WISCONSIN COUNCIL ON
children &families
Raising Voices to Make Every Kid Count

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May 18, 2017

Linda Seemeyer, Secretary
Department of Health and Human Services
1 West Wilson Street
Madison, WI 53703

Dear Secretary Seemeyer,
Thank you for the opportunity to share our comments on the BadgerCare 1115 Demonstration Project.

For over a century, the Wisconsin Council on Children and Families (WCCF), a private, non-partisan, non-profit, has focused on improving conditions for families and children through policy change, expanded public investments and public education that lead to improvements in outcomes and practices in the delivery of publicly funded health care, education, workforce development and social services.

As an organization that works to help increase access to health insurance for low-income families and individuals, we have serious concerns with the direction that the state is considering moving with the amendments being proposed to the BadgerCare 1115 Demonstration Project. The state is proposing unprecedented changes targeted at individuals with incomes below the poverty line. The proposal, which includes charging monthly premiums for almost all childless adults below the poverty level, imposing a 48-month eligibility limit, and requiring drug screenings as a condition of eligibility will impede, rather than advance, the goals being touted by Governor Walker and the waiver proposal itself.

- expanding the Wisconsin workforce,
- cutting in half the number of uninsured Wisconsinites,
- the state's investment in increased access to substance abuse services, and
- the overarching goal to improve health outcomes.

Access to health care benefits everyone in our communities, from those struggling with addiction to employers in need of healthy workers. Wisconsin's BadgerCare program has helped over 145,000 childless adults access crucial preventative and behavioral health care services. The Governor and the legislature have recognized the need in Wisconsin for improved access to crucial behavioral health services given both the opioid crisis as well as the need in Wisconsin for increased access to mental health services, and they have worked together with providers and advocates to address start building the infrastructure to help meet that need.

The stated statutory purpose of Medicaid is "to enable states to furnish medical assistance to individuals whose incomes and resources are insufficient to meet the costs of necessary medical care and to furnish such assistance and services to help these individuals attain and retain the capacity for independence and

self-care." The bulk of Wisconsin's waiver proposal does not promote the objectives of the Medicaid program and only serves to derail the progress Wisconsin has made in improving access to important health care services for some of the poorest people in our communities who are struggling daily to meet their families' needs. As you move forward in the waiver submittal process, we hope that you will seriously consider these comments and recognize the adverse impact that these proposals will have on Wisconsinites who are trying to access necessary healthcare.

WCCF's feedback regarding specific proposals in this waiver application can be found on the subsequent pages.

Sincerely,

Jon Peacock
Research Director
Wisconsin Council on Children and Families

Overarching Concerns

1) **Increased barriers to care**
   The majority of the amendments presented will only serve to increase barriers to health insurance access, and will not move the state further along in achieving its goals.

2) **Increased administrative complexity**
   The administrative complexity and related costs to implement the proposals will not only make the program more difficult for patients and enrollment workers to navigate, but will ultimately not be cost-effective for the state.

3) **The need for greater transparency**
   Up to this point the state has not openly acknowledged or addressed the administrative complexity for both beneficiaries and enrollment staff and the potential fiscal burden related to the implementation and administration of these proposals. In addition, we hope there will be greater transparency and opportunity for stakeholder feedback on the evaluation design analyzing any potential amendments.

Monthly Premiums and Cost Sharing Requirements Pose Barriers to Health Coverage and Care

The state's unprecedented proposal to require childless adult BadgerCare enrollees between 21% and 100% of the FPL to pay monthly premiums or lose coverage for up to six months will only serve as an additional barrier to access to care. This policy will likely result in the denial of and interruption in health care services to adults in Wisconsin who are most in need of these services. While the premiums being proposed may seem nominal, past experience has shown that these can still pose a significant logistical hardship-especially for those with limited access to credit cards and bank accounts. According to an *FDIC National Survey of Unbanked and Underbanked Households*, published in October 2014, about 28% of low income families were unbanked, meaning they did not have access to a bank account. [1]

Numerous studies, including evaluations of Wisconsin's past 1115 waiver experiment with premiums for adults over 133% of the FPL, demonstrate that requiring premiums for people living at or near the poverty level acts as a barrier to getting and keeping health care coverage.[2,3] In 2012, when Wisconsin imposed enforceable premiums on adults above 138 percent of the federal poverty line , over two-thirds of adults in this group left the program within six months, and one in five lost coverage due to failure to pay.[4] A recent evaluation of Indiana's waiver program for their childless adult expansion found that in a 21 month period,

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

[2] Kaiser Family Foundation, "Premiums and Cost-Sharing in Medicaid: A Review of Research Findings." February 2013. Available at: http://kff.org/medicaid/issue-brief/premiums-and-cost-sharing-in-medicaid-a-review-of-research-findings/

