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September 19, 2018

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

Re: South Dakota Career Connector 1115 Waiver Application

Dear Secretary Azar:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on South Dakota's Medicaid Section 1115 Demonstration Waiver application. 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 South Dakota's goal to improve the health and wellbeing of their adult Medicaid recipients, but we believe the proposed Career Connector program could negatively impact the traditional adult Medicaid population, including cancer patients, survivors, and those who will be diagnosed with cancer in their lifetime. Over 5,000 South Dakotans are expected to be diagnosed with cancer this year[1] – many of whom are receiving health care coverage through the South Dakota Medicaid program. ACS CAN wants to ensure that cancer patients and survivors in South Dakota will have adequate access and coverage under the Medicaid program, and that specific requirements do not create barriers to care for low-income cancer patients, survivors, and those who will be diagnosed with cancer. We strongly urge the Centers for Medicare and Medicaid Services ("CMS" or "the Agency") to address the concerns we and other stakeholders have identified or reject this waiver in its current form.

The following are our specific comments on the Career Connector 1115 waiver application:

Career Connector Program

South Dakota seeks to require that all "able-bodied" adults covered under traditional Medicaid, including low-income parents and caretakers eligible under Section 1931, residing in Minnehaha or Pennington County be employed 80 hours per month or achieve monthly milestones in their "individualized plan" in order to maintain eligibility or enrollment in the Medicaid program. We are concerned this policy could unintentionally disadvantage patients with complex chronic conditions, including cancer patients, recent survivors, and those women diagnosed with cancer through the State's

[1] American Cancer Society. *Cancer facts & figures 2018*. Atlanta, GA: American Cancer Society; 2018.

All Women Count! program. We understand the intent of the proposal is to incentivize employment, but cancer patients in active treatment are often unable to work or require significant work modifications due to their treatment.[2,3,4]

ACS CAN opposes tying access to affordable health care for lower income persons to work or participate in community engagement requirements because cancer patients, survivors, and those who will be diagnosed with the disease - as well as those with other complex chronic conditions - could find themselves without Medicaid coverage because they physically are unable to comply. Research suggests that between 40 and 85 percent of cancer patients stop working while receiving cancer treatment, with absences from work ranging from 45 days to six months depending on the treatment.[5] Recent cancer survivors often require frequent follow-up visits and maintenance medications to prevent recurrence,[6] and suffer from multiple comorbidities linked to their cancer treatments.[7,8] Cancer survivors are often unable to work or are limited in the amount or kind of work they can participate in because of health problems related to their cancer diagnosis.[9,10,11,12] If work and community engagement is required as a condition of eligibility, many cancer patients, recent survivors, and those with other chronic illnesses could find that they are ineligible for the lifesaving care and treatment services provided through the state's Medicaid program. We also note that imposing work or community engagement requirements on lower income individuals as a condition of coverage could impede individuals' access to preventive care, including cancer screenings.

We appreciate the State's acknowledgement that not all people are able to work and the decision to include several exemption categories and good cause exemptions from the community engagement requirement and associated lock-out period. However, the waiver does not go far enough to protect vulnerable individuals, including recent cancer survivors, and other serious chronic diseases often linked

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[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.
[5] Ramsey SD, Blough DK, Kirchhoff AC, et al. Washington State Cancer Patients Found to be at Greater Risk for Bankruptcy then People Without a Cancer Diagnosis," Health Affairs, 32, no. 6, (2013): 1143-1152.
[6] National Cancer Institute. *Coping with cancer: Survivorship, follow-up medical care*. Accessed July 2018. https://www.cancer.gov/about-cancer/coping/survivorship/follow-up-care.
[7] Mehta LS, Watson KE, Barac A, Beckie TM, Bittner V, Cruz-Flores S, et al. Cardiovascular disease and breast cancer: Where these entities intersect: A scientific statement from the American Heart Association. *Circulation*. 2018; 137(7): CIR.0000000000000556.
[8] Dowling E, Yabroff R, Mariotto A, et al. Burden of illness in adult survivors of childhood cancers: Findings from a population-based national sample. *Cancer.* 2010; 116:3712-21.
[9] Ibid.
[10] Guy GP Jr, Berkowitz Z, Ekwueme DU, Rim SH, Yabroff R. Annual economic burden of productivity losses among adult survivors of childhood cancers. *Pediatrics*. 2016; 138(s1):e20154268.
[11] Zheng Z, Yabroff KR, Guy GP Jr, et al. Annual medical expenditures and productivity loss among colorectal, female breast, and prostate cancer survivors in the United States. *JNCI J Natl Cancer Inst.* 2016; 108(5):djv382.
[12] Kent EE, Davidoff A, de Moor JS, et al. Impact of sociodemographic characteristics on underemployment in a longitudinal, nationally representative study of cancer survivors: Evidence for the importance of gender and marital status. *J Psychosoc Oncol*. 2018; 36(3):287-303.

