THE PARTNERSHIP FOR MEDICAID

July 21, 2021

Chiquita Brooks-LaSure
Administrator, Centers for Medicare & Medicaid Services
Department of Health and Human Services
Box 8016, Baltimore, MD 21244-8016

Re: Congratulations and Welcome from the Partnership for Medicaid

Dear Administrator Brooks-LaSure:

On behalf of the Partnership for Medicaid (Partnership)—a nonpartisan, nationwide coalition of health care providers, safety net health plans, and counties—the undersigned organizations are thrilled to congratulate you on your historic confirmation as Administrator for the Centers for Medicare and Medicaid Services (CMS). As a coalition of 23 organizations, the Partnership seeks to raise awareness about the vital role the Medicaid program plays in the health and wellbeing of our country. By working in a bipartisan manner with all levels of government and affected constituency groups, we seek to provide viable solutions to improving the quality and delivery of services, with the aim of constraining costs without undermining the program's fundamental goals. Our organizations look forward to working with you in your new role to preserve and strengthen the Medicaid program and support its vital role as a safety net for millions of Americans.

Below is a non-exhaustive list of priorities that the Partnership would like to see CMS address. Please note the below signatures do not indicate that any single organization is actively advocating for any individual proposal. In addition, the Partnership recently updated our core principles, which are centered on five themes: meaningful coverage; sustainable financing; effective administration; quality and innovation; and health equity. We welcome the opportunity to discuss these priorities and principles in more detail.

COVID-19 Testing and Treatment for Medicaid and CHIP Beneficiaries

The Partnership has concerns with certain policies that were finalized as part of CMS-9912-IFC – Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency Interim Final Rule (IFR) in January 2021. During the comment period, we objected to CMS taking a limited view of the requirements of Section 6008(b)(4) of the Families First Coronavirus Response Act (FFCRA) with regard to COVID-19 testing and treatment, during and after the public health emergency (PHE), that excludes individuals eligible for limited benefit categories. We continue to disagree with CMS's interpretation that states can receive the temporary 6.2 percent increase in their Federal Medical Assistance Percentage (FMAP) authorized under FFCRA while denying COVID-19 testing services and treatment to Medicaid beneficiaries based on the scope of their pre-PHE coverage. **CMS should reinterpret the requirements of the FFCRA to cover COVID-19 testing services and treatment for *all* individuals currently enrolled in Medicaid.**

COVID-19 Continuous Coverage Requirement

As Medicaid stakeholders, the Partnership acknowledges that states are facing budget constraints driven by the pandemic and increased Medicaid enrollment. Nevertheless, states should not be permitted to resolve budget deficits at the expense of vulnerable populations, like those enrolled in Medicaid, and especially during a PHE. In CMS-9912-IFC – Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency, the Partnership found it unreasonable for CMS to interpret the term "enrolled for benefits" in Section 6008(b)(3) of FFCRA to mean "validly enrolled" for purposes of FFCRA Section 6008. We are similarly concerned about the implications of this narrow definition for individuals found eligible for Medicaid under presumptive eligibility. Under the IFR, CMS states that individuals deemed eligible via presumptive eligibility are not "validly enrolled" for the purposes of the continuous coverage provision, on the theory that these individuals "have not received a determination of eligibility under the state plan." The Medicaid statute consistently describes presumptive eligibility (for example, under hospital presumptive eligibility) as "determining, on the basis of preliminary information, whether any individual is eligible for medical assistance…."[1] **CMS should rescind this language that attempts to distinguish the presumptively eligible population from other Medicaid populations for the purposes of the continuous coverage requirement.**

Forthcoming End of the Public Health Emergency and Medicaid Eligibility Cliff

The Partnership for Medicaid and other Medicaid stakeholders and the constituents we represent are beginning to plan for the end of the PHE. An abrupt end to the continuous coverage requirement could result in millions of people experiencing gaps in coverage and care; states inundated with redeterminations, causing substantial and costly administrative burden; providers left without payment and faced with substantial administrative burden when formerly-covered people present without Medicaid coverage; and Medicaid health plans experiencing an abrupt and potentially destabilizing decrease in enrollment. In December 2020, CMS issued guidance called Planning for the Resumption of Normal State Medicaid, Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Operations Upon Conclusion of the COVID-19 Public Health Emergency. **CMS should revise and reissue this guidance to ensure that no Medicaid enrollee experiences an unnecessary and dangerous gap in coverage after the end of the PHE.**

COVID-19 Provider Relief Fund

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) created a Public Health and Social Services Emergency Fund (PHSSEF) to provide up to $100 billion in funding for health care providers, including Medicaid providers. An additional $75 billion was appropriated in the Paycheck Protection Program and Health Care Enhancement Act. The Partnership continues to call on the Department of Health and Human Services (HHS) and CMS to ensure that a proportional amount of the remaining PHSSEF funding (and any additional relief funding appropriated by Congress) is provided quickly to ALL Medicaid providers and health professionals impacted by the COVID-19 pandemic. **We urge HHS and CMS to swiftly release the remaining funds, with a focus on targeting financial relief to Medicaid providers.**