[3]. "Evaluation of BadgerCare Plus Health Coverage for Parents & Caretaker Adults and for Childless Adults Executive Summary Report 2014." University of Wisconsin Population Health Institute. Available at: https://uwphi.pophealth.wisc.edu/publications/other/badgercare-2012-waiver-evaluation-executive-summary.pdf

[4] Alexandra Gates and Robin Rudowitz, "Wisconsin's BadgerCare Program and the ACA," Kaiser Family Foundation, February 2014. Available at: http://kff.org/medicaid/fact-sheet/wisconsins-badgercare-program-and-the-aca/

55% of those eligible to pay a premium were unable to make a payment at some point and were either kicked off Medicaid or moved to an inferior plan within the Indiana Medicaid program.[5]

The subsequent loss of coverage will only serve to increase the uninsured rate and shift costs to more expensive areas of the health system like hospital emergency departments.[6] The increased potential for gaps in coverage due to the failure to pay a premium will affect a patient's establishment of a medical home and their continuity of care – which are critical to helping someone succeed in in their health goals.

The amendment also requests the authority to require a copay for any emergency department (ED) utilization, whether it is non-emergent or not, at $8 for the first visit and $25 for any subsequent visit within a 12 month period. This proposal is not an appropriate use of waiver authority based on the criteria defined under sections 1916(f)(3), (4), and (5) of the Social Security Act. Currently, only Indiana has the authority to require ED copayments, which they only require for visits deemed as non-emergent. Wisconsin's proposal to require copays for any ED visit may result in individuals in this population not seeking care even when facing a health emergency.

Administrative and Implementation Concerns/Comments

- The amendment reveals very little regarding how the state will administer the collection of the premiums and the connection of premium payment amounts with the health behavior incentive program. This is bound to be a confusing process not just for beneficiaries but for enrollment workers as well. We are concerned that the costs to administer this program do not warrant the potential negative ramifications on beneficiaries' access to care.
    - How does the Department plan to collect premium payments from individuals, especially from those that don't have access to credit cards, debit cards, or bank accounts?
    - Individuals living below 100% FPL often have fluctuating incomes based on available work hours, temporary positions, and other employment changes. How does the Department plan to manage this?
- The proposal gives a brief description of the role that third-party contributors can play in making premium payments on behalf of a patient. We request that the department provide further clarification from the department on who can participate as a third-party contributor and how this would be administered.
- The proposed amendment does not indicate the grace period after notification of failure to pay a premium.

Recommendations

The objectives of aligning BadgerCare member experiences with those in private market and creating a system where people have "skin in the game" are problematic because they would undercut more important goals. For example, the evaluation of Indiana's program demonstrates that enforcing premiums on very low

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[5] The Lewin Group. "Healthy Indiana Plan 2.0: Power Account Contribution Assessment." March 2017. Available at: https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/in/Healthy-Indiana-Plan-2/in-healthy-indiana-plan-support-20-POWER-acct-cont-assesmnt-03312017.pdf

[6] Hannah Katch and Judith Solomon, "Are Medicaid Incentives an Effective Way to Improve Health Outcomes?" Center on Budget and Policy Priorities, January 2017. Available at: http://www.cbpp.org/research/health/are-medicaid-incentives-an-effective-way-to-improve-health-outcomes

income people does not increase involvement in their healthcare. It causes more people to lose coverage, and not access care when they need to, and it leads to worse and more costly health outcomes.

Wisconsin's waiver should propose another alternative to increase member involvement, such as incentivizing provider efforts to engage in wellness planning and better coordinated care. At the very least, those who are exempt from the work requirements should not have to pay a monthly premium.

Time Limits and Work Requirements will Harm People who Need Health Care and Can't Work

Wisconsin's waiver amendment also includes another unprecedented proposal. The state proposes that BadgerCare enrollment for adults under the age of 50 be limited to a 48-month period with a six-month ineligibility period once an individual exhausts their 48 months of eligibility. Individuals in this population may have health problems or treatment needs that require uninterrupted access to health care – including those with chronic conditions or the need for ongoing treatment to maintain sobriety or be drug free - so that these conditions are not exacerbated. Removing their access to health care will likely result in the inability to pay for crucial prescription drugs that help maintain their health, and will cause increased utilization of emergency departments, which are not in concert with the amendment proposal's stated goal of keeping Wisconsin's "health care costs at sustainable levels."

Associated with the 48-month limit on eligibility is the amendment proposal for a work/work training requirement that would be applied to BadgerCare members between the ages of 19 and 49. As long as members are working and/or receiving job training for at least 80 hours per month the 48-month eligibility clock count will stop.

