansion will also benefit many children. Because health care

coverage is so critical, we strongly urge you to work with governors and state legislatures to find opportunities to expand Medicaid in all 50 states while maintaining the entitlement that is the foundation of the program.

While many states will move to implement the expansion, leaders in other states continue to express hesitation. In your negotiations with states, we urge you to ensure that Medicaid beneficiaries – and the providers who serve them – are not unintentionally harmed in the interest of “flexibility.” Experience has taught us that some arrangements that promise savings for federal or state treasuries simply shift costs to providers, plans, counties, and ultimately beneficiaries, without guaranteeing commensurate improvement to health outcomes for enrollees.

Preserve Maintenance-of-Effort Requirements

While the Supreme Court clearly ruled that the federal government may not withhold all federal funding for Medicaid due to non-compliance of states to expand Medicaid, we are deeply concerned some state leaders are arguing that the ACA’s maintenance of effort (MOE) requirement is also unenforceable. We thank you for the letter that you issued to the National Governors Association on July 10 stating that the Court’s decision does not affect other provisions of the law. The Congressional Research Service also released a memorandum specifically stating that the ruling does not strike down the law’s MOE requirement.

The MOE requirement is extremely important for children and adults covered under Medicaid, and we offer our support in efforts to ensure that states maintain eligibility levels as stipulated under the ACA. One well-regarded projection shows that removal of the MOE would cause the number of uninsured children to rise to more than 8 million (compared to 7 million children if the ACA were overturned) – a step backward that our country cannot afford.^{iv}

The Partnership respectfully requests that your office issue additional guidance specifically addressing the maintenance of eligibility issue; namely, stating that the Court ruling does not affect the MOE requirement, that the MOE requirement may not be waived, and that the federal government reserves the statutory right to enforce the MOE requirement through any and all means afforded under applicable federal statute.

Disavow Cost-Shifting Cuts to Medicaid

While we work together on efforts to make the case that Medicaid expansion is in everyone’s best interest, we urge you to drop counter-productive proposals to cut federal Medicaid spending by shifting costs onto states. Namely, we urge you to disavow:

- Any proposals which limit the ability of states to use provider taxes to fund their Medicaid programs. Provider taxes are used by more than 40 states to fund their Medicaid programs. Limiting states’ authority to use provider taxes creates a greater strain on their already stretched budgets. These cuts would shift costs onto both states and safety net providers and would hurt vulnerable Medicaid patients’ access to care by forcing states to make drastic cuts to the program.

- Proposals to reduce federal spending by lowering federal matching rates. Any proposal that would effectively reduce federal matching rates essentially represents a significant cost shift onto states, safety net providers, and beneficiaries.

These ideas do nothing to make Medicaid more efficient. Instead, they hurt patients by limiting access to care.

Preserve Adequate Provider Funding

As you know, Medicaid reimbursement is often significantly below the cost of care – a challenge which can limit access for beneficiaries. Many Medicaid providers use alternative funding streams to ensure access for all patients. We urge you to act deliberately to minimize the potential for harm from the imposition of the ACA’s deep cuts to Medicaid disproportionate share hospital (DSH) payments. As you know, the ACA imposed significant cuts to Medicaid DSH payments – used to compensate safety net hospitals for costs associated with uninsured patients and Medicaid under-reimbursement – as a partial offset for the cost of the Act’s coverage expansion. While expanded coverage provided a rationale for reduced DSH funding, the cuts do not adjust to less-than-optimal coverage uptake – now projected by the Congressional Budget Office to be between 6-10 million beneficiaries lower than originally estimated when the law was enacted. As we work with Congress to minimize the DSH cuts which can no longer be justified, it is critical that you develop a methodology to target the remaining DSH funds within each state to those hospitals that need it most.

Similarly, it is vital that other providers with a high volume of Medicaid patients receive adequate funding in order to stay operational and provide care for our nation’s most vulnerable individuals. We urge you to be wary of the potential impact of forthcoming proposals on provider rates and to not waive payment rules that permit Federally-qualified health centers (or FQHCs) and rural health clinics (RHCs), for example, to provide cost-effective primary and preventive care to nearly 1 in 5 Medicaid beneficiaries.

We appreciate the opportunity to provide our thoughts on the Medicaid expansion. We would like to continue this conversation and cordially invite you or a designee to meet with the Partnership in the coming weeks to discuss our concerns and how we can work together to ensure the most effective expansion of Medicaid coverage possible.

We will follow-up with you to find a time to further discuss these critical issues. In the meantime, please contact Shawn Gremminger, Partnership First co-Chair, at sgremminger@naph.org with any questions.

Sincerely,

American Congress of Obstetricians and Gynecologists
American Health Care Association
American Public Health Association
Association of Clinicians for the Underserved
Association for Community Affiliated Plans
Catholic Health Association of the United States
Children's Hospital Association
Easter Seals
The Jewish Federations of North America
National Association of Community Health Centers
National Association of Counties
National Association of Pediatric Nurse Practitioners
National Association of Public Hospitals and Health Systems
National Association of Rural Health Clinics
National Council for Community Behavioral Healthcare
National Health Care for the Homeless Council
National Hispanic Medical Association
National Rural Health Association

cc: Marilyn Tavenner, Acting Administrator, Centers for Medicare and Medicaid Services
Cindy Mann, Director, Center for Medicaid and CHIP Services

ⁱ Amy Finkelstein, *et al.* "The Oregon Health Insurance Experiment: Evidence from the First Year +." *The Quarterly Journal of Economics*, June 2012.

ⁱⁱ Benjamin D. Sommers, M.D., Ph.D., Katherine Baicker, Ph.D., and Arnold M. Epstein, M.D., "Mortality and Access to Care among Adults After State Medicaid Expansions," *The New England Journal of Medicine*, July 25, 2012

ⁱⁱⁱ Martha Heberlein, *et al.*, "Medicaid Coverage for Parents Under the Affordable Care Act," Georgetown University Center for Children and Families, June 2012.

Sara Rosenbaum, *et al.*, "Parental Health Insurance Coverage as Child Health Policy: Evidence from the Literature," Department of Health Policy, George Washington University, June 2007.

Karyn Schwartz, "Spotlight on Uninsured Parents: How a Lack of Coverage Affects Parents and their Families," Kaiser Commission on Medicaid and the Uninsured, June 2007.

Leighton Ku and Matthew Broaddus, "Coverage of Parents Helps Children, Too," Center on Budget and Policy Priorities, October 2006.

^{iv} Kenney, Genevieve, *et al.*, "Improving Coverage For Children Under Health Reform Will Require Maintaining Current Eligibility Standards For Medicaid And CHIP," *Health Affairs*, December, 2011.