

Congress of the United States
House of Representatives
Washington, D.C. 20515
February 14, 2018

The Honorable Alex M. Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar:

We write in opposition to the Administration's actions that will allow, for the first time in the Medicaid program, a work requirement as a condition of coverage. We are deeply concerned that linking health coverage to a work requirement not only will undermine access to health care, but contradicts the plain text and purpose of Title XIX of the Social Security Act and Congress's longstanding intent for the Medicaid program. We urge you to reconsider these actions, which are outside the boundaries of the statutory authority provided to you under the Medicaid Act.

Congress enacted Title XIX in 1965 with a clear statutory objective to provide (1) "medical assistance [to eligible 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."¹ To the extent Medicaid's objectives mention "independence," that is explicitly in the context of helping low-income individuals, particularly those with disabilities, maximize their integration in their communities.

Section 1115 of the Social Security Act permits states to waive certain federal Medicaid requirements to conduct an "experimental, pilot, or demonstration project" that achieves the goals of the Medicaid program.² Notably, Medicaid's existing flexibility has allowed states to find innovative ways to shape their programs to deliver quality care and protect consumers against health crises while lowering costs. Today, more than thirty states across the country have taken advantage of this flexibility by conducting demonstrations that, in line with the statute and CMS's (Centers for Medicare and Medicaid Services) own stated principles, *improve* the coverage and delivery of health care services. States have used Section 1115 waiver authority to undertake innovative delivery system reform initiatives; for instance, tying provider incentive payments to performance goals and/or better integrating primary and

¹ 42 U.S.C. § 1396-1.

² 42 U.S.C. § 1315.

behavioral health care.³ These types of projects indisputedly advance the health of Medicaid beneficiaries, in line with the text and purpose of the Medicaid Act, by improving the care beneficiaries receive and helping them to access quality health services.

In contrast to these demonstrations, waivers with ideologically driven policies such as work requirements, mandatory drug testing, lock-out periods, coverage time limits, onerous premiums, and cost-sharing not only undermine, but exceed the statutory authority provided to the Secretary under Section 1115 and contravene longstanding Congressional intent. Far from promoting health, these types of policies will make it difficult for families struggling to make ends meet to access the care they need and are entitled to under Title XIX. Ultimately, this leads to poorer health for individuals and difficulty in maintaining successful employment, costing the system more in the long run and negatively impacting the overall health of our communities. That is why past Democratic and Republican Administrations have resoundingly rejected these types of waiver requests on the basis that such provisions would not further the program's statutory purposes of promoting health coverage and access.

Unfortunately, this Administration has chosen to take actions furthering these types of ideologically-based demonstrations. On January 11, CMS issued a State Medicaid Director letter that advertised the agency's intent to approve 1115 waivers that would condition an otherwise eligible individual's medical assistance on unprecedented work requirements.⁴ On January 12, CMS announced its approval of an amendment to Kentucky's ongoing Section 1115 demonstration tying the receipt of medical assistance for otherwise eligible individuals to meeting burdensome work and other requirements. In the more than 50 years of the Medicaid program's existence, this is the first time CMS has approved a state request to condition access to health care on work and related activities.

Such actions to tie health coverage to work are motivated purely on the basis of ideology and mistaken assumptions about what Medicaid is and who it covers. Medicaid is a part of the lives of more than 70 million elderly, low-income, disabled adults and children that depend on the program to help provide them piece of mind and financial security to move their families out of poverty. The reality is that CMS's recent actions ignore a fundamental truth: most of those who can work, are working, but may fall through the cracks and lose their coverage due to harsh and inflexible implementation of this ideologically-driven policy.

Medicaid demonstrations that adopt restrictive conditions on eligibility like work requirements, mandatory drug testing, lock-out periods, coverage time limits, disenrollment,

³ Kaiser Family Foundation, "Section 1115 Medicaid Demonstration Waivers: The Current Landscape of Approved and Pending Waivers," (Dec. 13 2017), (<https://www.kff.org/medicaid/issue-brief/section-1115-medicaid-demonstration-waivers-the-current-landscape-of-approved-and-pending-waivers/>).

⁴ Letter from Brian Neale, Director for the Center for Medicaid and CHIP Services, to State Medicaid Directors (Jan. 11, 2018), (<https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf>) ("Letter to State Medicaid Directors").

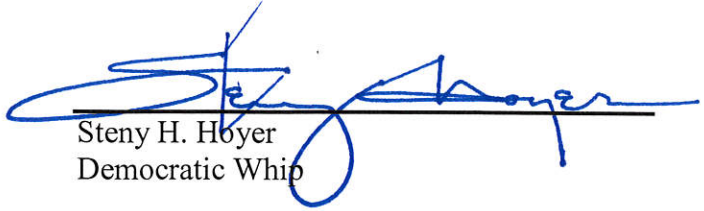
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onerous premiums, and cost-sharing threaten to impede rightful access to care for Americans, a consequence that contravenes the statute and Congress's longstanding intent in creating the Medicaid program. We urge you to faithfully administer the Medicaid Act and to reject and reconsider Section 1115 demonstration requests that jeopardize the health and financial security of Medicaid beneficiaries.

