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August 3, 2017

The Honorable Tom Price, Secretary
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Arkansas Works Section 1115 Demonstration

Dear Secretary Price,

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on Arkansas' proposal to amend the Arkansas Works Demonstration waiver. ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

ACS CAN supports Arkansas' goal to enhance health outcomes by improving access and the quality of care provided to low-income childless adults through the Arkansas Works program, but we are concerned with many of the proposed amendments, particularly phasing out individuals in the program from 101 to 138 percent of the federal poverty level (FPL). Over 16,000 Arkansans are expected to be diagnosed with cancer this year[1] – many of whom are receiving health care coverage through the Arkansas Works program. It is imperative that low-income Arkansans continue to have access to health care coverage under the Arkansas Works and Traditional Medicaid programs. Further, specific requirements must not create barriers to care for lower-income cancer patients, survivors, and those who will be diagnosed with cancer. We value the opportunity to provide comments to the Centers for Medicare and Medicaid Services (CMS) as it considers the Arkansas Works Demonstration waiver to ensure that low-income Arkansans continue to have access to quality, affordable, and comprehensive health insurance.

The following are our specific comments on the Arkansas Works Demonstration application:

[1] American Cancer Society. *Cancer Facts & Figures 2017*. Atlanta, GA: American Cancer Society; 2017.

Phase-out of New Adult Group

ACS CAN is deeply concerned with Arkansas' decision to reduce eligibility and eliminate coverage for Arkansas Works enrollees with incomes between 101 to 138 percent of the federal poverty level (FPL). We are particularly concerned that individuals who are medically frail would lose access to affordable coverage as a result of this proposal.

Thousands of Arkansas Works enrollees have been designated as medically frail, including Arkansans who are in active cancer treatment or recent cancer survivors. Moving medically frail cancer patients out of Arkansas Works and into a qualified health plan may appear to preserve coverage, but it will actually result in a significant increase in out-of-pocket cost sharing – even with advance premium tax credits and cost-sharing reduction subsidies – making coverage unaffordable. Individuals enrolled in silver-level plans (even with 94 percent actuarial value and cost-sharing reductions) would be subject to $854 annual maximum out-of-pocket spending. This would represent seven percent of total household income for an individual earning 101 percent of the FPL. When coupled with the monthly premium, an individual earning $12,180 could face total health care expenditures above $1,000 annually – a sizable portion of their total income.

The level of the out-of-pocket maximum would be particularly burdensome for a high-utilizer of health care services, such as an individual in active cancer treatment. Cancer patients in active treatment require many services shortly after diagnosis and would end up having to meet the maximum out-of-pocket required over a very short period of time. Having to pay the full cost up front would likely result in many cancer patients delaying their treatment and could result in them forgoing their treatment altogether.

We ask that CMS not grant Arkansas permission to phase out eligibility for individuals between 101 and 138 percent of the FPL. This proposal would place a substantial financial burden on low-income Arkansans that could disrupt care, particularly for individuals battling cancer and survivors. This policy change could also create barriers to coverage, preventing lower-income Arkansans from receiving timely, appropriate, and in some instances, life-saving diagnostic and cancer treatment services.

Transitioning Coverage & Continuity of Care

Cancer patients undergoing an active course of treatment for a life-threatening health condition need uninterrupted access to the providers and facilities from whom they receive treatment. Disruptions in primary cancer treatment care, as well as longer-term adjuvant therapy, such as hormone therapy, can result in negative health outcomes.

Should Arkansas be granted permission to disenroll individuals between 101 and 138 percent of FPL, we urge CMS to require the State to implement continuity of care provisions that would minimize disruptions in coverage and care for individuals in active treatment for life-

threatening illnesses, such as cancer. Additionally, we ask CMS to require Arkansas to establish a clearly defined process through which an Arkansas Works enrollee can maintain their cancer care treatment regimen and continue to see their providers through the same QHP or fee-for-service delivery system through the end of their treatment. Further, if an individual is enrolled in a new QHP, the enrollee should be waived from the new plans' utilization management requirements, including, but not limited to: prior authorization, step therapy, and benefit limits. This will ensure that the State's goal of "improving continuity of care across the continuum of coverage" is met. Failure to consider the care delivery and/or treatment regimens of patients, especially those individuals managing a complex, chronic condition like cancer, could have devastating effects on patients, their families, and providers.

