

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

February 7, 2020

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

Submitted electronically

Re: Georgia Section 1115 Demonstration Waiver Application

Justice in Aging appreciates the opportunity to comment on Georgia's Section 1115 Demonstration Waiver Application. For the reasons discussed below, we urge HHS to reject Georgia's Section 1115 Medicaid Demonstration Waiver application in its entirety.

Justice in Aging is an advocacy organization with the mission of improving the lives of low-income older Georgians and older adults nationwide. We use the power of law to fight senior poverty by securing access to affordable health care, economic security and the courts for older adults with limited resources, particularly populations that have been marginalized and excluded from justice such as women, people of color, LGBTQ individuals, and people with limited English proficiency. We have decades of experience with Medicare and Medicaid and have worked extensively with advocates who represent low-income older Georgians. Justice in Aging conducts trainings and engages in advocacy regarding Medicare and Medicaid, provides technical assistance to attorneys in Georgia and across the country on how to address problems that arise under these programs, and advocates for strong consumer protections at both the state and federal level.

We have cited research demonstrating the harms of these proposals and we respectfully request that HHS review each of the sources cited and made available to the agency through active hyperlinks. We further request that the full text of each of the sources cited, along with the full text of our comments, be considered part of the administrative record in this matter for purposes of the Administrative Procedure Act.

I. Work Reporting and Premium Requirements Will Leave Many Older Adults & Family Caregivers Uninsured

Georgia's proposal to both disallow Medicaid enrollment and take Medicaid coverage away from people who fail to meet requirements to report 80 hours per month of qualifying activity such as "employment, community services, or education" will harm thousands of low-income Georgians across demographic groups, including older adult adults under age 65, people with disabilities and serious health conditions, and family caregivers. The requirement that people

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with incomes between 50% and 100% FPL also pay unaffordable premiums will further bar coverage for low-income older adults, people with disabilities, and working families.

A. Work Requirements Will Bar Older Adults with Disabilities from Medicaid

The proposed strict work reporting requirements will be particularly harmful to older adults with disabilities who are not eligible for Medicare and others with serious health conditions and functional limitations because they face additional challenges in meeting such requirements, and the health consequences of losing or being denied access to Medicaid coverage are likely to be especially severe.

Many older Georgians with disabilities worked their whole lives before becoming disabled. Those who are eligible for Supplemental Security Income (SSI) are eligible for Medicaid when they are first determined disabled, but they are required to take their Social Security retirement benefits at age 62. Often, these individuals lose their Medicaid coverage because their retirement benefits put their income above the Medicaid SSI limit of \$783 per month. However, they are not eligible for Medicare until they turn 65. Right now, these older adults who have been determined disabled have no health care coverage options. If Georgia were to fully expand Medicaid under the Affordable Care Act, these older Georgians with disabilities would have Medicaid coverage. Unfortunately, the Georgia Pathways proposal would leave this population out completely because they cannot comply with the work reporting requirement and there are no exemptions.

In addition, although Medicaid eligibility rules classify a person as “disabled” or “aged”, disability and health challenges that accompany age are a continuum. A Medicaid beneficiary may not be “disabled” under Medicaid law or over age 65, but nonetheless face significant health-related challenges. Data from the National Center for Health Statistics shows that approximately 40% of working-age Medicaid beneficiaries “have broadly defined disabilities, most of whom are not readily identified as such through administrative records.”¹ Similarly, data from the March 2017 Current Population Survey (reflecting 2016 health insurance coverage) show that, among Georgia’s non-elderly Medicaid population not receiving Supplemental Security Income due to disability, 47% cited being ill or disabled as the reason for not being employed.² Moreover, prevalence of chronic conditions, including both physical and mental health conditions, increases significantly with age. For example, a study by AARP

¹ H. Stephen Kaye, Community Living Policy Ctr., How Do Disability and Poor Health Impact Proposed Medicaid Work Requirements? 2 (Feb. 2018), <https://clpc.ucsf.edu/sites/clpc.ucsf.edu/files/reports/Disability%20%26%20Medicaid%20Work%20Requirements.pdf>.

