FLORIDA LEGAL SERVICES, INC.

Work Requirements, Premiums, and Lockouts:
Considerations for the Florida Medicaid Program

Background: HB 7117 directs the Florida Agency for Health Care Administration (AHCA) to request federal approval conditioning Medicaid eligibility on compliance with work requirements and premium payments. These proposals raise concerns for Medicaid beneficiaries, providers, and local safety net hospitals. There is also concern that such changes would be inconsistent with governing federal authority.

Work requirements: "Able-bodied"[i] beneficiaries would be required to submit proof of 40 hours of "work activities," e.g. employment, job search, vocational training. Children, adults receiving SSI or SSDI, and single parents of infants less than 3 months would be exempt.

Practical and policy considerations: Most non-exempt adults either already work or have a "good reason" for not working, e.g. taking care of family member, having an illness or disability.[ii] Thus, the state would be creating additional bureaucracy for a relatively small number of people, and vulnerable recipients (including those erroneously terminated) could go without needed health care.

Legal considerations: While the state has significant flexibility in designing the Medicaid program and can request that parts of the federal Medicaid Act be "waived" for "experimental purposes," waivers must be "*likely to assist in promoting the objectives of the Medicaid Act.*"[iii] In contrast to TANF (the old AFDC program), which does include promoting work as part of the program's purpose, Medicaid does not include work promotion as an objective.[iv]. Thus, a work requirement would be "legally suspect."[v]

Premiums and lockouts: Enrollees with family incomes between 50-100% of the federal poverty level (FPL) would have $10/month premiums; for those above 101%, the premium is $15 /month. With limited exceptions, premiums would apply to children, pregnant women, and aged and disabled adults. If the premium is not paid within a 60-day grace period, the beneficiary will be disenrolled and ineligible for 12 months.

Practical and policy considerations: Decades of research unequivocally demonstrates that even small premiums (or other cost sharing) create barriers to care for people living at or below poverty.[vi] The vast majority of those who would be at risk are children in low-income families whose parents fail to make premium payments. Such an outcome would undermine the bipartisan public policy considerations supporting universal coverage for children. Disenrolling low-income aged, disabled, and pregnant adults would drive up uncompensated care costs through increased use of the emergency room by these populations—whose health care costs will not disappear if/when they are locked out of Medicaid coverage.

Legal considerations: Premiums are not an "experiment" and, like work requirements, neither premiums nor lockouts support the purpose of the Medicaid Act.

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[i] HB 7117 *citing* to 45 C.F.R. 261.2(n)
[ii] The majority of Medicaid beneficiaries not on SSI are working, and of those not working, 35% are sick or have a disability. http://files.kff.org/attachment/Issue-Brief-Medicaid-and-Work-Requirements at 3.
[iii] Medicaid's purpose is to provide medical assistance to specified low-income people and to provide medical assistance and services to assist these individuals. *See* 42 U.S.C. 1396-1, 1396d(a).
[iv] *Id.*
[v] J. Perkins, I. McDonald, National Health Law Program, "Medicaid Work Requirements; Legally Suspect" (March 21, 2017)
[vi] Kaiser Family Foundation, "Premiums and Cost-Sharing in Medicaid: A Review of Research Findings" (Feb. 2013)

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