

SUBMITTED VIA MEDICAID.GOV ONLINE PORTAL

February 7, 2020

The Honorable Alex M. Azar II, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20202

Ms. Seema Verma, Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Mr. Calder Lynch, Acting Deputy Administrator & Director
Center for Medicaid & CHIP Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Comment on Georgia's Proposed Section 1115 Demonstration Waiver

Dear Secretary Azar, Administrator Verma, and Director Lynch:

The Southern Poverty Law Center (SPLC) writes regarding the Georgia Department of Community Health's (DCH) proposed Georgia Pathways to Coverage Section 1115 Demonstration Waiver.¹ We previously submitted a comment on the State's initial proposed Section 1115 waiver during Georgia's state notice and comment period. We appreciate this opportunity to again comment on Georgia's Section 1115 waiver proposal, which will negatively affect the daily lives of thousands of Georgians if it is approved.

The SPLC is a non-profit legal organization with offices in Georgia and other states across the Deep South. For over four decades, the SPLC has sought justice for, and represented the needs of, the most vulnerable members of our society, particularly communities of color who are punished or penalized for their economic status. The SPLC is committed to ensuring that low-income people across America have access to health coverage and care. With this commitment, and for the reasons explained below, the SPLC respectfully urges the Department of Health and Human Services, the Centers for Medicare & Medicaid Services, and the Center for Medicaid & CHIP Services to **deny** the proposed Section 1115 Demonstration Waiver.

Georgia's Section 1115 waiver proposal does not depart in any significant way from the draft waiver application submitted for the state public notice and comment period. Though the State made two changes to this draft proposal in response to the public comments from the state comment period, those changes were minor and non-substantive.² Thus, the revised waiver pending before HHS and CMS suffers from the same deficiencies of the draft waiver application, which are further detailed below. Georgia's failure to meaningfully address the public's concerns leaves the State's proposed waiver even more vulnerable to legal attack.

The core purpose of Medicaid is to provide health insurance to our most vulnerable members of society. The Medicaid program was created because leaders across the United States recognized, over five decades ago, that in order to create a healthier America for everyone, the most vulnerable among us need health insurance. To this end, states that participate in Medicaid must comply with federal eligibility, coverage, and service requirements.

Section 1115 of the Medicaid Act authorizes states to seek limited waivers of certain federal Medicaid requirements by proposing demonstration projects for approval by the federal government. Although Section 1115 waivers provide states with a measure of flexibility to administer and deliver Medicaid services to recipients, the waivers must ultimately promote the principal objective of the Medicaid Act: furnishing medical assistance to the most vulnerable members of our society.³ Georgia's proposed Section 1115 waiver will fail to meet this goal.

Georgia currently has one of the most limited Medicaid programs in the United States, enrolling only children, the elderly, people with disabilities, pregnant women, and families with extremely low or no income (e.g., less than \$6,600 per year for a family of three—30% of the Federal Poverty Guidelines).⁴ And, as a result of Georgia's decision not to expand its Medicaid program in the past, between 450,000 and 536,000 individuals in Georgia are currently ineligible for Medicaid,⁵ including 267,000 Georgians who fall into the Medicaid gap because their incomes are too high to qualify for Medicaid but too low to qualify for subsidies under the Affordable Care Act.⁶ For these reasons, Georgia's uninsured rate currently is 12.9%—the fifth highest in the country—and in rural Georgia, the uninsured rate could reach more than 25% by 2026.⁷

The proposed Section 1115 waiver—which sets forth strict work requirements, mandatory copays, and monthly premiums and penalizes noncompliance with suspension or cancellation of enrollment in Medicaid—will not significantly reduce Georgia's uninsured rate and will deprive many newly eligible people of health care. Additionally, individuals enrolled under the waiver will not be able to access the same scope of services current enrollees are able to access due to the waiver's elimination of retroactive eligibility and non-emergency medical transportation (NEMT), as set forth below. If the Section 1115 waiver is approved, Georgia projects that only 47,362 new Georgians will enroll in Medicaid by 2022, and only 52,509 will enroll by 2025. These estimates represent only a small fraction—11.6% and 12.87%, respectively—of the 408,000 Georgians living under 100% of the poverty line who would be newly eligible for healthcare under the waiver's limited expansion.