to cancer treatments.[13,14] The increase in administrative requirements for enrollees to attest to their working status would likely decrease the number of individuals with Medicaid coverage, regardless of whether they are exempt.[15]

As an example, in the first month of implementation of the *Arkansas Works* work requirement (June 2018) less than six percent of the nearly 8,000 Medicaid enrollees, who did not declare an exemption, were able to navigate the complex reporting system and satisfy the reporting requirement.[16] Overwhelmingly, *Arkansas Works* enrollees were not able to satisfy the reporting requirements in the first month of implementation and could potentially lose health care coverage if they miss the reporting requirements two more times. In July, the Arkansas Department of Human Services reported that nearly 5,500 *Arkansas Works* enrollees subject to the work requirement are at risk of being locked out of coverage through the end of the calendar year if they do not report activity in August.[17] Some of these individuals may have been eligible for an exemption but did not realize they were exempt or were unable to successfully navigate the reporting system. In fact, reportedly 83 percent of people in Arkansas who were expected to log onto the website to report work requirement activities did not do so.[18] Given the experience with Arkansas' work requirement, CMS should consider the number of South Dakotans whose health could be negatively impacted and the coverage losses that could occur due to this proposal.

Lock-Out Period

We are deeply concerned about the proposed 90-day lock-out period for non-compliance with the Career Connector program. The State offers individuals who have failed to complete the requirement a 90-day compliance grace period, where the Department of Labor and Regulation (DLR) establishes a corrective action plan for the enrollee that must be completed in 30 days. Additionally, the State offers "good cause" exemptions for enrollees who have failed to meet the work requirements. However, it is unclear how long the appeals process would take for good cause exemptions and whether the beneficiary would lose health coverage during the process.

Those with acute health care conditions who apply for an exemption to avoid the 90-day lock-out will still have to verify their exemption and undertake a burdensome documentation process. This could lead to instances where those who should be able to maintain coverage are disenrolled, jeopardizing

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[13] Mehta LS, Watson KE, Barac A, Beckie TM, Bittner V, Cruz-Flores S, et al. Cardiovascular disease and breast cancer: Where these entities intersect: A scientific statement from the American Heart Association. *Circulation*. 2018; 137(7): CIR.0000000000000556.

[14] Dowling E, Yabroff R, Mariotto A, et al. Burden of illness in adult survivors of childhood cancers: Findings from a population-based national sample. *Cancer.* 2010; 116:3712-21.

[15] Garfield R, Rudowitz R, Musumeci M. Implications of a Medicaid work requirements: National estimates of potential coverage losses. Kaiser Family Foundation. Published June 2018. Accessed August 2018. http://files.kff.org/attachment/Issue-Brief-Implications-of-a-Medicaid-Work-Requirement-National-Estimates-of-Potential-Coverage-Losses.

[16] Brantley M. Work Rule 'works' in first month report; 26 percent flunk. *Arkansas Times*, July 13, 2018, https://www.arktimes.com/ArkansasBlog/archives/2018/07/13/work-rule-works-in-first-month-report-26-percent-flunk.

[17] Alker J, Clark M. After two months under new work requirements, thousands of Arkansans may lose Medicaid without even realizing the rules changed. Georgetown University Health Policy Institute Center for Children and Families. Published August 15, 2018. Accessed August 2018. https://ccf.georgetown.edu/2018/08/15/after-two-months-under-new-work-requirements-thousands-of-arkansans-may-lose-medicaid-without-even-realizing-the-rules-changed/.

[18] Ibid.

access to life-saving treatment. 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 one's cancer care team could be a matter of life or death for a cancer patient or survivor and the financial toll that the lock-out would have on individuals and their families could be devastating.

Premium Assistance Program

Although ACS CAN appreciates the State offering to help pay for Career Connector participants' private health insurance premiums as a "pathway from Medicaid to private health insurance coverage," we are concerned that even with the premium assistance, low-income Medicaid adults could still be unable to pay their share of private insurance premiums. The premium assistance program covers up to the previous year's Transitional Medical Benefit (TMB) per member per month amount, but the enrollee would be subject to the cost sharing terms and conditions of the plan into which they are enrolled, including any portion of premiums not covered by premium assistance and payment for any services not covered under the employer-sponsored plan or the Qualified Health Plan (QHP).

Individuals who are shifted from the Medicaid program to the premium assistance program could experience higher out-of-pocket costs and may be more likely to forgo needed care. Imposing copayments on low-income populations has been shown to decrease the likelihood that they will seek health care services, including preventive screenings.[19,20,21] Cancers that are found at an early stage through screening are less expensive to treat and lead to greater survival.[22] Uninsured and underinsured individuals already have lower screening rates resulting in a greater risk of being diagnosed at a later, more advanced stage of disease.[23] Proposals that place greater financial burden on the lowest income residents create barriers to care and could negatively impact Medicaid enrollees – particularly those individuals who are high service utilizers with complex medical conditions.

Moving cancer patients and survivors out of the more robust Medicaid program and into employer-sponsored insurance or a QHP could result in reduced benefits and a significant increase in out-of-pocket cost sharing – even with premium assistance – making coverage less comprehensive and unaffordable. We are concerned that the proposal would leave individuals exposed to significant cost-sharing, beyond what is permitted under current federal requirements.

Premiums and cost sharing above the five percent of family income maximum for Medicaid enrollees would be particularly burdensome for a high-utilizer of health care services, such as an individual in active cancer treatment or a recent survivor. Cancer patients in active treatment require many services shortly after diagnosis and thus incur a significant portion of cost sharing over a relatively short period of

[19] Solanki G, Schauffler HH, Miller LS. The direct and indirect effects of cost-sharing on the use of preventive services. *Health Services Research.* 2000; 34: 1331-50.
[20] Wharam JF, Graves AJ, Landon BE, Zhang F, Soumerai SB, Ross-Degnan D. Two-year trends in colorectal cancer screening after switch to a high-deductible health plan. *Med Care.* 2011; 49: 865-71.
[21] Trivedi AN, Rakowsi W, Ayanian JA. Effect of cost sharing on screening mammography in Medicare health plans. *N Eng J Med.* 2008; 358: 375-83.
[22] American Cancer Society. *Cancer prevention & early detection facts & figures 2016-2017*. Atlanta: American Cancer Society; 2017.
[23] Ibid.

time.[24] It can be challenging for an individual – particularly an individual with limited means – to be able to afford their cost-sharing requirements. Likewise, a recent survivor may require frequent follow-up visits to prevent cancer recurrence. Having to pay the full cost up front would likely result in many cancer patients and survivors delaying their treatment and could result in them forgoing their treatment or follow-up visits altogether. We strongly urge CMS to deny the State's request to increase cost sharing for enrollees switching to the premium assistance program.

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.

We note that the South Dakota 1115 waiver amendment fails to provide specific provisions to ensure that individuals transitioning from the Career Connector program to premium assistance can continue to see their health care provider if medically necessary. Failure to consider the care delivery and/or treatment regimen of patients, especially those individuals managing a complex, chronic condition like cancer, could have devastating effects on patients, their families, and providers.

We urge CMS to require the State to provide additional continuity of care provisions that would minimize disruptions in coverage and care for individuals in active treatment for life-threatening illnesses, such as cancer. Further, CMS should require the State to establish a clearly defined process through which Career Connector enrollees being transitioned to premium assistance/TMB or their physician can inform the Department of Social Services that they are in active treatment; allowing them to maintain their cancer care treatment regimen and continue to see their providers through the same health care systems through the end of their treatment.

Promoting Health

We commend the Department of Social Services for wanting to improve health outcomes of its Medicaid enrollees by promoting the utilization of preventive services. In our comments to the State, we urged the Department to ensure that all preventive services recommended by the United States Preventive Services Task Force (USPSTF) are included as part of this effort. Early detection of cancer through preventive services generally results in less expensive treatments and better health outcomes.[25] For example, colorectal and cervical cancer screenings can prevent cancer by detecting and removing pre-cancerous lesions. Detecting these cancers earlier helps to save lives when cancers are caught at earlier, less expensive stage.

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[24] American Cancer Society Cancer Action Network. *The costs of cancer: Addressing patient costs*. Washington, DC: American Cancer Society Cancer Action Network: 2017.

[25] American Cancer Society. *Cancer prevention & early detection facts & figures 2017-2018*. Atlanta: American Cancer Society; 2017.

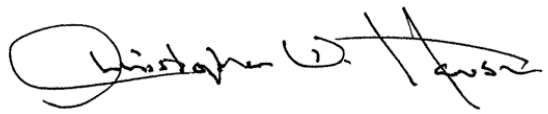
Conclusion

We appreciate the opportunity to provide comments on South Dakota's 1115 waiver demonstration proposal. The preservation of eligibility and coverage through Medicaid remains critically important for many low-income South Dakotans who depend on the program for cancer prevention, early detection, diagnostic, and treatment services. We ask CMS to weigh the impact these proposed policy changes could have on low-income South Dakotans' access to lifesaving health care coverage, particularly those individuals with cancer, cancer survivors, and those who will be diagnosed with cancer during their lifetime.

Our comments include numerous citations to supporting research, including direct links to the research for the benefit of CMS in reviewing our comments. We direct CMS to each of the studies cited (please see attached addendum) and we request that the full text of each of the studies 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.

Maintaining access to quality, affordable, accessible, and comprehensive health care coverage and services are 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