² Kaiser Family Found., Understanding the Intersection of Medicaid and Work 10 (App. Table 2) (Jan. 2018), <http://files.kff.org/attachment/Issue-Brief-Understanding-the-Intersection-of-Medicaid-and-Work>.

analyzed data for the age 50–64 population, finding that 72.5% have at least one chronic condition, and almost 20% suffer from some sort of mental illness.³

All these data demonstrate how older low-income Georgians who qualify for Medicaid—along with younger low-income beneficiaries with chronic conditions or functional limitations —are threatened by the restrictions imposed by the waiver. The state has provided no exemptions for people who precisely because of their health care needs or disability cannot work the requisite 80 hours. If these individuals cannot get care now, they will need more costly care in the future and these costs will be born by states and the federal government through Medicaid and Medicare.

Most importantly, lost months of Medicaid coverage have a human cost, especially for this population that would most benefit from coverage: less preventive care, greater decline, and avoidable deterioration in physical and mental health. In fact, a recent study showed that over 1,300 older Georgians, ages 55 to 64 died between 2014 and 2017 because the state chose not to expand Medicaid.⁴ The Georgia Pathways proposal would not fix this unconscionable situation because many of these older Georgians would still be barred from coverage.

B. Work Requirements Will Bar Family Caregivers from Medicaid & Harm the People They Care For

Work requirements would also unnecessarily jeopardize the health and well-being of low-income individuals who care for family members or others who cannot live independently. Many family caregivers, especially older women and people of color, leave the workforce or reduce their hours to provide informal care to their children, aging parents, other family, friends and neighbors. These caregivers are likely to be Medicaid eligible because they are low-income and unlikely to have access to health insurance through a job or spouse.⁵ In fact, more than 1 in 4 non-elderly Medicaid enrollees not receiving SSI in Georgia cite caretaking as their reason for not engaging in the type of work activities the state is proposing to require of them.⁶

Yet, the draft waiver application provides neither an exemption nor credit for people doing the invaluable work of caring for a family member or other individual. In addition, the state did not respond to or address the comments it received about the impact of this proposal on family

³ AARP Public Policy Institute, Chronic Care: A Call to Action for Health Reform 11–12, 16 (March 2009), www.aarp.org/health/medicare-insurance/info-03-2009/beyond_50_hcr.html.

⁴ Ctr. on Budget & Policy Priorities, Medicaid Expansion Has Saved at Least 19,000 Lives, New Research Finds (Nov. 6, 2019), <https://www.cbpp.org/research/health/medicaid-expansion-has-saved-at-least-19000-lives-new-research-finds>.

⁵ Justice in Aging, Medicaid Work Requirements: The Impact on Family Caregivers and Older Adults (Nov. 2018), www.justiceinaging.org/wp-content/uploads/2018/11/JusticeInAging-Medicaid-IssueBrief-November19-11am-2018.pdf.

⁶ Kaiser Family Found., Understanding the Intersection of Medicaid and Work 10 (App. Table 2) (Jan. 2018), <http://files.kff.org/attachment/Issue-Brief-Understanding-the-Intersection-of-Medicaid-and-Work>.

caregivers.⁷ Even if Georgia were to recognize caregiving as work, the realities of family caregiving would make it difficult if not impossible for most people to comply with the onerous requirement without compromising the health and well-being of the care recipient. Imposing a reporting requirement puts an enormous and unnecessary burden on family caregivers to create documentation of how they are spending their time, and understand and comply with reporting requirements in the midst of their caregiving and other responsibilities.⁸ Given these realities, many family caregivers who qualify for Medicaid would be forced to choose between providing care for their loved ones and maintaining their own health.⁹

When family caregivers' own health is compromised or they are forced to choose work over caregiving to keep their health coverage, the harm is two-fold because it endangers the health and well-being of the people they care for. The care recipients are at risk of their needs not being met and having to move to institutions against their wishes.

C. Complex & Burdensome Requirements Will Cause Medicaid Eligible Individuals to Lose Coverage

Georgians who are in fact eligible for Medicaid now are at risk of having their coverage taken away because they do not or cannot complete the necessary documentation to show they meet the work requirements or do not or cannot afford the premiums. The state's red tape would withhold coverage from thousands more uninsured individuals who would become newly eligible for Medicaid. This is not an experiment. Evidence shows that requiring individuals to complete paperwork and submit documentation reduces Medicaid enrollment across populations. For example, in the sixth month of implementation, only 1 out of 5 beneficiaries whom Arkansas required to report work activities had successfully done so.¹⁰ Furthermore, research on the Temporary Assistance for Needy Families (TANF) program found that beneficiaries with disabilities and poor health are more likely to lose benefits due to an inability to navigate the system.¹¹

⁷ See Dept. of Community Health (DCH), Georgia Section 1115 Demonstration Waiver Application, p. 28 (Dec. 23, 2019), (acknowledging comments on no exemption for caretakers but not addressing why or how a caretaker could comply with the waivers requirements).