In addition to reducing access to Medicaid through burdensome requirements, the proposed waiver's expansion—which limits the extension of Medicaid coverage to parents, caretakers, or guardians with household incomes from 35 to 100% of the federal poverty line and adults without dependent children with household incomes up to 100% of the federal poverty line—does not go far enough to reach other low-income populations in Georgia.⁸ Accordingly, as detailed below, the proposed Section 1115 waiver does not meaningfully expand Medicaid access to the hundreds of thousands of Georgians who currently live without health care coverage.

Work requirements, monthly premiums, copayments, and cancellation of NEMT are inconsistent with the purposes of the Medicaid Act and the stated objectives of the Section 1115 waiver

Georgia's Section 1115 waiver does not meaningfully advance the primary goal of the Medicaid Act. Although the proposed waiver would extend Medicaid coverage to some Georgians who are not currently eligible for Medicaid, it fails to account for the thousands of people likely to lose coverage under the limited expansion due to its stringent eligibility requirements. To illustrate, coverage under the Section 1115 waiver is contingent upon an individual's ability to demonstrate 80 hours of employment, job training, community service, or education. It also requires individuals to pay monthly premiums and copayments for services. Failure to meet the work requirement or to pay required monthly premiums results in penalties, including suspension of Medicaid enrollment and disenrollment.

Contrary to the State's explanation in its waiver application, the proposed Section 1115 waiver is far from expanding access to healthcare to low-income families who desperately need it, as it creates unnecessary obstacles to Medicaid access, resulting in scanty coverage of the population made newly eligible under the waiver. Simply put, the waiver will result in arbitrary eligibility for individuals who are otherwise similarly situated: a person who is unable to work or otherwise satisfy the waiver's activity requirements but has the same income and same health conditions as someone who is able to satisfy these requirements will not receive coverage. Such an outcome violates, and thus renders the waiver proposal fundamentally inconsistent with, the core purpose of Medicaid to provide healthcare coverage to the most needy. The recent judicial vacatur of HHS's approval of Kentucky's and Arkansas's proposals⁹ further underscore that waivers that erect barriers to accessing Medicaid coverage counteract this purpose.

In response to public comments the State received during the state comment period, Georgia has attempted to justify the proposal's activity requirements based on the requirements for the Temporary Assistance for Needy Families (TANF) program. Section 1115 Waiver Appl. at 28. However, TANF is a separate program whose objectives—such as ending dependence of needy parents and encouraging formation of two-parent households—drastically vary from the objectives of the Medicaid Act.¹⁰ Furthermore, TANF's work requirements are fundamentally incompatible with the Medicaid Act's primary goal of expanding health care coverage. Indeed, as reflected in the low enrollment rates projected by the State, work requirements will likely cause thousands of otherwise eligible individuals to lose healthcare coverage.¹¹

The proposed Section 1115 waiver is also inconsistent with its own stated goals and objectives. Georgia’s waiver proposal lists among its objectives “support[ing] Georgians on their journey to self-sufficiency,” “reduc[ing] the number of uninsured,” and “[i]mprov[ing] the health of low-income Georgians by increasing their access to affordable healthcare coverage by encouraging work and other employment-related activities.” Section 1115 Waiver Appl. at 2–3. However, conditioning Medicaid eligibility upon work and the payment of premiums and copayments lacks empirical support and defies logic. Studies have shown that mandated work programs have actually *worsened* health outcomes, failed to increase long-term employment, and failed to reduce poverty.¹² An analysis of other public benefit assistance programs that imposed work requirements on recipients has shown only modest increases in employment at the outset of the requirement that have decreased over time.¹³ Moreover, far from leading to self-sufficiency, the vast majority of people subjected to work requirements in other assistance programs have not escaped poverty, and some have fallen deeper into poverty.¹⁴