Work Requirements & Lockout Period

Work Requirement

Arkansas is seeking approval to require that all adults aged 19-49 must be employed or engaged in specified educational, job training, or job search activities for 80 hours per month to maintain eligibility or enrollment in Arkansas Works. We appreciate the State's acknowledgment that not all people are able to work and the inclusion of a list of conditions that would exempt an individual from the work requirement and associated lockout period. However, we continue to be concerned that individuals with serious illnesses, such as cancer, who are often unable to work or require significant work modifications[2,3,4] would still be subject to these requirements. Including a work requirement as a condition of eligibility for coverage, could result in cancer patients being ineligible for the lifesaving cancer treatment services provided through Arkansas Works. Therefore, we urge CMS to require the State to clearly define the process through which an individual could be considered for the exemption categories.

We want to ensure cancer patients and recent survivors fit into Arkansas' definition of medically frail or the other exemption categories. If CMS should approve this requirement, ACS CAN urges CMS to require Arkansas to use the medically frail designation as defined in 42 CFR §440.315(f), which allows certain individuals with serious and complex medical conditions be exempt from specific provisions. With respect to cancer, the definition of medically frail should explicitly include individuals who are currently undergoing active cancer treatment –including chemotherapy, radiation, immunotherapy, and/or related surgical procedures – as well as new cancer survivors who may need additional time following treatment to transition back into the workplace. Additionally, we ask that CMS require the Department of Human Services to clearly

[2] Whitney RL, Bell JF, Reed SC, Lash R, Bold RJ, Kim KK, et al. Predictors of financial difficulties and work modifications among cancer survivors in the United States. *J Cancer Surviv.* 2016; 10:241. doi: 10.1007/s11764-015-0470-y.
[3] de Boer AG, Taskila T, Tamminga SJ, et al. Interventions to enhance return to work for cancer patients. *Cochrane Database Syst Rev.* 2011; 16(2): CD007569. doi: 10.1002/14651858.CD007569.pub2.
[4] Stergiou-Kita M, Pritlove C, van Eerd D, Holness LD, Kirsh B, Duncan A, Jones J. The provision of workplace accommodations following cancer: survivor, provider, and employer perspectives. *J Cancer Surviv*. 2016; 10:480. doi: 10.1007/s11764-015-0492-5.

define what they mean by "catastrophic event," as far as it concerns exemption of the work requirements.

Lock-Out Period

We are deeply concerned about the proposed lock-out period for failure to meet the proposed work requirements for three months during a plan year. Subjecting enrollees to a lock-out without exception could place a substantial financial burden on enrollees and cause significant disruptions in care, particularly for cancer survivors (who require frequent follow-up visits) and individuals battling cancer. During the proposed lock-out period, low-income cancer patients or survivors will likely have no access to health care coverage, making it difficult or impossible to continue treatment or pay for their maintenance medication until they can pay all outstanding premiums or the lock-out period expires. For those cancer patients who are mid-treatment, a loss of health care coverage could seriously jeopardize their chance of survival. Being denied access to a cancer care team for three months could be a matter of life or death for a cancer patient and the financial toll that the lock-out would have on individuals and their families could be devastating.

ACS CAN also urges CMS to require the State to implement a medical or hardship exemption that would exclude individuals managing complex medical conditions, like cancer, from any lock-out penalties. Additionally, we ask CMS to require Arkansas to establish a process through which enrollees and/or their health care providers can proactively attest to an enrollee's change in their health status, allowing them to qualify for a medical or hardship exemption from the work requirement and associated lock-out period, preventing any unnecessary gaps in coverage.

Retroactive Eligibility

Arkansas is requesting to waive retroactively eligibility into the Medicaid program. ACS CAN opposes policies that create any type of time limit on Medicaid eligibility. These policies could place a substantial financial burden on enrollees and cause significant disruptions in care, particularly for individuals battling cancer. As a safety net program, Medicaid allows enrollees to receive coverage retroactively if they did not realize they were eligible for coverage under the program or while they prepare the proper documentation and application to become enrolled in the program. Many uninsured or underinsured individuals who are newly diagnosed with a chronic condition do not receive recommended services and follow-up care because of cost.[5] In 2015, one in five uninsured adults went without care because of cost.[6] Waiving retroactive eligibility could delay necessary care in low-income populations and negatively impact patients with complex medical conditions that require frequent follow-up and maintenance visits to help control their disease process.

[5] Hadley J. Insurance coverage, medical care use, and short-term health changes following an unintentional injury or the onset of a chronic condition. *JAMA*. 2007; 297(10): 1073-84.

[6] The Henry J. Kaiser Family Foundation. Key facts about the uninsured population. Published September 29, 2016. Accessed May 2017. http://kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/.

Safety net hospitals and providers also rely on retroactive eligibility for reimbursement of provided services, allowing these facilities to keep the doors open. For example, the Emergency Medical Treatment and Labor Act (EMTALA) requires emergency departments (ED) to stabilize and treat individuals in their emergency room, regardless of their insurance status or ability to pay.[7] Retroactive eligibility allows hospitals to be reimbursed if the individual treated is eligible for Arkansas Works or Traditional Medicaid coverage. Likewise, Federally Qualified Health Centers (FQHCs) offer services to all persons, regardless of that person's ability to pay or insurance status.[8] Community health centers also play a large role in ensuring low-income individuals receive cancer screenings, helping to save the state of Arkansas from the high costs of later stage cancer diagnosis and treatment. Therefore, we urge CMS to reject Arkansas' request to waive retroactive eligibility in Arkansas Works and the Traditional Medicaid program.

Presumptive Eligibility Determinations

Arkansas also requests to eliminate the presumptive eligibility for qualified hospitals, which could jeopardize access to stable coverage and critical care. Many low-income, uninsured or underinsured individuals – including cancer patients and survivors[9,10] – go to the ED for their care.[11] The presumptive eligibility determination allows hospitals to assume patients are Medicaid eligible, preventing the patient from having to pay for services out-of-pocket, ensuring timely access to needed care, and allowing hospitals and providers to be reimbursed for services provided.

This proposal could negatively impact enrollment and prevent the uninsured or underinsured – who may be eligible for Medicaid but have not yet enrolled – from enrolling and participating in the program. By enrolling more of the uninsured through the presumptive eligibility determination process, hospitals are helping the state realize cost-savings by providing low-income Arkansans access to coverage that will contribute to increased utilization of low-cost primary and preventive care services. Similar to waiving the retroactive eligibility provision, waiving presumptive eligibility could negatively impact safety net hospitals that rely on presumptive eligibility determinations to be reimbursed for their services and rely less on

[7] Centers for Medicare & Medicaid Services. Emergency medical treatment & labor act (EMTALA). Updated March 2012. Accessed May 2017. https://www.cms.gov/regulations-and-guidance/legislation/emtala/.
[8] National Association of Community Health Centers. Maine health center fact sheet. Published March 2017. Accessed May 2017. http://www.nachc.org/wp-content/uploads/2016/03/ME_17.pdf.
[9] Sadik M, Ozlem K, Huseyin M, AliAyberk, Ahmet S, Ozgur O. Attributes of cancer patients admitted to the emergency department in one year. *World J Emerg Med.* 2014; 5(2):85-90.
[10] Zhou Y, Abel GA, Hamilton W, Pritchard-Jones K, Gross CP, Walter MF, et al. Diagnosis of cancer as an emergency: a critical review of current evidence. *Nature Reviews Clinical Oncology.* 2016; 14:45-56. doi:10.1038/nrclinonc.2016.155.
[11] National Center for Health Statistics. *Health, United States, 2015: with special feature on racial and ethnic health disparities*. Hyattsville, MD. 2016. https://www.cdc.gov/nchs/data/hus/hus15.pdf.

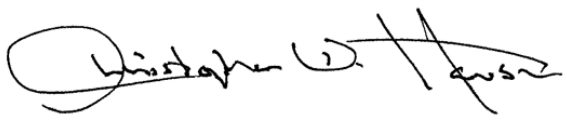
charity care.[12] Therefore, we urge CMS to reject Arkansas' request to eliminate presumptive eligibility.

Conclusion

We appreciate the opportunity to provide comments on the Arkansas Works Demonstration Project application. The preservation of eligibility and coverage through Arkansas Works remains critically important for many low-income Arkansans who depend on the program for cancer prevention, early detection, diagnostic, and treatment services. Upon further consideration of the policies that will be included in the final waiver application, we ask CMS to weigh the impact such policies may have on access to lifesaving health care coverage, particularly those individuals with cancer, cancer survivors, and those who will be diagnosed with cancer during their lifetime.

Maintaining access to quality, affordable, accessible, and comprehensive health care coverage and services is a matter of life and survivorship for thousands of low-income cancer patients and survivors, and we look forward to working with the Administration to ensure that all Americans are positioned to win the fight against cancer. If you have any questions, please feel free to contact me or have your staff contact Michelle DelFavero of our policy team at Michelle.DelFavero@cancer.org or 202-585-3266.

Sincerely,



Christopher W. Hansen
President
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[12] Brooks T. Health policy brief: hospital presumptive eligibility. *Health Affairs.* January 9, 2014. http://healthaffairs.org/healthpolicybriefs/brief_pdfs/healthpolicybrief_106.pdf.