We are pleased that the proposal eases the time limit a bit by stopping the clock when people are working. However, that aspect of the proposal does not remedy the fact that the time limit undermines a central goal of the Medicaid program – to provide access to health coverage.

The majority of Medicaid recipients who can work are doing just that. Those who face obstacles to work, including ill-health, will not benefit from these requirements. Nearly 8 in 10 non-disabled adults with Medicaid coverage live in working families, and nearly 60 percent are working themselves. Of those not working, 81% are ill or have disabilities, taking care of home or family, or going to school.[7] Based on this information, almost all current enrollees are either working or would qualify for an exemption.

A work requirement will be especially harmful for those unable to work and could potentially result in the loss of coverage and continuity of care. More recently, when the state instituted a similar work requirement for its FoodShare program, over 64,000 Wisconsinites lost access to food subsidies. The loss of health coverage due to the inability to work requirements would only serve to make it harder for people to get the health care they need in order to stay healthy.

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[7] Rachel Garfield, Robin Rudowitz, and Anthony Damico, "Understanding the Intersection of Medicaid and Work," Kaiser Family Foundation, February 2017. Available at: http://kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/.

Administrative and Implementation Concerns/Comments

- In line with the state's proposal to require premium payments from beneficiaries, there are likely to be administrative costs and increased complexity related to tracking both employment/work training status and the stopping and resetting of the 48 month limit clock.

Recommendations

The data show that people who can work are working, so a work requirement is an unnecessary government mandate that will not result in more independence.

If the time limit and related employment provisions remain, WCCF recommends the department expand the exemptions list from the work requirement and associated eligibility time limit to include:

- Individuals with two or more chronic conditions who require consistent access to primary care services.
- Individuals who have substance abuse diagnoses, who are in treatment or on a waiting list to receive treatment.
- Individuals in active treatment for cancer or a life threating disease and individuals with a terminal illness
- Individuals who have communicable diseases including HIV/AIDS, Hepatitis B/C, etc.
    - For purposes of public health and safety, it is critical that people with communicable diseases retain coverage, access to medications, and access to care, including behavioral health and mental health care.
- Women who experienced a fetal or infant death, and are at increased risk for a subsequent poor birth outcome
- Refugees
- Individuals who are homeless or at risk for homelessness:
- Individuals with >3 Adverse Childhood Experiences (ACEs) and are at risk for a mental health and/or substance use disorder
- Victims of domestic or other forms of interpersonal violence.

Requirements for Drug Screening and Testing will Deter Addiction Treatment

As the waiver proposal states, "Wisconsin recognizes that substance abuse disorder is a significant public health risk and a barrier to the health, welfare, and economic achievement of residents." Over the last few years, there has been a concerted effort from legislators, providers, people in recovery, and health advocates in Wisconsin to push for increased services around drug treatment, to help destigmatize substance use, and treat it as disease rather than a moral failing. The drug screening and testing requirement proposed in the waiver would be a huge step backwards given the momentum that has been built regarding the importance of access to substance abuse treatment and services.

The state proposal would deny individuals Medicaid coverage if they refuse to participate in a drug screening and subsequent drug test. Potential beneficiaries would remain ineligible till a drug screening assessment was completed. If the drug test is positive, the applicant must fully complete treatment program to remain eligible for benefits. If the individual refuses treatment, they will be locked out of benefits for 6 months until they can re-apply.

The state's proposal to increase access to substance abuse services through a mandatory drug screening, testing and treatment program is extremely troubling for a number of reasons. This includes the fact that potential enrollees may be deterred from seeking treatment or may have numerous obstacles – like lack of time or work obligations - that make participating in a screen or test difficult. In addition, once someone has been tested positive and is willing to seek treatment, will they be able to receive timely care?

DHS's recent Medicaid Access study suggests that there is not adequate behavioral health provider capacity across the state to meet existing demand, especially for substance use services.[8] Additionally, since Wisconsin already has waiting lists of people who need and want drug treatment, spending scarce state dollars on new screening and treatment requirements will add to the waiting lists and divert resources from more effective solutions. While the department is trying to address the capacity issue increasing residential treatment services by requesting a waiver of the IMD exclusion, capacity for all types of treatment modalities is scarce. Expediency in getting treatment when a member is willing to participate in it is extremely important if treatment is to be successful.

Administrative and Implementation Concerns/Comments

A number of questions remain regarding how the different components of this proposal will be administered including:

- Who will administer the initial screen and how?
- Who will administer the drug test?
- How will DHS ensure that space in a treatment program is available?
- Will someone be exempt from premium, work, and time limit requirements if they are waiting for access to substance use treatment services?