Conversely, studies have shown that access to healthcare through Medicaid enrollment increases the likelihood that an individual will obtain employment. In Ohio, for example, Medicaid recipients enrolled in Medicaid expansion reported that having coverage made it easier for them to maintain their employment, and among those recipients who were unemployed, nearly 75% reported that having Medicaid coverage made it easier to look for employment.¹⁵ Health coverage also makes it easier for families to buy food, pay housing costs, and pay off existing debts.¹⁶ People simply cannot work if their basic needs are not met or if they are not healthy. And far from incentivizing work, stripping people of insurance will lead to a spike in medical debt, as individuals find themselves unable to pay their health care bills and thus fall deeper into poverty. This hurts all Georgians.

Like the work requirements, the requirements to pay monthly premiums and copayments also undermine Georgia’s stated goals of the Section 1115 waiver to improve the health of low-income Georgians and to increase the number of persons who become employed or engage in employment-related activities. Conditioning Medicaid eligibility upon low-income Georgians’ ability to pay copayments and monthly premiums sets these individuals up to fail. Consider, for example, individuals who can demonstrate their participation in 80 hours per month of job training, community service, or enrollment in higher education. Despite meeting the proposed work requirement under Georgia’s Section 1115 waiver, many of these individuals who fulfill the requirement through training, volunteer, or educational hours would not be compensated for those 80 hours and, without an income, would be at high risk of losing their Medicaid eligibility for inability to pay their monthly premiums.

Additionally, individuals with incomes above 50% of the federal poverty line, who are not otherwise exempted, must pay up to 5% of their household income on premiums and copayments. This means that Georgians earning incomes at 50% of the federal poverty line—approximately \$6,000 for an individual or \$10,500 for a family of three¹⁷—could owe up to \$300 or \$525, respectively, in premiums and copayments. This imposes an enormous burden on residents who are already struggling to make ends meet.

In response to numerous public comments expressing these and similar concerns about the proposed waiver's imposition of premiums and copays, Georgia defended these requirements as "an important policy lever to engage members and establish personal responsibility similar to what is expected of those insured outside of Medicaid." Section 1115 Waiver Appl. at 30. But the State failed to explain how modeling Medicaid on health insurance programs outside of Medicaid is consistent with the goal of expanding coverage through Medicaid to individuals who cannot otherwise afford to enroll in those programs. If Georgia wishes to improve the health of low-income Georgians, then it must not penalize its most vulnerable residents by withholding healthcare from them based on their economic status.

Georgia's decision to attach work and monthly premium requirements to its proposed expansion of coverage is especially cruel, given that nearly 15% of Georgia's population lives below the federal poverty level;¹⁸ 15.5% of women and 11.6% of men aged 18 through 64 live in poverty;¹⁹ and 21% of Georgian children live in households below the federal poverty line.²⁰ Rates of poverty in Georgia are even higher among communities of color, with 23.4% of Latinos, 21.5% of African Americans, 19.9% of Native Americans, and 9.4% of Asian Americans living under the poverty line, compared to 11% of Whites.²¹ The proposed work requirements will thus have a disproportionately negative impact on these communities of color, especially given that 46% of Medicaid recipients in Georgia are African-American.²² Moreover, research has shown that African-American public benefit recipients are more likely to be punished for non-compliance than white beneficiaries.²³ Accordingly, the waiver does not go far enough to help vulnerable individuals and communities of color maintain health coverage and care, or address significant concerns that it could exacerbate Georgia's racial disparities with regard to health; worse, it penalizes these populations for being unable to meet strict work and monetary requirements.

