



## METROPOLITAN ATLANTA HIV HEALTH SERVICES PLANNING COUNCIL

December 3, 2019

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Dear Governor Kemp,

On behalf of the Metropolitan Atlanta HIV/AIDS Health Services Planning Council (MAHHSPC), I would like to thank you for the opportunity to comment on Georgia's proposal to waive federal rules under the Affordable Care Act (ACA) and the Medicaid program. I am writing to express my deep concern about these waivers. The ACA 1332 waiver would raise premiums for ACA coverage, push people into substandard plans, and likely cause many Georgians to lose coverage altogether – especially harming lower-income Georgians, people of color, and people with pre-existing health conditions such as HIV. Even more concerning to us is the fact that by your own estimates, the Medicaid waiver would cover just 50,000 of the hundreds of thousands of low-income, uninsured Georgians, because it would impose so many barriers to coverage. I strongly urge you to withdraw these waivers and instead adopt the ACA Medicaid expansion, which would allow Georgia to cover hundreds of thousands more people at the same or lower state cost.

Over 58,000 Georgians are living with HIV and nearly 2,593 were newly diagnosed in 2016. The state ranks 1st among states in rate of new HIV diagnoses, 2<sup>nd</sup> in people living with AIDS, and 5<sup>th</sup> for total number of people living with HIV, as of 2016. Nearly three-quarters of those with HIV in Georgia are African American and nearly 70% are gay and bisexual men. Because the HIV rates are so high, the counties of Cobb, DeKalb, Fulton and Gwinnett have been designated as specific targets of the recently announced federal **Ending the Epidemic** plan.

The Metropolitan Atlanta HIV/AIDS Health Services Planning Council is a federally mandated body under Part A of the Ryan White Care Act with a mission to provide a coordinated response to the HIV epidemic in the Metropolitan Atlanta Area. We serve a 20-county area that is home to roughly 64% of people diagnosed with HIV/AIDS in Georgia. We are currently developing a ten-year strategy to end the AIDS epidemic, as called for under President Trump's **Ending the HIV/AIDS Epidemic initiative** announced

earlier this year. For that strategy to be successful, people living with HIV who are currently uninsured or underinsured must have access to comprehensive medical care, not just care for their HIV infection.

### **The 1332 Waiver Will Raise Costs and Insure Fewer People and Is Not Approvable Under Federal Law**

First, the 1332 waiver allows alarming changes to policies governing the financial assistance people receive to purchase health coverage under the ACA. Under the waiver, the state would allow tax credits to be used to purchase substandard health plans that exclude coverage for essential health benefits, such as prescription drugs, maternity care, or mental health and substance abuse care.

Allowing tax credits for substandard plans would create adverse selection that would increase premiums, because many healthier people, even those eligible for tax credits, would enroll in cheaper, more limited coverage. Higher premium costs will raise the per-person costs of tax credits, resulting in a higher total cost than the state budgets for and triggering the waiver provision which allows the state to cap enrollment with tax credits. Consumers shopping after the cap has been reached will lose access to tax credits, forcing them to buy substandard plans that don't meet their needs, pay more for comprehensive coverage, or go without insurance.

Second, the 1332 waiver allows changes to policies establishing where and how consumers purchase health coverage that will undermine consumer protections in the ACA. Georgia would privatize functions of the marketplace by removing the state from the federally-facilitated exchange platform (HealthCare.gov) without creating their own exchange. Instead, consumers would enroll in coverage only through private web brokers and insurers, exposing them to the same risks posed by direct enrollment in the ACA. Direct enrollment entities already have a track record of steering consumers towards substandard plans that leave them exposed to catastrophic costs if they get sick, failing to alert consumers of Medicaid eligibility, and not allowing meaningful plan comparisons.<sup>1</sup>

Historically, people living with a diagnosis of HIV or AIDS have had trouble securing health insurance. With the passage of the ACA and the lifting of exclusions for pre-existing conditions, for the first time many of those individuals who are working have been able to secure insurance in the individual marketplace. As a Planning Council, we believe so strongly in the promise of individual health insurance that we have dedicated funding each year for the past several years to provide enrollment assistance and support for out-of-pocket costs. This has stabilized the health of many people living with HIV, thus preventing a more serious diagnosis of AIDS, and provided a key support to help lift them out of poverty.

Unfortunately, we have grave concerns that the current 1332 waiver proposal could erode the progress that has been made over the past decade, to move as many people as possible from the federal Ryan White Program to private insurance.

Those concerns include confusion from both consumers and enrollment assisters who must learn to navigate a new and untested online portal with the possibility of people being directed to plans that do not provide the access to their existing health care providers and life-saving medications as the plans they are currently on.

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<sup>1</sup> 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>

The ACA waiver fails to meet the statutory “guardrails” intended to ensure that people who live in states that implement an ACA waiver are not worse off than they would be without the waiver. **Section 1332(b)(1) of the ACA** requires that ACA waivers cover as many people, with coverage as affordable and comprehensive, as without the waiver; however, under the proposed waiver, the coverage that many Georgians would have would be less comprehensive, and more people would find themselves with less affordable coverage and out-of-pocket costs than would be the case without the waiver.

Additionally, Georgia may see a reduction, rather than an increase, in coverage under the 1332 waiver. The waiver does not meet the guardrails under federal law and is not approvable.

Notably, the waiver also includes a proposal to establish a reinsurance program. Similar programs have been successfully implemented in other states, reducing premiums for unsubsidized consumers. Georgia could move forward with this proposal while dropping the harmful components of the waiver.