Is this type of screening and testing process cost effective? The drug screening/testing measures, like the required premiums, would be expensive to administer with low impact. An assessment of seven state programs that drug-test applicants for TANF found that they have identified very few drug users: in fact, TANF applicants have lower rates of drug use than the general population.[9]

Recommendations

The state could use the funding far more effectively to remove barriers to employment, including the shortage of drug treatment and prevention programs or investing in training more providers in SBIRT, so that providers can help enrollees understand and accept treatment within the privacy and safety of the provider/patient relationship.

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[8] Wisconsin Department of Health Services. "Medicaid Fee for Service Access Plan. September 2016." Available at: https://www.dhs.wisconsin.gov/publications/p01565.pdf

[9] Bryce Covert, "What 7 States Discovered After Spending More Than $1 Million Drug Testing Welfare Recipients," Think Progress, February 2015. Available at: http://www.huffingtonpost.com/2015/02/26/what-7-states-discovered-_n_6766140.html

Healthy Behavior Incentives and Health Risk Assessments will not Lead to Healthier Enrollees

The waiver amendment includes a proposal to require childless adults to complete an annual Health Risk Assessment (HRA). Refusal to complete the HRA would result in a beneficiary denied from receiving premium reductions through the Healthy Behavior Incentive program. Research is mixed on whether these health behavior programs improve health, and the few studies that have evaluated the effectiveness of these incentives in the Medicaid program have found the participants are more likely to participate in short-term or one-time activities with immediate pay out of incentives vs permanent changes to lifestyle.[10]

Setting a baseline for providers and patients to discuss health risks and encouraging healthy behaviors to improving health outcomes are important goals. However the approaches that Wisconsin hopes to take in collecting Health Risk Assessments (HRAs) and incentivizing healthy behaviors by linking it to premium payments are unlikely to reap much in terms of long term benefits for beneficiaries. Data from states like Michigan, Iowa and Indiana who also used 1115 waivers to implement healthy behavior programs for their Medicaid expansion populations found that many beneficiaries were unlikely to complete their HRA. In the case of Michigan, the study found that 14.9% of beneficiaries who were enrolled in a health plan for at least six months completed their HRA, and that many were not even aware that the incentive to lower their premium existed.[11]

Some of the identified health risk behaviors are likely beyond individual's control and would result in effectively having to pay a penalty. Weight gain is a common side effect of many medications, especially psychiatric medications. Further, numerous studies show that individuals with lower incomes are more likely to be overweight, smoke, and engage in other health risk behaviors. The design of this program is administratively cumbersome and unlikely to change behavior.

Health Risk Assessments will complicate BadgerCare for participants and far more so for program administrators. There is the potential for inaccuracy in the information being presented by patients on a Health Risk Assessment, especially when it is linked to an incentive.

Administrative and Implementation Concerns/Comments

- As with the many of the other proposals, this too will be administratively complex – and will require quite a lot of education for both enrollees and training for DHS enrollment workers.
- Evaluating and tracking where enrollees are falling on the "healthy behavior" scale will also be prove difficult to implement and administer
- The utilization of Health Risk Assessments may be duplicative process. The waiver does not make it clear who will be in charge of administering the annual HRA-whether it's through the HMO or the patient's chosen primary care provider.

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[10] Medicaid and CHIP Payment and Access Commission, "The Use of Healthy Behavior Incentives in Medicaid." August 2016. Available at: https://www.macpac.gov/publication/the-use-of-healthy-behavior-incentives-in-medicaid/

[11] Hannah Katch and Judith Solomon, "Are Medicaid Incentives an Effective Way to Improve Health Outcomes?" Center on Budget and Policy Priorities, January 2017. Available at: http://www.cbpp.org/research/health/are-medicaid-incentives-an-effective-way-to-improve-health-outcomes

Recommendation

Completing a health risk assessment is worthwhile, but using financial penalties to accomplish this adds to program complexity and costs, and has not worked in other states that have tried it. Health risk assessment should be completed once with the patient's provider for the sole purpose of developing a care plan with the patient with a shared goal to increase health behaviors.

Lack of Transparency around the Administrative Realities and an Effective Evaluation Plan

As the state moves forward in this Waiver Amendment proposal process, we hope that the state will provide stakeholders more detailed information on the costs – both to the state and to patients in terms of potential loss of access to care.

Recommendation

We recommend that the state continue to engage stakeholders in the waiver process and in the ultimate implementation of any waiver changes should the federal government give approval. To help prevent unintended consequences and avoidable costs, we recommend the formation of a stakeholder advisory committee to guide implementation of whatever changes are approved.

In addition, we hope that the state will ensure that any evaluation plan analyzing the effects of these policies include a full cost/benefit analysis of each of these provisions to determine the full cost of implementation – including the benefits or costs related to patient access to care.

We also recommend that the state prepare an evaluation of each of the provisions at periodic (quarterly) intervals to be shared with legislators and stakeholders to determine whether the waiver is achieving the desired results.