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September 16, 2020

Alex M. Azar, Secretary, Department of Health and Human Services
Steven Mnuchin, Secretary, Department of the Treasury
Seema Verma, Administrator, Centers for Medicare & Medicaid Services

VIA ELECTRONIC SUBMISSION

Re: Georgia Section 1332 Waiver Comments

Dear Secretary Azar, Secretary Mnuchin, and Administrator Verma:

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on Georgia's modified State Relief and Empowerment Waiver proposal under Section 1332 of the Affordable Care Act (ACA). Medicare Rights is a national, nonprofit organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Each year, Medicare Rights provides services and resources to nearly three million people with Medicare, family caregivers, and professionals.

As the current COVID-19 public health emergency reveals, the need for health care can arise at any moment and may be the difference between life and death. People without health coverage may avoid care or face extreme financial hardship when they obtain it. These are harmful outcomes we must try to avoid for reasons of individual well-being, economic stability, and public health.

At Medicare Rights, we understand the interdependence of the major health insurance systems in the United States. That structure requires that Medicare, Medicaid, the ACA, and employer-based insurance play their roles in providing much-needed coverage for families, workers, retirees, people with disabilities, and more. Ensuring access to affordable, comprehensive

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health coverage helps individuals and the system as a whole. The Medicare program benefits when incoming beneficiaries have insurance coverage. As individuals approach Medicare eligibility, their health is often compromised, and this is especially true for those who have unmet health care needs from being un- or underinsured. This absence of quality coverage can lead to reduced well-being for entire families;[1] poorer health;[2] lack of access to care;[3] economic devastation;[4] and higher Medicare costs when they are ultimately eligible.[5]

In 2020, most (79%) of Georgia's individual marketplace enrollees used HealthCare.gov to sign up for coverage. Georgia's waiver would eliminate this one-stop shop, robbing consumers of their only option for a guaranteed, central source of unbiased information on the comprehensive coverage available to them. Instead, Georgians would be forced to rely on a jumble of private insurance companies and brokers to compare plans, apply for financial assistance, and enroll in coverage.

Georgia asserts that this will increase enrollment and improve customer service but does not identify how this will happen.[6] Based on our experience, it is far more likely that the change would instead heighten confusion about where and how to access good-quality health coverage, thus hindering enrollment. Rather than increasing coverage rates, such a shift could result in many Georgians losing coverage entirely or being enrolled into non-ACA-compliant plans that would underinsure them, putting them at extreme financial risk if they were to become sick or injured.[7] Contrary to the promise of expanded choices, this waiver would reduce options. Currently, Georgians have the option of using HealthCare.gov or the same

[1] Committee on the Consequences of Uninsurance, Board on Health Care Services, "Health Insurance is a Family Matter," INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMIES, Chapter 5 (2002), https://www.ncbi.nlm.nih.gov/books/NBK221016/pdf/Bookshelf_NBK221016.pdf.
[2] David W Baker, et al., "Changes in Health for the Uninsured After Reaching Age-eligibility for Medicare," J GEN INTERN MED. 2006 Nov; 21(11): 1144–1149 (2006), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1831646/.
[3] Committee on the Consequences of Uninsurance, Board on Health Care Services, "Health Insurance is a Family Matter," INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMIES, pp 91-106 (2002), https://www.ncbi.nlm.nih.gov/books/NBK221016/pdf/Bookshelf_NBK221016.pdf.
[4] Rohan Khera, et al., "Burden of Catastrophic Health Expenditures for Acute Myocardial Infarction and Stroke Among Uninsured in the United States," CIRCULATION, 2018;137:00–00 (2018), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5780190/.
[5] David W Baker, et al., "Changes in Health for the Uninsured After Reaching Age-eligibility for Medicare," J Gen Intern Med. 2006 Nov; 21(11): 1144–1149 (2006), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1831646/.
[6] State of Georgia, "Modified Section 1332 State Relief and Empowerment Waiver," p 17 (July 31, 2020), https://medicaid.georgia.gov/patientsfirst ("The goal of the Georgia Access Model is to increase affordability and spur innovation in the individual market while maintaining access to QHPs and ensuring consumer protections for individuals with pre-existing conditions. The Georgia Access Model will create a competitive private insurance marketplace that provides Georgia's residents with better access, improved customer service, and expanded choice of affordable coverage options.")
[7] Tara Straw, "Tens of Thousands Could Lose Coverage Under Georgia's 1332 Proposal," Center on Budget and Policy Priorities (September 1, 2020), https://www.cbpp.org/research/health/tens-of-thousands-could-lose-coverage-under-georgias-1332-waiver-proposal.

private brokers and they overwhelmingly prefer HealthCare.gov. Taking away the preferred choice does not equal more choice.

Moreover, private brokers and insurers have a track record of failing to alert consumers of Medicaid eligibility and picking and choosing the plans they offer, often based on the size of plan commissions.[8] Indeed, in the system Georgia is proposing, people who are eligible for Medicaid could have a much harder time finding help with enrollment because Medicaid generally does not pay broker or plan commissions. Agents and brokers have no financial incentive to fill the gap left for this population that would result from eliminating HealthCare.gov.