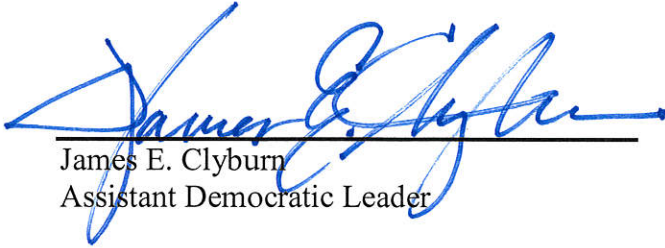
Sincerely,



Nancy Pelosi
Democratic Leader



Steny H. Hoyer
Democratic Whip



James E. Clyburn
Assistant Democratic Leader



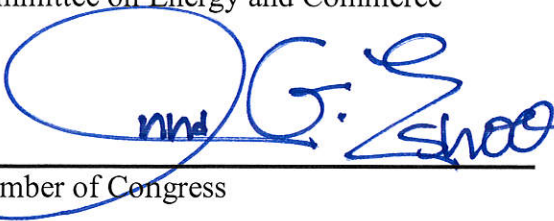
Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce



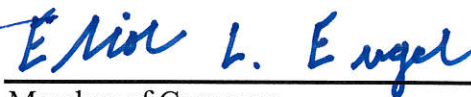
Gene Green
Ranking Member
Subcommittee on Health
Committee on Energy and Commerce



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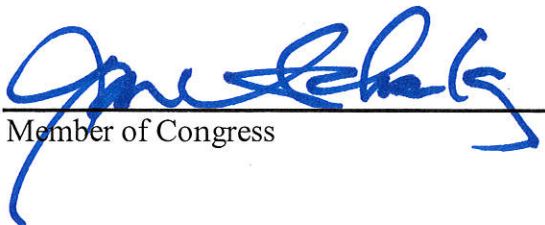
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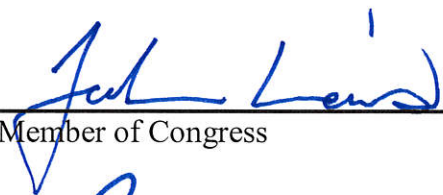
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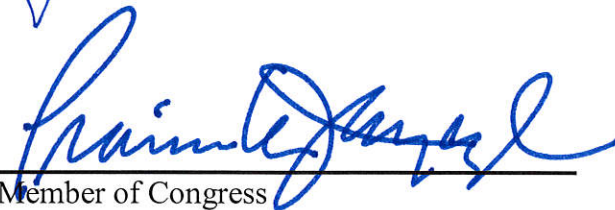
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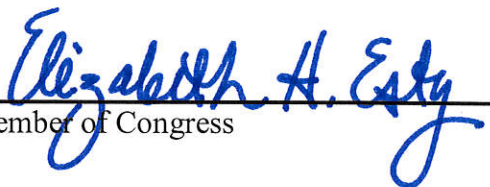

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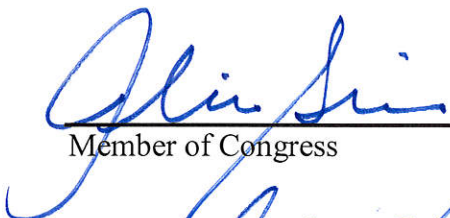

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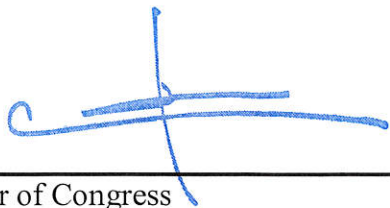
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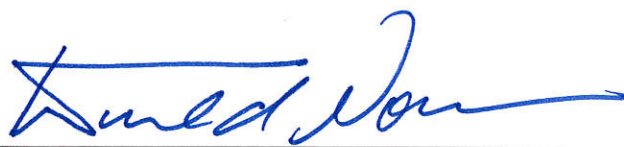
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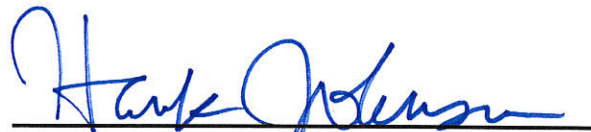

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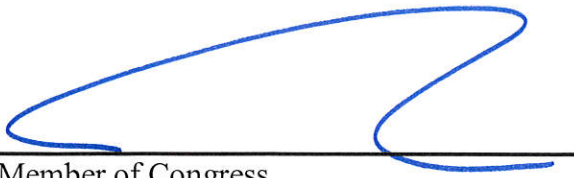

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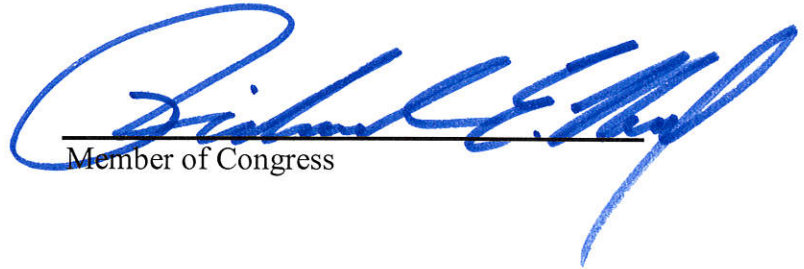
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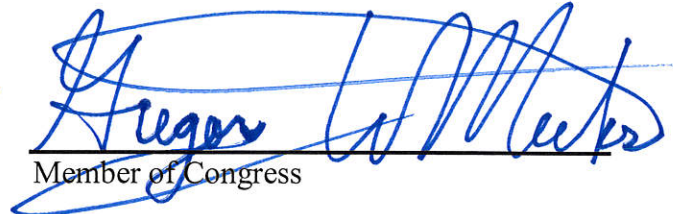
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