The proposed waiver also unfairly burdens parents and caregivers, who would be forced to complete 80 hours per month of work, job training, higher education, or community service to receive and continue receiving Medicaid coverage in addition to maintaining their fulltime caretaking responsibilities. In Georgia, 28% of adults enrolled in Medicaid reported caretaking responsibilities as the primary reason for not working.²⁴ And because most recipients will likely only be able to obtain low-wage employment that often comes with a volatile schedule, many will be forced to choose between caring for their children and loved ones and meeting the proposed work requirement.²⁵

Hamstrung by work and monthly premium requirements, the expansion is too limited to shore up Georgia's rural and safety-net healthcare providers. All Georgians get sick and most will eventually need medical care, regardless of whether they have insurance. As people lose their Medicaid coverage, many will be turned away by private providers and thus will have to rely on emergency rooms to access treatment, both for emergencies and for routine health services.²⁶ For example, as Georgia's opioid crisis worsens and takes an indiscriminate and devastating toll on Georgia's families, hospitals must treat those suffering from addiction as well as those bearing the burden of secondary effects of addiction, including infants and children.²⁷ Because hospitals primarily bear the cost of treating the uninsured, many face closure when Medicaid reimbursements are not available.²⁸ Across Georgia, seven rural hospitals have closed since 2013, and more than half of the state's remaining rural hospitals are financially vulnerable to closure.²⁹ By limiting Medicaid coverage and imposing

strict requirements on eligible recipients, the proposed Section 1115 waiver is unlikely to stem the closure of these hospitals, which are the last resort for many poor Georgians. Furthermore, the waiver is silent about how hospitals and other health facilities will make up for the additional cost for uncompensated care.³⁰ Indeed, Earl Rogers, president and CEO of the Georgia Hospital Association, recently stated that the “[w]aiver does not significantly move the needle for the rural and safety net hospitals who care for the state’s uninsured patients.”³¹

As hospitals continue to close in rural areas, individuals who do not have access to private transportation increasingly rely on NEMT to travel significant distances to receive medical care.³² Indeed, as of 2013, Medicaid enrollees in Georgia used NEMT to make nearly 4 million trips to access medical care.³³ Thus, the proposed waiver’s elimination of NEMT will hinder Medicaid’s and the waiver’s objectives of expanding access to health care by making it more difficult for Georgians to get to their medical appointments. Millions of Americans, and especially individuals from low-income, minority, and rural communities, already miss non-emergency medical appointments each year due to lack of transportation.³⁴ And in Georgia, more than 80% of counties already have a health transportation shortage.³⁵ The proposed waiver’s cancellation of NEMT will therefore only exacerbate Georgia’s coverage shortfall and ensure that even those who maintain Medicaid eligibility will not receive care if they cannot find transportation.

In response to public comments, Georgia explained that it eliminated NEMT so that benefits included in the proposed waiver will be “as similar as possible to the benefits the majority of the Georgian population receives under their health insurance coverage, which generally does not include NEMT.” Section 1115 Waiver Appl. at 29-30. But Medicaid is designed to extend health coverage to Georgia’s poorest residents, many of whom, as described above, face transportation challenges that wealthier Georgians do not experience. Moreover, as the State itself acknowledged, the proposed waiver departs from coverage under the Medicaid State Plan, which provides NEMT services to all enrollees. The State’s elimination of NEMT services based on its unavailability in non-Medicaid plans will irrationally heighten an already steep barrier to healthcare access faced by Medicaid enrollees and impede the basic objectives of the Medicaid Act.

Additional key concerns with Georgia’s Section 1115 waiver proposal

In addition to the problems with work requirements, premiums, and copayments detailed above, Georgia’s waiver proposal suffers from the following deficiencies as to how the waiver will actually be implemented, leaving the public with substantial uncertainty about the proposal’s operation:

- *The proposal does not explain how it accounts for the loss of coverage that will result from the failure to meet its eligibility requirements.* The proposal estimates that over 47,000 additional people will enroll under the Section 1115 waiver by 2022 and that over 52,000 will enroll by 2025. Yet the proposal does not explain how these estimates account for the number of individuals in a given year who will lose coverage because they are unable to meet the 80-hour work requirement or pay monthly premiums. The loss of coverage resulting from the proposed waiver’s requirements undermines the fundamental purpose of Medicaid to provide healthcare coverage to those who cannot

afford it. Indeed, similar proposals by other states have been struck down for the failure to consider impacts on coverage and possible disenrollment.³⁶

- *The proposal does not provide for exemptions from the work and activities requirement for people who are chronically ill or otherwise unable to work or engage in employment-related activities for 80 hours per month.* The proposal recognizes “temporary” impediments to compliance with the work and activities requirement, such as family emergencies or “other life changing event[s],” the birth or death of a family members, serious illness or hospitalization, severe weather, homelessness, and other “good cause reasons” approved by the State. Section 1115 Waiver Appl. at 10. However, it does not explain whether exemptions will be made for individuals who cannot meet the requirement due to chronic conditions or other long-term factors rendering them unable to satisfy the 80-hour requirement. Those individuals will face particularly severe burdens in meeting these requirements, yet the waiver proposal offers them no additional support or resources. The proposal is also silent about whether and how recipients could challenge their suspension or disenrollment from Medicaid for failure to comply with the work and activities requirement due to a chronic medical condition.
- *The proposal does not provide for exemptions from payment of the monthly premium for people with chronic illnesses or others who are simply unable to pay.* The proposal provides several exceptions to the requirement that individuals must pay “sliding scale flat rate monthly premium payments tiered based on family income.” Section 1115 Waiver Appl. at 13. However, the proposal does not explain whether exemptions will be made for those who cannot make their monthly payments due to chronic illness or other factors. Nor does it explain whether it will allow enrolled individuals to show good cause for their inability to pay before their enrollment is suspended or terminated. The proposal is also silent about whether and how recipients could challenge their suspension or disenrollment from Medicaid for failure to pay a monthly premium.
- *The proposal ignores the impact of parental and caretaker health coverage on children.* The health and stability of children largely depends on the health and stability of their parents and caretakers. In recent years, as several states have moved to expand Medicaid under the ACA, the impacts have not only been felt by newly eligible adults, but also by their children, because children with insured parents are more likely to receive pediatric care and preventive services.³⁷ As parents lose coverage, their children are also less likely to be enrolled in healthcare plans and to receive healthcare, even if the child remains eligible for Medicaid and CHIP.³⁸ Taking away parents’ and caretakers’ health insurance leads to financial instability and distress for the whole family, creating a greater risk to children’s health.³⁹ If the real intent of the proposal is to make families healthier, Georgia must consider the impacts that losing parental and caretaker coverage will have on the entire family.
- *The proposal does not account for Georgians’ inability to report compliance with the work requirements.* The proposal purports to create a new eligibility pathway for those who can demonstrate an hours and activities threshold of 80 hours per month of engagement in a qualifying activity, such as work, job training, enrollment in higher

education, or community service. Georgia’s proposal will permit recipients to report their hours online as well as in person. But in Georgia, over 25% of Georgian households lack broadband internet service.⁴⁰ Additionally, the transportation shortage in many of Georgia’s counties will hinder Georgians’ ability to report in person.⁴¹ Thus, many low-income families will struggle to comply with the reporting requirements, even if they are compliant with the work requirement, simply because they lack reliable internet access and transportation.