⁸ Paperwork requirements have been shown to reduce Medicaid enrollment across populations. See Margot Sanger-Katz, "Hate Paperwork? Medicaid Recipients Will Be Drowning in It," *The New York Times*, January 18, 2018, www.nytimes.com/2018/01/18/upshot/medicaid-enrollment-obstacles-kentucky-work-requirement.html.

⁹ Justice in Aging, *Medicaid Work Requirements: The Impact on Family Caregivers and Older Adults* (Nov. 2018), www.justiceinaging.org/wp-content/uploads/2018/11/JusticeInAging-Medicaid-IssueBrief-November19-11am-2018.pdf.

¹⁰ Ctr. on Budget & Policy Priorities, *Medicaid Coverage Losses Mounting in Arkansas from Work reporting requirement* (Jan.17, 2019), www.cbpp.org/blog/medicaid-coverage-losses-mounting-in-arkansas-from-work-requirement.

¹¹ Yeheskel Hasenfeld, *et al.*, *Social Service Review, The Logic of Sanctioning Welfare Recipients: An Empirical Assessment* 304, 306–07 (June 2004), https://repository.upenn.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1028&context=spp_papers.

Likewise, an extensive body of research already demonstrates that premiums are a barrier to coverage for low-income people.¹² For example, over half of individuals eligible for the Healthy Indiana Plan waiver program’s comprehensive coverage either did not make their first premium payment or missed a payment.¹³

A second barrier is administrative burden. Georgia acknowledges that it is making its enrollment process more complicated by asking permission to eliminate hospital presumptive eligibility because hospitals will not be able to evaluate whether someone is meeting the work requirements. There are many other administrative burdens and barriers that states experience when making their eligibility systems more complicated. For example, the state of New Hampshire delayed implementation of its work requirements, citing its unsuccessful outreach efforts to affected enrollees.¹⁴ Research also shows that states that created complex incentives programs experienced difficulties identifying and engaging beneficiaries to participate due to inaccurate contact information, as well as changes in beneficiaries’ eligibility or health status.¹⁵

Additionally, a recent nationwide report from the U.S. Department of Agriculture found that implementing work requirements for the Supplemental Nutrition Assistance Program (SNAP) was an “administrative nightmare” that was “error prone” in multiple states.¹⁶ In several instances, the Department found that the state was terminating beneficiaries’ SNAP benefits even though the beneficiary qualified for an exemption.¹⁷ Likewise, Georgia Medicaid already has an error prone system,¹⁸ making it likely to take improper actions against Georgia Pathways enrollees too. Such mistakes are especially burdensome for enrollees with chronic conditions or functional limitations who both need the coverage the most and have less ability to contest improper actions.

D. Work Requirements Could Impede Individuals’ Ability to Find or Maintain a Job

Finally, this policy would also be counterproductive, as disallowing Medicaid enrollment or taking away coverage from low-income Georgians for not reporting work could cause their health to deteriorate, which in turn will make it harder for them to become or remain

¹² Kaiser Family Found., *The Effects of Premiums and Cost-Sharing on Low-Income Populations: Updated Review of Research Findings* (June 2017), <http://files.kff.org/attachment/Issue-Brief-The-Effects-of-Premiums-and-Cost-Sharing-on-Low-Income-Populations>.

¹³ *Id.*

¹⁴ State of New Hampshire Dept. of Health, “Re: Determinations and Findings Relative to Granite Health Program” (Jul. 8, 2019), <https://www.dhhs.nh.gov/medicaid/granite/documents/ga-ce-findings.pdf>.

¹⁵ Melinda Buntin, John Graves, and Nikki Viverette, “Cost Sharing, Payment Enforcement, and Healthy Behavior Programs in Medicaid: Lessons from Pioneering States,” Vanderbilt University, June 2017.

¹⁶ U.S. Dep’t of Agric., Office of the Inspector Gen., *FNS Controls Over SNAP Benefits for Able-Bodied Adults Without Dependents 5* (Sept. 29, 2016), www.usda.gov/oig/webdocs/27601-0002-31.pdf.

¹⁷ *Id.*

¹⁸ Associated Press, “Report: Georgia Cutting Medicaid Assistance to Thousands” (Jun. 2019), <https://www.wabe.org/report-georgia-cutting-medicaid-assistance-to-thousands/>.

employed.¹⁹ Reports consistently show that Medicaid can reduce health barriers to finding or holding a job for beneficiaries who are not working.²⁰ For example, in Michigan, 55% of those who were out of work said Medicaid coverage made them better able to look for a job while 69% of those who had jobs said they did better at work once they got coverage.²¹ Ohio Medicaid enrollees reported similarly that Medicaid coverage made it easier to both seek employment and continue working.²² For many individuals, access to health services could be the pathway to employment; if blocked from Medicaid coverage, they could find it much more difficult to find and hold a job.

Moreover, a recent study in the *New England Journal of Medicine* found that “implementation of the first-ever work requirements in Medicaid in 2018 was associated with significant losses in health insurance coverage . . . but no significant change in employment.”²³ The same is likely true for Georgia residents who are eligible for Medicaid and working, but not consistently enough to meet the 80-hour work requirement each month. This data demonstrates that adding work requirements is likely to provide little actual assistance and put an already burdened population in greater danger of losing health insurance and even their jobs.

These issues are even more profound for older adults in a volatile job market²⁴ who also face employment discrimination based on their age.²⁵ Take for example a 60-year old woman who is caring for an aging parent who lives nearby. As her caregiving obligations grew, she was laid off because she could not work the consistent hours her employer asked her to. She is not yet eligible for Medicare and will have a difficult time finding employment given her age and constraints on her time as a caregiver. She is at risk of being denied Medicaid, her only possible source of health coverage, if work requirements are implemented.

¹⁹ Coverage interruptions could lead to increased emergency room visits and hospitalizations, admissions to mental health facilities, and health care costs, research has shown. Leighton Ku & Erika Steinmetz, Association for Community Affiliated Plans, “Bridging the Gap: Continuity and Quality of Coverage in Medicaid,” (Sept. 10, 2013), www.communityplans.net/Portals/0/Policy/Medicaid/GW%20Continuity%20Report%209-10-13.pdf.

²⁰ Kaiser Family Found., “The Relationship between Work and Health: Findings from a Literature Review” (Aug. 7, 2018), www.kff.org/medicaid/issue-brief/the-relationship-between-work-and-health-findings-from-a-literature-review/.

²¹ Kara Gavin, “Medicaid Expansion Helped Enrollees Do Better at Work or in Job Searches,” University of Michigan Health Lab (Jun. 27, 2017), <http://labblog.uofmhealth.org/industry-dx/medicaid-expansion-helped-enrollees-do-better-at-work-or-job-searches>.

²² Ohio Dept. of Medicaid, Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly (Jan. 2017), <http://medicaid.ohio.gov/portals/0/resources/reports/annual/group-viii-assessment.pdf>.

²³ Sommers *et al.*, “Medicaid Work Requirements — Results from the First Year in Arkansas,” *New England Journal of Medicine* (Jun. 18, 2019), <https://www.nejm.org/doi/full/10.1056/NEJMSr1901772>

²⁴ See Ctr. on Budget & Policy Priorities, Policy Brief: Labor Market Facing SNAP and Medicaid Participants Offers Low-Paying, Volatile Jobs (July 24, 2018), www.cbpp.org/research/poverty-and-inequality/policy-brief-labor-market-facing-snap-and-medicaid-participants.

²⁵ See Julia Angwin, “Dozens of Companies Are Using Facebook to Exclude Older Workers from Job Ads,” (Dec. 20, 2017), www.propublica.org/article/facebook-ads-age-discrimination-targeting.

II. Eliminating Retroactive Coverage Will Deprive Low-Income Georgians of Needed Coverage

We oppose Georgia’s proposal to waive the federal protection that provides up to three months of retroactive Medicaid coverage for people eligible through Georgia Pathways. Eliminating Medicaid’s three-month retroactive coverage protection will harm the health and financial well-being of Georgians who are in fact eligible for Medicaid, as well as harm providers, the state, and all Georgians by increasing the uncompensated care burden.

Congress designed the retroactive coverage protection to help Medicaid meet the unique needs and circumstances of low-income, uninsured individuals. In many instances, a person who needs health care cannot be expected to apply for Medicaid coverage at the exact moment they become eligible: they may be hospitalized after an accident or unforeseen medical emergency; they may be struggling to cope with the shock of a diagnosis or sudden decline in functional ability; they may also be unfamiliar with Medicaid, or unsure about when their declining financial resources might fall within the Medicaid eligibility threshold. Medicaid’s three-month retroactivity window is a rational and humane response to these concerns. We emphasize that retroactive eligibility is only available to persons who would have met the Medicaid eligibility standards for the month[s] in question had they applied sooner.²⁶

This vital protection enables access to necessary care and treatment by giving providers assurance that Medicaid will reimburse them, and it can be the difference between financial ruin and being able to recover from an unexpected health emergency. Under Georgia’s proposal, however, a person could be hit by an uninsured driver on the evening of January 30th and be liable for thousands of dollars of hospital expenses due to the “failure” to file a Medicaid application within 36 hours, when January becomes February. This catastrophic situation would be even more likely because Georgia is also proposing to eliminate hospital presumptive eligibility.

In addition to preventing access to necessary care and exposing people who, by definition, cannot afford and are not eligible for other health coverage to crushing debt, eliminating retroactive coverage is bad policy because it is costlier for providers and the state.²⁷ Eliminating retroactive coverage increases uncompensated care, jeopardizing the ability of providers, especially rural hospitals, to continue to serve their communities.²⁸ In turn, this decreases access to care for all Medicaid enrollees and, in the case of medically underserved areas, all Georgians, leading to poorer health and necessitating costlier care. Tennessee is the proof. It

²⁶ 42 U.S.C. § 1396a(a)(34).

²⁷ Justice in Aging, Medicaid Retroactive Coverage: What’s at Stake for Older Adults When States Eliminate this Protection? (Sept. 2019), <https://www.justiceinaging.org/wp-content/uploads/2019/09/Medicaid-Retroactive-Coverage-Issue-Brief.pdf?eType=EmailBlastContent&eld=a7bb9cdd-1ce1-4012-b154-7981533a4875>.

²⁸ *Id.*

eliminated retroactive coverage for all Medicaid populations 25 years ago, contributing both to its high rate of medical debt and bankruptcy and hospital closures.²⁹

III. Eliminating Non-Emergency Medical Transportation Harms Low-Income Older Adults

Georgia's request to waive non-emergency medical transportation (NEMT) would also harm low-income Georgians, including older adults ages 50 to 64. NEMT is critical for older adults and people with chronic conditions or functional impairments who cannot otherwise access transportation to their medical appointments. Many low-income Georgians simply cannot afford to buy a car or hire a transportation service, and many if not most lack access to affordable and reliable public transit. Moreover, as people age, they are more likely to experience vision and cognitive decline, reduced strength, arthritis, and many other ailments that diminish their ability to drive safely. For these reasons, older adults are often dependent on others for transportation.

NEMT is most often used to access preventive health services, behavioral health services, and care for chronic conditions. Medicaid enrollees use NEMT to attend appointments for dialysis, visits to a primary care physician or specialist, physical therapy, and more.³⁰

Furthermore, taking away NEMT has consequences. As the Government Accountability Office (GAO) found, "excluding the NEMT benefit would impede . . . enrollees' ability to access health care services, particularly individuals living in rural or underserved areas, as well as those with chronic health conditions."³¹ Without affordable and reliable transportation, older adults do not receive needed health care, which increases the risk of hospitalization, nursing-home admission, or institutionalization. This creates unnecessary and preventable cost burdens on health care providers and the state. In other words, NEMT not only leads to better health outcomes for beneficiaries, it is also more cost-effective and can even result in cost-savings for the state.³²

²⁹ See Sycamore Inst., *Medical Debt in Tennessee: 12 Options for State Policymakers* (Oct. 2019) (explaining the relationship between medical debt and the lack of retroactive Medicaid coverage); Tenn. Justice Ctr., *McKenzie Regional Hospital Closure and Tennessee's Silent Epidemic*, <https://www.tnjustice.org/mckenzie-regional-hospital-closure-rural-tennessee/>.

³⁰ Kaiser Family Found., *Medicaid Non-Emergency Medical Transportation: Overview and Key Issues in Medicaid Expansion Waivers* (Feb. 2016), www.kff.org/medicaid/issue-brief/medicaid-non-emergency-medical-transportation-overview-and-key-issues-in-medicaid-expansion-waivers/view/footnotes/#footnote-177328-11.

³¹ U.S. Gov't Accountability Office, *GAO-16-221, Medicaid: Efforts to Exclude Nonemergency Transportation Not Widespread, but Raise Issues for Expanded Coverage* (Jan. 2016), <https://www.gao.gov/products/GAO-16-221>.

³² National Academies of Sciences, Engineering, & Medicine, *Cost-Benefit Analysis of Providing Non-Emergency Medical Transportation (2005)*, http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_webdoc_29.pdf.

IV. Georgia’s Proposals Do Not Promote the Medicaid Program’s Objectives

Section 1115 of the Social Security Act requires an “experimental, pilot, or demonstration project ... [that] is likely to assist in promoting the objectives” of the Medicaid program.³³ As confirmed by the court multiple times,³⁴ Medicaid’s primary objective is to furnish medical assistance to low-income persons.³⁵ Georgia’s proposals to condition Medicaid coverage on meeting work requirements and paying premiums, and to eliminate retroactive coverage, presumptive eligibility and NEMT do not promote that objective. In fact, these proposals would prohibit and even reduce coverage for thousands of low-income Georgians.

Georgia says the goals of this proposal are to “increase access to affordable healthcare coverage, lower the uninsured rate across Georgia, support members on their journeys to financial independence, and promote members transition from the Medicaid program into private coverage.” While some of these goals sound like Georgia is aiming promote Medicaid’s primary objective, the means Georgia proposes are neither experimental nor likely to promote furnishing medical assistance.

First, by restricting coverage and requiring Georgia Pathways enrollees to pay premiums and meet work reporting requirements, the state is by its own calculations going to withhold coverage from 90% of Georgians eligible for Medicaid if the state were to fully expand its program to all non-elderly adults under 138% of FPL. This is the opposite of furnishing medical assistance.

Second, eliminating the three-month retroactive coverage period is also taking away medical assistance from individuals who are eligible for Medicaid. The state cites that waiving retroactive coverage and beginning benefits on the first day of the application month would “better align with commercial insurance coverage.”³⁶ However, this rationale makes little sense, given the substantial differences between Medicaid and commercial insurance. A principal difference is the fact that commercial insurance coverage is necessarily contingent on premium payments, while Medicaid coverage is based upon a determination that a person has limited financial resources and thus cannot afford private coverage. Retroactive coverage is not allowed in commercial insurance because the program’s financing relies on premium payments in advance, before a person knows the medical services that they may require in any particular month. The same is not true in Medicaid, which is financed by the federal and state governments.

The state doubled-down on this illogical justification in its response to comments, stating that retroactive eligibility, presumptive eligibility and NEMT are “not available to the majority of the Georgia population as part of their health insurance coverage.”³⁷ As stated above, Medicaid is

³³ 42 U.S.C. § 1315(a).

³⁴ *Stewart v. Azar*, 313 F. Supp. 3d 237 (D.D.C. 2018); *Stewart v. Azar*, 366 F. Supp. 3d 125 (D.D.C. 2019); *Gresham v. Azar*, 363 F. Supp. 3d 165 (D.D.C. 2019); *Philbrick v. Azar*, Civil Action No. 19-773 (JEB) (D.D.C. Jul. 29, 2019).

³⁵ See 42 U.S.C. § 1396-1.

³⁶ DCH, *supra* note 7, at 10.

³⁷ *Id.* at 29.

uniquely designed to serve low-income individuals. Not only is Medicaid different from commercial insurance, Medicaid's purpose is not to prepare people for commercial health insurance. Eliminating these unique required benefits undermines Medicaid's ability to furnish medical assistance.

Third, Georgia is also trying to justify the elimination of retroactive coverage and presumptive eligibility in part on the fact that they cannot be "operationalized" on top of the red tape that the state is choosing to impose on people who are eligible for Medicaid. While this may be true, it provides more reason not to complicate enrollment and burden low-income Georgians with work requirements rather than provide the reason to restrict enrollment and coverage even further. This rationale makes clear that Georgia's objective with this demonstration is not to improve coverage, but in fact to limit it under the guise of preparing low-income Georgians for the commercial marketplace.

Finally, the application provides an estimated 2.2% reduction in costs resulting from eliminating retroactive coverage.³⁸ While reducing Medicaid expenditures may be attractive to the state, that reduction is accomplished by denying health care coverage to people who desperately need it. As described above, cutting Medicaid expenditures in this way only shifts those costs elsewhere in the system. Waivers should be used to improve coverage, not to leave individuals who are eligible for Medicaid without coverage when they need it the most.

V. Conclusion

Thank you for consideration of our comments. We urge HHS to reject this proposal and work with Georgia to fully expand Medicaid without barriers to coverage. If any questions arise concerning this submission, please contact Natalie Kean, Senior Staff Attorney, at nkean@justiceinaging.org.

Sincerely,



Jennifer Goldberg
Deputy Director

³⁸ *Id.* at 22.