### **The 1115 Waiver Will Prevent Vulnerable People from Accessing Coverage**

The 1115 waiver would extend Medicaid coverage to residents with earnings below the poverty line only if they meet a burdensome work requirement and pay premiums. There would be no exceptions to the work requirement; meaning people who cannot work due to a disability, serious illness, or caregiving responsibilities could not get coverage. While the state estimates over 408,000 non-elderly uninsured adult Georgians with incomes below the poverty line are uninsured, Georgia projects that only about 50,000 will eventually enroll in Medicaid through the waiver, due to its burdensome requirements.

As you are aware, under the current eligibility requirements, only those with people living with HIV whose health has deteriorated to the point that they not only have an AIDS diagnosis, but are able to meet the stiff requirements of a disability, are able to access the comprehensive care provided by Medicaid. As a result, we estimate that only 17% of people living with HIV/AIDS in Georgia are currently covered by Georgia’s Medicaid program. If Georgia were to fully expand Medicaid to all individuals with incomes of less than 138% of the federal poverty level, that estimate rises to 75%. Such dramatic changes in coverage would not only provide those living with HIV the same level of care that their peers in the vast majority of the country have, it is a key to the implementation of Georgia’s plan to End the HIV/AIDS Epidemic in the next decade as called for under President Trump’s new initiative.

Furthermore, such an expansion would ultimately pay for itself through improved health outcomes, lower in-patient hospital costs and by supporting individuals as they return to the work force. It would also provide new funding streams to the medical providers, especially those in rural areas, who are currently underfunded through the federal Ryan White Program.

Even with a broader expansion that only reaches those with incomes below 100% of the federal poverty level, that did not include the severe work requirements of the current proposal, would bring an estimated 16,000 Georgians living with HIV into the comprehensive care that is currently denied them.

### **Expanding Medicaid Would Insure More People at the Same or Lower Cost**

Combined, the state estimates that it will spend about \$322 million – or about \$215 million excluding costs covered by user fees – to extend coverage to just under 80,000 Georgians under the 1332 and 1115 waivers. Instead of pursuing these two harmful waivers, Georgia could accept the ACA’s Medicaid expansion and allow all residents earning under 138% of the federal poverty line to qualify for Medicaid

coverage. Doing so would extend coverage to between 487,000 and 598,000 residents at a net state cost of \$188 million to \$213 million, according to state estimates.<sup>2,3</sup>

In addition to its far greater benefits for low-income Georgians, Medicaid expansion would also do more to reduce uncompensated care. States that expanded Medicaid saw larger coverage gains and a decrease in uncompensated care costs of 55 percent on average, compared to a decline of only 18 percent in states that did not expand Medicaid.<sup>4</sup> This experience serves as a critical lesson for Georgia, where seven rural hospitals have closed since 2010.<sup>5</sup> Upon the waivers' release, stakeholders warned that the proposals would fall short in addressing the problem of uncompensated care. The 1115 waiver "does not significantly move the needle for the rural and safety net hospitals who care for the state's uninsured patients," according to the Georgia Hospital Association.<sup>6</sup>

Georgia has the opportunity to expand coverage to hundreds of thousands of people that would result in significant benefits to the state's residents, including fewer premature deaths and improved access to care and financial security for people gaining coverage.<sup>7,8</sup> It should do so, rather than upending the state's insurance market at great risk to consumers.

Sincerely,

{Electronically Signed – Original to Follow}

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Trevor Pearson, Planning Council Chair  
Kim Moon, 1<sup>st</sup> Vice-Chair  
Reggie Dunbar, 2<sup>nd</sup> Vice-Chair  
Jeff Graham, Public Policy Committee Chair

C: Robb Pitts, Chairman - Fulton County Board of Commissioners  
Metropolitan Atlanta HIV Health Services Planning Council

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<sup>2</sup> Kyle Hayes, "Georgia Waivers: At Least as Costly to Cover Far Fewer People Than Medicaid Expansion," Center on Budget and Policy Priorities, November 14, 2019, <https://www.cbpp.org/blog/georgia-waivers-at-least-as-costly-to-cover-far-fewer-people-than-medicaid-expansion>

<sup>3</sup> Laura Harker, "State Health Care Proposals Fall Short and Undermine Comprehensive Health Plans," Georgia Budget and Policy Institute, November 11, 2019, <https://gbpi.org/2019/georgia-health-care-proposals-fall-short-undermine-comprehensive-health-plans/>

<sup>4</sup> Matt Broaddus, "ACA Medicaid Expansion Drove Large Drop in Uncompensated Care," Center on Budget and Policy Priorities, November 6, 2019, <https://www.cbpp.org/blog/aca-medicaid-expansion-drove-large-drop-in-uncompensated-care>

<sup>5</sup> Georgia Department of Community Health Waiver Project, "Georgia Environmental Scan Report," July 8, 2019, <https://medicaid.georgia.gov/document/publication/georgia-environmental-scan-report-posted-71819/download>

<sup>6</sup> Jim Galloway et al, "The Jolt: The quandary an impeachment trial poses for Johnny Isakson – or his replacement," *Atlanta Journal-Constitution*, November 5, 2019, <https://www.ajc.com/blog/politics/the-jolt-the-quandary-impeachment-trial-poses-for-johnny-isakson-his-replacement/sNlwCchpsBAhwwMeLKy2aM/>

<sup>7</sup> Matt Broaddus and Aviva Aron-Dine, "Medicaid Expansion Has Saved at Least 19,000 Lives, New Research Finds," Center on Budget and Policy Priorities, November 6, 2019, <https://www.cbpp.org/research/health/medicaid-expansion-has-saved-at-least-19000-lives-new-research-finds>

<sup>8</sup> Center on Budget and Policy Priorities, "Chart Book: The Far-Reaching Benefits of the Affordable Care Act's Medicaid Expansion," Updated November 6, 2019, <https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid>