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DRW COMMENTS TO:
BADGERCARE REFORM DEMONSTRATION PROJECT WAIVER
AMENDMENT-CHILDLESS ADULT POPULATION

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INTRODUCTION

Disability Rights Wisconsin (DRW) is the Protection and Advocacy system for people with disabilities in Wisconsin and the only statewide provider of free civil legal aid to people with disabilities. DRW represents thousands of low-income Wisconsinites every year, including some of Wisconsin's most vulnerable children, seniors, families, victims of crime, and survivors of violence.

DRW opposes this proposed amendment. We believe it fails to meet the basic requirement of an 1115 Demonstration Waiver: that it promote "the objectives of the Medicaid statute." Proposal at 1. The purpose of Medicaid is:

... to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care....

42 U.S.C. § 1396-1

This proposal will undermine, rather than promote, the objectives of Medicaid. It will create significant barriers to access to Medicaid. It will result in people temporarily or permanently losing eligibility for Medicaid because it imposes financial and bureaucratic hurdles to enrollment or continued enrollment that people in poverty will find difficult to overcome. It will result in a return to the system where people without means will access healthcare only when an emergency arises and they cannot avoid an interaction with the health care system. The result will be utilization of the highest cost component of the healthcare system-the emergency room. Much of this care will be uncompensated, thereby stressing Wisconsin's healthcare infrastructure.

Our assumption is that, despite nearly universal opposition, this proposal will advance in some form. Given that reality, our comments focus on the impact of the proposal on people with disabilities and how some of its ill effects may be ameliorated for that population. That focus should not be interpreted as approving, supporting or endorsing anything in this proposal that applies to the larger population of low-income people who must rely on Medicaid for their healthcare and who will be harmed by this proposal. It is undisputed that poverty correlates highly with disability. Many people with a disability (as that term is defined in the Americans with Disabilities Act and the Rehabilitation Act) rely on the BadgerCare Childless Adult Waiver for their health insurance coverage, so the entirety of this proposal is likely to disproportionately affect people with disabilities.

The BadgerCare Childless Adult Waiver has been a lifeline for thousands of low income Wisconsinites, providing access to affordable health care and reducing reliance on costly emergency and crisis services. While many Wisconsinites with disabilities access EBD (elderly, blind, and disabled) Medicaid, a significant number of people with disabilities, including individuals with mental illness, cognitive disabilities, and chronic disabling conditions, access Medicaid through the BadgerCare Childless Adult Waiver. Although some may be potentially eligible for EBD Medicaid (and therefore would not be affected by this proposal), obtaining a disability determination can be a difficult process, requiring extensive medical documentation. Many individuals with significant mental illness and/or other chronic disabling

conditions, including those who have experienced homelessness, have not had consistent access to healthcare over the years, and have difficulty providing the needed documentation for a disability determination. In many cases, access to EBD Medicaid is only gained after engaging in multiple levels of the appeal process. That process can easily take years. In the meantime, BadgerCare is the means by which people with disabilities access healthcare.

Expanding Medicaid coverage to this population through the Childless Adults Waiver has greatly improved access to reliable and continuous health care for thousands of Wisconsinites with mental illness and other chronic disabling conditions. This has included access to acute and primary care, prescription drugs, behavioral/mental health care, personal care, therapies, and non-emergency medical transportation. Enrollment in BadgerCare has also provided opportunities for access to other County administered benefits such as Comprehensive Community Services (CCS) which supports recovery for people with mental illness and substance use disorders. It is important to note that Medicaid provides services that are not generally covered by private insurance, including CCS and personal care. Continued and uninterrupted access to Medicaid and the unique long term supports it provides, is vital for Wisconsinites with disabilities.

1. PREMIUMS

DRW opposes the use of premiums. Paying a premium, no matter how small, can be a formidable barrier for many BadgerCare members, who are by definition low income, and in many cases homeless or experiencing housing insecurity, and struggling to meet basic needs. A review of premium use in Michigan, Iowa and Indiana indicates that **“Premiums are unaffordable for those who are subject to them, causing some enrollees to accumulate debt or be dropped from the program.”**¹

In addition to their limited budget, many are without a bank account, credit card, or other means to easily pay monthly premiums. An *FDIC National Survey of Unbanked and Underbanked Households*, published in October 2014, found that 7.7% of US households were “unbanked” in 2013, and an additional 20% were underbanked. Minority households had less access: among Black households 20% were unbanked” and 33% underbanked; and data for Hispanic households indicated that 17.9% were unbanked and 28.5% were underbanked.²

The lack of access to a bank account creates significant barriers to conducting basic financial transactions such as paying monthly premiums. Studies have shown that Medicaid participants have trouble affording even modest premiums, and that premiums can impede access to necessary care, and increase use of emergency rooms and uncompensated care.³

Recommendation:

- DRW recommends revising the Waiver Amendment to exempt individuals with disabilities, caregivers, and other exempt groups listed in section 3.4.4.1 from paying monthly premiums, and recommends the addition of exemption for individuals who are homeless, as well as domestic violence victims.

2. EMPLOYMENT AND TRAINING REQUIREMENT & TIME LIMITS ON MEDICAID ELIGIBILITY

After 48 months of BC+ enrollment, a childless adult on BC+ will lose coverage for 6 months. If an individual is working at least 80 hours per month or job training, they will not be subject to the 48-month enrollment limit. According to the waiver, FoodShare Employment and Training (FSET) is the model the BC+ work component will follow.

Recommendations:

- Although DRW supports efforts to provide employment services and supports to people with disabilities and other low income populations, we oppose the proposed loss of healthcare coverage, as it will delay needed medical care, increase reliance on emergency and crisis services, and on uncompensated care. DRW endorses the current exemptions as written in section 3.4.4.1 and recommends the addition of exemption for individuals who are homeless, as well as domestic violence victims.
- The application does not explicitly state that a participant who is exempt from the work requirement will not accrue time towards the 48-month limit. DRW recommends the addition of language to explicitly exempt these same individuals from the 48-month limit, and the addition of exemptions for individuals who are homeless, as well as domestic violence victims.

3. SUBSTANCE ABUSE SCREENING, TESTS AND TREATMENT

The Waiver Amendment requires, as a condition of eligibility, that an applicant or member complete a drug screening, and if indicated, a drug test.

Recommendations:

- DRW supports efforts by DHS to increase access to substance use disorder treatment; however, we question the effectiveness of this provision. The drug screening/testing measures, like the required premiums, will be expensive to administer. Given that there is currently a shortage of substance use disorder treatment and prevention programs, and waitlists of people in need of treatment, it would be more impactful to use these funds to develop provider capacity.
- DRW endorses exempting people with disabilities and other as listed in section 3.4.4.1 from this requirement, and recommends the addition of exemptions for individuals who are homeless, as well as domestic violence victims.

4. CHARGING AN INCREASED CO-PAYMENT FOR EMERGENCY DEPARTMENT UTILIZATION

The Waiver Amendment (section 3.4.2.1) would make members who use the emergency department responsible for an \$8 copay for the first visit and \$25 copays for subsequent visits during a twelve-month period.

Recommendation:

- While DRW supports the underlying philosophy of encouraging access to preventive care and reducing reliance on emergency rooms, we recognize that many BadgerCare members with disabling conditions have significant health care needs. Access to an emergency room is an important part of the continuum of care. In addition, the copay may be unaffordable for many members given their low income, and could prevent them from accessing needed care.
- DRW endorses exempting people with disabilities and others as listed in section 3.4.4.1 from the increased co-payment for Emergency Department Utilizations, and recommends the addition of exemption for individuals who are homeless, as well as domestic violence victims. As an alternative, we support use of care coordination and more accountability for network adequacy to improve use of preventive care.

5. WAIVER OF IMD EXCLUSION FOR INPATIENT SUBSTANCE USE DISORDER TREATMENT

Section 3.4.5.2 “Expanding Substance Use Disorder Treatment,” requests a waiver of the IMD exclusion for people ages 22-64 for inpatient substance use disorder treatment up to 90 days.

Recommendation:

- There is currently a lack of capacity for both community-based and residential treatment for substance user disorders, and in many areas of the state there are waiting lists for such treatment. Because many people with disabilities have a co-occurring substance use disorder, DRW supports this narrowly targeted waiver of the IMD exclusion which would allow Medicaid coverage for people ages 22-64 only for inpatient substance use disorder treatment up to 90 days.

6. EVALUATION

Section 6.0 of the Amendment indicates that the Waiver evaluation design will include an assessment of hypotheses related to “a member’s personal responsibility in their healthcare.”

Recommendations:

- The evaluation design should include assessment of whether the amendment has had any effect on enrollment in the Waiver. As indicated at the outset, we believe this proposal will result in people—possibly large numbers of them—losing eligibility for the Waiver, and, as a consequence, access to healthcare. The evaluation should include documentation of people who lose eligibility and the reasons for the loss of eligibility. If, as we fear, significant numbers of people lose eligibility because they cannot comply with the new financial or bureaucratic requirements, DHS should immediately reamend the Waiver by eliminating the changes made by this amendment.

- The evaluation design should also evaluate the effect of allowing Medicaid payment for 90 stays at IMDs for people with substance use disorders. It should evaluate each stay individually to determine if: 1) it was appropriate, and 2) whether all reasonably available outpatient treatment options were exhausted prior to utilization.

CONCLUSION

Wisconsin has made great strides in improving access to health care for low income people, including thousands of Wisconsinites with disabilities. We remain concerned that the Childless Adult Waiver Amendment will move Wisconsin backwards by reducing access to healthcare, increasing reliance on emergency room and crisis care, as well as increasing uncompensated care. Costs for administering the waiver were not included in the application. Given the complexity of the waiver, these costs will be significant; policymakers need to understand the projected cost for implementing and operating the waiver before moving forward.

Given these concerns, and the potential harmful impact on healthcare access for Wisconsinites with disabilities, we oppose the Childless Adult Waiver Amendment. Thank you for your consideration of DRW's recommendations to exempt Wisconsinites with disabilities from provisions of the Waiver Amendment,

Notes

1. Callow, Andrea. "Charging Medicaid Premiums Hurts patients and State Budgets." Families USA.

<http://familiesusa.org/product/charging-medicaid-premiums-hurts-patients-and-state-budgets>
April 2016.

2. Susan Burhouse, Karyen Chu, Ryan Goodstein, Joyce Northwood, Yazmin Osaki, Dhruv Sharma. "2013 FDIC National Survey of Unbanked and Underbanked Household." <https://www.fdic.gov/householdsurvey/2013/index.html>. October 2014

3. Callow, Andrea. "Charging Medicaid Premiums Hurts patients and State Budgets." Families USA. <http://familiesusa.org/product/charging-medicaid-premiums-hurts-patients-and-state-budgets> April 2016.

Definitions

- **Unbanked** is defined by the FDIC study as households that do not have an account at an insured institution

- **Underbanked** households are defined by the FDIC as those that have used at least one of the following AFS from non-bank providers in the last 12 months: money orders, check cashing, remittances, payday loans, refund anticipation loans, rent-to-own services, pawn shops loans, or auto title loans.