- *The proposal is modeled after commercial healthcare plans and does not grant recipients the full array of services available under the Medicaid State Plan.* The proposal states that it seeks “to provide a benefit package more consistent with commercial plan benefits” by requesting a waiver for certain services, including NEMT and certain vision and dental services for 19 and 20-year-olds. Section 1115 Waiver Appl. at 11. The proposal does not explain why recipients enrolled pursuant to the Section 1115 waiver will not have access to the full range of benefits provided under the Medicaid State Plan, including NEMT. Nor does it explain its rationale for modeling Medicaid after commercial plans or how doing so will advance Medicaid’s goal of providing healthcare to the country’s most vulnerable families and individuals.
- *The proposal eliminates retroactive coverage, undermining the goals of Medicaid.* The proposal seeks a waiver of the requirement of providing three months retroactive coverage “[t]o better align with commercial health insurance coverage.” Section 1115 Waiver Appl. at 10. However, the proposal’s alignment with commercial plans does nothing to advance Medicaid’s objective of expanding access to health care. Nor does the proposal consider that waiving retroactive coverage will create gaps in coverage and reduce access to Medicaid services by weakening the network of providers serving enrollees. As with Arkansas’s similar waiver, Georgia’s proposal to “limit[] retroactive coverage may lead ‘Medicaid-eligible persons [to] wait even longer to have their conditions treated to avoid incurring medical bills they cannot pay.’ And when they do eventually arrive for treatment, they will be covered for less time than they would have been before [the waiver] t[a]k[es] effect. . . , by definition reducing their Medicaid coverage.”⁴² This undermines Medicaid’s most fundamental goals of extending coverage to the nation’s poorest people and improving health outcomes.
- *The proposal is silent on the costs of administering and monitoring compliance with the work requirements.* Even though Georgia does not provide any estimates on administrative costs, one can look at other states, such as Kentucky, Tennessee, and Virginia, to gather a sense of just how much this proposal will cost Georgia. Kentucky projected that enacting work requirements would cost the state *more* money to cover *fewer* people.⁴³ To administer the work requirements and monitor compliance, states must develop new programming and infrastructure and hire additional staff, costing taxpayers tens of millions of dollars.⁴⁴ These substantial expenses will have particularly negative consequences for participants in Georgia’s Medicaid program, which has been historically underfunded.⁴⁵
- *The proposal is unnecessarily costly to cover a small number of people, by Georgia’s own estimates.* Given that the Section 1115 waiver falls far short on coverage, it is also

needlessly costly, thus undercutting the State's supposed rationale that the waiver promotes fiscal sustainability of Medicaid. Under the proposed partial expansion, Georgia will pay more to cover this small fraction of its poorest residents than it would have had the State fully expanded Medicaid coverage to individuals earning up to 138% of the federal poverty line, as other states have done.⁴⁶ By 2022, the State will spend approximately \$215 million to cover a mere 47,000 people made eligible for Medicaid under both the 1115 Medicaid and 1332 waivers.⁴⁷ By contrast, a full expansion of Medicaid would permit Georgia to extend coverage to over 400,000 more people for a total of \$213 million.⁴⁸ The reason is simple: if Georgia fully expands Medicaid, it will receive a 90% federal matching rate, in contrast to the mere 67% federal matching rate Georgia stands to receive for a partial expansion through the proposed Section 1115 waiver.⁴⁹ In addition to spending more state funds for less coverage, Georgia risks leaving billions of federal dollars on the table. As detailed, the proposed waiver is a missed opportunity that will have devastating impacts on Georgia's most vulnerable communities and on its health care providers and hospitals.

- *The proposal does not provide recipients with information about work support services or explain how it would pay for these services.* States mandating work as a condition of Medicaid coverage are required to provide work support services such as job training, transportation, and child care, which are critical to moving low-income individuals into the workforce.⁵⁰ Yet, the Centers for Medicare and Medicaid Services prohibits states from using federal Medicaid funding to provide work support services,⁵¹ and the proposal does not state that Georgia would provide these required services, let alone specify how the State would pay for them. Thus, Georgia must find funds in its limited Medicaid budget to provide work support services. Additionally, not only will the proposal drive up administrative costs for the Georgia Medicaid Agency itself, but it will also burden already overburdened and underfunded social workers and direct service providers, who will be forced to shift their focus from assisting their clients with their needs to ensuring that their clients comply with the work requirements.

The proposed Section 1115 waiver will not further Medicaid's core objective of expanding access to health coverage and care. Nor will it make Georgians healthier or the economy stronger. The proposal will, however, strike a blow to far too many Georgians living in deep poverty, particularly in communities of color, while simultaneously driving up costs for already overburdened state budgets and local hospitals. The SPLC sincerely hopes that the Department of Health and Human Services, the Centers for Medicare & Medicaid Services, and the Center for Medicaid & CHIP Services will deny this proposal after considering the numerous concerns expressed above and in public comments by other interested persons and organizations. However, if they decide to approve this disastrous and cruel proposal, the SPLC will stand by the families who will be impacted and defend their ability to fully participate in the Georgia Medicaid program.