Georgia's waiver proposes that substandard plans, such as short-term plans, would be presented alongside comprehensive insurance, implying an equivalence that does not exist.[9] People enrolled in such subpar plans are subject to punitive exclusions of their pre-existing conditions, benefit limitations, and caps on plan reimbursements that expose them to potentially high out-of-pocket costs. A study of short-term plans in Atlanta earlier this year showed that even though people would pay lower premiums up-front, they could later be responsible for significant out-of-pocket costs for treatment of common or serious conditions, such as diabetes or a heart attack. The most popular plan in Atlanta refused to cover prescription drugs, mental health services, or maternity services, had pre-existing condition exclusions, and had a deductible three times as high as an ACA-compliant plan.[10] Even now, reports indicate that brokers sometimes steer people into such plans, which often come with higher commissions, a tactic that has continued during the pandemic.[11]

Because it would likely increase the number of uninsured Georgians and leave many others with worse coverage, Georgia's waiver proposal fails to meet the necessary statutory guardrails. Specifically, Section 1332(b)(1) of the ACA requires that such waivers cover as many

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[8] Tara Straw, "'Direct Enrollment' in Marketplace Coverage Lacks Protections for Consumers, Exposes Them to Harm," Center on Budget and Policy Priorities (March 15, 2019), https://www.cbpp.org/research/health/direct-enrollment-in-marketplace-coverage-lacks-protections-for-consumers-exposes.

[9] State of Georgia, "Modified Section 1332 State Relief and Empowerment Waiver," p 23 (July 31, 2020), https://medicaid.georgia.gov/patientsfirst "With the implementation of the Georgia Access Model, consumers will have access to metal level QHPs and Catastrophic Plans as they do absent the waiver. In addition, consumers will have increased access through the Georgia Access Model to view a wide range of health insurance products offered by carriers that are licensed and in good standing with the State to meet their unique healthcare needs, such as accident supplemental plans, critical illness plans, limited-benefit plans, short-term limited duration plans, vision, and dental."

[10] Dane Hansen & Gabriela Dieguez, "The impact of short-term limited-duration policy expansion on patients and the ACA individual market," Milliman (February 2020), https://www.lls.org/sites/default/files/National/USA/Pdf/STLD-Impact-Report-Final-Public.pdf; Kelsey Waddill, "Do Short-Term Limited Duration Plans Deserve Industry Skepticism?," HealthPayerIntelligence (March 4, 2020), https://healthpayerintelligence.com/news/do-short-term-limited-duration-plans-deserve-industry-skepticism.

[11] Christen Linke Young & Kathleen Hannick, "Misleading marketing of short-term health plans amid COVID-19," Brookings Institution (March 24, 2020), https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2020/03/24/misleading-marketing-of-short-term-health-plans-amid-covid-19/.

people, with coverage as affordable and comprehensive, as without the waiver.[12] Georgia has not provided a plausible explanation of how its proposed waiver would accomplish this. Instead, it appears that coverage for many Georgians would be less comprehensive, less available, and more expensive. Georgia would likely see a reduction, rather than an increase, in coverage rates. The waiver therefore does not meet the federal standard for approval.

In addition to our concerns about the impact of the waiver on Georgians, we are deeply concerned about the precedent that would be set by approving a waiver that is expected to result in more people being uninsured and more people being enrolled in plans that do not provide comprehensive coverage.

For these reasons, Medicare Rights opposes this proposal for Georgia to exit the HealthCare.gov marketplace and urges the Department of Health and Human Services to reject it. Instead, the state should be encouraged both to maintain HealthCare.gov access and to adopt the ACA's Medicaid expansion, a proven strategy to improve health care coverage and well-being that has the added benefit of support for rural hospitals.[13]

Thank you again for the opportunity to provide comment. For additional information, please contact Lindsey Copeland, Federal Policy Director at LCopeland@medicarerights.org or 202-637-0961 and Julie Carter, Senior Federal Policy Associate at JCarter@medicarerights.org or 202-637-0962.

Sincerely,

Fred Riccardi

Fred Riccardi
President
Medicare Rights Center

[12] Patient Protection and Affordable Care Act, Pub. L. 111-148, Sec. 1332(b) ("(1) IN GENERAL-The Secretary may grant a request for a waiver under subsection (a)(1) only if the Secretary determines that the State plan—(A) will provide coverage that is at least as comprehensive as the coverage defined in section 1302(b) and offered through Exchanges established under this title as certified by Office of the Actuary of the Centers for Medicare & Medicaid Services based on sufficient data from the State and from comparable States about their experience with programs created by this Act and the provisions of this Act that would be waived; (B) will provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as the provisions of this title would provide; (C) will provide coverage to at least a comparable number of its residents as the provisions of this title would provide; and (D) will not increase the Federal deficit.")
[13] Hailey Mensik, "Medicaid expansion key indicator for rural hospitals' financial viability" (June 2, 2020), https://www.healthcaredive.com/news/medicaid-expansion-rural-hospitals-health-affairs/579005/.