American Rescue Plan Act Medicaid Expansion for Certain Mandatory Individuals

The American Rescue Plan Act (ARPA) included a provision that provides a five-percentage-point increase to the regular FMAP rate for qualifying states that implement the Affordable Care Act's (ACA)

Medicaid expansion. These qualifying states include the remaining 12 states that have not taken up this option, leaving about 4 million uninsured people who would have qualified for expanded Medicaid coverage. The Partnership has been supportive of initiatives to expand Medicaid to these low-income individuals who are locked out from accessing coverage. **We welcomed the informational bulletin released on June 3rd and ask that HHS and CMS work to expedite any additional guidance for states so that they can take advantage of the generous ARPA subsidies.**

State Plan Option to Extend Medicaid Coverage to One Year Postpartum

Medicaid is a primary payer of maternity care in the U.S., covering 43 percent of births nationwide.[2] Yet under current law, pregnancy-related Medicaid coverage ends roughly 60 days after delivery. Closing this critical gap in coverage can mean the difference between life and death for many mothers. This is also a matter of health equity, as nearly half of all non-Hispanic Black women had discontinuous insurance from pre-pregnancy to postpartum.[3] Black women also make up a disproportionate share of Medicaid enrollees and therefore would benefit from an extension of postpartum Medicaid coverage.[4]

With the passage of ARPA, beginning April 1, 2022, states can elect to provide 12 months of coverage after the end of pregnancy to postpartum Medicaid beneficiaries. Importantly, the coverage that states provide through the full postpartum year must be comprehensive. States that take up the option and provide coverage to lower-income pregnant individuals through their state Children's Health Insurance Program (CHIP) must also provide a full year of postpartum coverage to individuals covered under the CHIP pathway.[5] Since the creation of the state plan option, and the recent CMS approval of several Section 1115 demonstration waivers to extend coverage, state interest in this policy has grown.[6] **CMS should issue guidance to the states on the parameters of this new option well in advance of the April 1, 2022 effective date, with a focus on addressing inequities in maternal health outcomes.**

Access Monitoring in the Medicaid Program

The access monitoring requirements for fee-for-service (FFS) Medicaid that were established in 2015 provided meaningful oversight and enforcement of the equal access provision of the Medicaid statute. This provision requires that Medicaid provider payments be "consistent with efficiency, economy, and quality of care…and sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."[7] CMS is responsible for enforcing this provision. Unfortunately, the access monitoring requirements were severally weakened under the previous administration.[8] The Partnership is concerned about inadequate oversight and enforcement of the equal access provision. **We understand from the spring 2021 unified agenda that the agency is working on a notice of proposed rulemaking on "Assuring Access to Medicaid Services." We urge CMS to engage stakeholders, like the Partnership, in this important work.**

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Thank you for the opportunity to share our priorities and principles. We welcome the opportunity to discuss this content and answer any questions you may have. Please contact Jonathan Westin, First Co-Chair of the Partnership for Medicaid, at Jonathan.Westin@JewishFederations.org with questions or to schedule a meeting.

Sincerely,

American Academy of Family Physicians
American Academy of Pediatrics
American College of Obstetricians and Gynecologists
American Dental Association
American Dental Education Association
American Health Care Association
American Network of Community Options & Resources (ANCOR)
America's Essential Hospitals
Association for Community Affiliated Plans
Association of Clinicians for the Underserved
The Catholic Health Association of the United States
Children's Hospital Association
The Jewish Federations of North America
National Association of Counties
National Association of Pediatric Nurse Practitioners
National Association of Rural Health Clinics
National Rural Health Association

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[1] 42 CFR §435.1110

[2] Medicaid and CHIP Payment and Access Commission. Medicaid's Role in Financing Maternity Care. January 2020. Retrieved from: https://www.macpac.gov/wp-content/uploads/2020/01/Medicaid%E2%80%99s-Role-in-Financing-Maternity-Care.pdf.

[3] Daw JR, Kolenic GE, Dalton VK, Zivin K, Winkelman T, Kozhimannil KB, Admon LK. Racial and Ethnic Disparities in Perinatal Insurance Coverage. Obstet Gynecol 2020;135(4):917-924.

[4] Medicaid and CHIP Payment and Access Commission. Medicaid's Role in Financing Maternity Care. January 2020. Retrieved from: https://www.macpac.gov/wp-content/uploads/2020/01/Medicaid%E2%80%99s-Role-in-Financing-Maternity-Care.pdf.

[5] There are currently six states that cover pregnant individuals under CHIP: Colorado, Missouri, New Jersey, Rhode Island, Virginia and West Virginia.

[6] American College of Obstetricians and Gynecologists. Extend Postpartum Medicaid Coverage. Map current as of May 31, 2021. Available at: https://www.acog.org/advocacy/policy-priorities/extend-postpartum-medicaid-coverage?utm_source=vanity&utm_medium=web&utm_campaign=advocacy

[7] 42 U.S.C. § 1396a(a)(30)(A)

[8] "The Latest Installment In The Saga Of The Medicaid Equal Access Guarantee, " Health Affairs Blog, August 23, 2019. DOI: 10.1377/hblog20190820.245433