Thank you again for the opportunity to comment on this issue.

Sincerely,



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¹ Although DCH has proposed the Section 1115 waiver in conjunction with the Georgia Access Section 1332 Waiver, we do not write regarding the 1332 waiver at this time.

² Those changes solely included the elimination of all references to the Transitional Medical Assistance population and clarification of the enrollment commitment for higher education as a qualifying activity to receive Medicaid coverage. Section 1115 Waiver Appl. at 32-33.

³ Congress passed Medicaid “[f]or the purpose of enabling each State, as far as practicable . . . to furnish (1) medical assistance on behalf of” families and individuals “whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care.” 42 U.S.C. § 1396-1.

⁴ Georgia Budget and Policy Institute, *Medicaid Works for Georgia* 1-2 (2017), <https://cdn.gbpi.org/wp-content/uploads/2017/04/Medicaid-Works-for-Georgia.pdf>.

⁵ Georgia Department of Audits and Accounts, Fiscal Note on HB 37 (LC 46 0015) (2019), accessible at <https://opb.georgia.gov/fiscal-notes/2019-2020-regular-session>.

⁶ Kaiser Family Foundation, *Medicaid in Georgia* (2019), <http://files.kff.org/attachment/fact-sheet-medicaid-state-GA>.

⁷ Laura Harker, Georgia Budget and Policy Institute, *Fast Facts on Georgia’s Coverage Gap* (2018), <https://gbpi.org/2018/fast-facts-georgias-coverage-gap/>.

⁸ While the State says it cannot fully expand Medicaid because the Patients First Act only permits expansion up to 100% of the federal poverty line (FPL), Section 1115 Waiver Appl. at 27, Georgia could follow the lead of many other states that have enacted legislation to require full expansion for coverage up to 138% of the FPL under the Affordable Care Act, Kaiser Family Foundation, *An Overview of State Approaches to Adopting the Medicaid Expansion*, Feb. 27, 2019, <http://bit.ly/389fjhO>; Kaiser Family Foundation, *The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid*, Jan. 14, 2020, <http://bit.ly/2xqvzdn>. Thus, the State’s position that it, under no circumstance, could be able to fully expand Medicaid is baseless.

⁹ See *Gresham v. Azar*, 363 F. Supp. 3d 165 (D.D.C. 2019) (vacating U.S. Department of Health and Human Services’ approval of Arkansas’s Section 1115 waiver, which conditioned eligibility on work requirements and elimination of retroactivity, where it did not address effects of coverage loss from waiver and thus violated Medicaid’s core objectives), *appeal docketed*, No. 19-5094 (D.C. Cir. Apr. 11, 2019); *Stewart v. Azar*, 366 F. Supp. 3d 125 (D.D.C. 2019) (same with respect to federal reapproval of Kentucky’s Section 1115 waiver, which included work requirements, premiums, and copayments, and eliminated retroactive eligibility, among other

components), *appeal docketed*, No. 19-5095 (D.C. Cir. Apr. 11, 2019); *Stewart v. Azar*, 313 F. Supp. 3d 237 (D.D.C. 2018) (same with respect to initial federal approval of Kentucky's Section 1115 waiver).

¹⁰ Office of the Administration for Children & Families, Office of Family Assistance, *About TANF*, <https://www.acf.hhs.gov/ofa/programs/tanf/about>.

¹¹ Jennifer Wagner and Jessica Schubel, Ctr. On Budget & Policy Priorities, *States' Experiences Confirming Harmful Effects of Medicaid Work Requirements*, Oct. 22, 2019, <http://bit.ly/2UuJXXL>.

¹² Hannah Katch, Center on Budget and Policy Priorities, *Medicaid Work Requirements Would Limit Health Care Access Without Significantly Boosting Employment* (2016), <https://www.cbpp.org/research/health/medicaid-work-requirement-would-limit-health-care-access-without-significantly>; Robert Rector, Heritage Foundation, *Work Requirements in Medicaid Won't Work. Here's a Serious Alternative* (2017), <https://www.heritage.org/health-care-reform/commentary/work-requirements-medicaid-wont-work-heres-serious-alternative>.

¹³ LaDonna Pavetti, Ctr. on Budget & Policy Priorities, *Work Requirements Don't Cut Poverty, Evidence Shows 9-11* (2016), <https://www.cbpp.org/sites/default/files/atoms/files/6-6-16pov3.pdf>.

¹⁴ *Id.*

¹⁵ Ohio Dep't of Medicaid, *Ohio Medicaid Group VII Assessment: A Report to the Ohio General Assembly*, (2017), <http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf>.

¹⁶ Center for Law & Social Policy, *The Evidence Builds: Access to Medicaid Helps People Work 1* (2017), <https://www.clasp.org/sites/default/files/publications/2017/04/The-Evidence-Builds-Access-to-Medicaid-Helps-People-Work.pdf>.

¹⁷ Office of the Assistant Secretary for Planning and Evaluation, *Poverty Guidelines* (2019), <https://aspe.hhs.gov/poverty-guidelines>.

¹⁸ Talk Poverty, *Georgia 2018* (2018), <https://talkpoverty.org/state-year-report/georgia-2018-report/>.

¹⁹ *Id.*

²⁰ United Health Foundation, *Health Impact: Children in Poverty* (2018), <https://www.americashealthrankings.org/explore/annual/measure/ChildPoverty/state/GA>; see also Nedra Rhone, The Atlanta Journal-Constitution, *Georgia Remains Among the States where Childhood is Most Threatened* (May 30, 2018), <https://www.ajc.com/news/state--regional/georgia-remains-among-the-states-where-childhood-most-threatened/I7onUFO5o3gUIg8EWFb0qI/>.

²¹ Talk Poverty, *supra* note 18.

²² Kaiser Family Foundation, *Medicaid Enrollment by Race/Ethnicity* (2013), <https://www.kff.org/medicaid/state-indicator/medicaid-enrollment-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

²³ Sanford F. Schram et al., *Deciding to Discipline: Race, Choice, and Punishment at the Frontlines of Welfare Reform*, 74 Am. Soc. Rev. 398 (2009).

²⁴ Rachel Garfield, Robin Rudowitz & Anthony Damico, Kaiser Family Foundation, *Understanding the Intersection of Medicaid and Work 10* (2018), <http://files.kff.org/attachment/Issue-Brief-Understanding-the-Intersection-of-Medicaid-and-Work>.

²⁵ Center for Law & Social Policy, *Doubling Down: How Work Requirements in Public Benefit Programs Hurt Low-Wage Workers 1-3* (2017), <https://www.clasp.org/sites/default/files/publications/2017/08/Doubling-Down-How-Work-Requirements-in-Public-Benefit-Programs-Hurt-Low-Wage-Workers.pdf>.

²⁶ Craig Garthwaite, Tal Gross & Matthew J. Notowidigdo, *Hospitals as Insurers of Last Resort* (Nat'l Bureau of Econ. Research, Working Paper No. 21290, 2015), available at <http://www.nber.org/papers/w21290.pdf>; Kellogg School of Mgmt., Northwestern Univ., *Who Bears the Cost of the Uninsured? Nonprofit Hospitals* (2015), <https://insight.kellogg.northwestern.edu/article/who-bears-the-cost-of-the-uninsured-nonprofit-hospitals>.

²⁷ American Academy of Pediatrics, *America's Opioid Crisis: The Unseen Impact on Georgia Children*, https://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/Opioid-StateFactsheets/opioid_fs_georgia.pdf; see also Chelsea Stephens, Georgia.gov, Blog, *Georgia's Opioid Epidemic and Ways to Get Help* (Dec. 12, 2017), <https://georgia.gov/blog/2017-12-12/georgia%E2%80%99s-opioid-epidemic-and-ways-get-help>.

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