

Durbin, Duckworth slam Trump administration for harmful Medicaid changes

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WASHINGTON – U.S. Senators Dick Durbin (D-IL), Tammy Duckworth (D-IL), and 29 Senate Democrats sent a letter to Acting Health and Human Services (HHS) Secretary Eric Hargan expressing serious concern with recent administrative actions and calling into question the Trump Administration’s decision to approve state Medicaid waivers that would eliminate health coverage for tens of thousands of Americans. Last week, Governor Bruce Rauner [expressed](#) support for these new federal rules that would make it easier for states to impose onerous work requirements and red tape in order for people to receive Medicaid, which could jeopardize health care access and harm Illinoisans who are disabled, sick, caring for children or elderly parents, working part-time jobs, or struggling with an opioid addiction.



“Harmful ideological policies such as work requirements, mandatory drug testing, time limits, onerous cost-sharing and the like undercut and exceed the statutory authority provided to the secretary under Section 1115 and contravene longstanding congressional intent,” the senators wrote. “Ultimately, this leads to poorer health and more frequent use of the emergency room, all of which ends up costing the system and taxpayers more in the long run. Such harmful proposals clearly undermine the purpose of the Medicaid Act, prioritizing ideology over health.”

The letter comes after the Centers for Medicare & Medicaid Services (CMS) released guidance last week signaling to states that the agency would approve Medicaid Section 1115 waivers that impose work requirements on otherwise eligible individuals. CMS subsequently approved Kentucky’s 1115 Medicaid waiver, which, in addition to work requirements, includes such harmful components as lockout periods, onerous reporting requirements, and the elimination of retroactive coverage that will harm the health of low-income individuals without leading to a significant increase in employment. In its own proposal, Kentucky projected that 95,000 people in the state would lose their Medicaid health coverage.

This is not the first time that the Trump Administration and congressional Republicans have sought to dismantle the Medicaid program—which provides health care to nearly 70 million Americans nationwide – one in five people in the U.S. – including more than three million Illinoisans. The failed Republican Affordable Care Act (ACA) repeal bills would have slashed funding for state Medicaid programs—harming hospitals nationwide (especially rural hospitals) and throwing millions of Americans off their health care. According to the Illinois Health and Hospital Association, the Republican ACA repeal bills would have resulted in up to 95,000 job losses in Illinois alone.

The letter, led by U.S. Senator Ron Wyden (D-OR), was also signed by U.S. Senators Sherrod Brown (D-OH), Robert P. Casey, Jr. (D-PA), Edward J. Markey (D-MA), Kirsten Gillibrand (D-NY), Chris Van Hollen (D-MD), Tom Carper (D-DE), Kamala Harris (D-CA), Elizabeth Warren (D-MA), Patrick Leahy (D-VT), Tina Smith (D-MN), Richard Blumenthal (D-CT), Corey Booker (D-NJ), Jeanne Shaheen (D-NH), Ben Cardin (D-MD), Jack Reed (D-RI), Tom Udall (D-NM), Maria Cantwell (D-WA), Patty Murray (D-WA), Bernie Sanders (I-VT), Bob Menéndez (D-NJ), Chris Murphy (D-CT), Chris Coons (D-DE), Jeff Merkley (D-OR), Mazie Hirono (D-HI), and Sheldon Whitehouse (D-RI).

The full letter can be found below:

Dear Acting Secretary Hargan:

We write to express our concern in response to recent actions and statements from the Centers for Medicare and Medicaid Services (CMS) regarding the agency's intent to embrace Section 1115 demonstrations that could undermine access to health care that contradict the plain text and purpose of Title XIX of the Social Security Act and Congress's longstanding intent for the Medicaid program. Demonstrations that adopt restrictive conditions on eligibility like work requirements, lock-out periods, time limits, mandatory drug testing and onerous premiums and cost sharing threaten to impede access to care for the neediest Americans, a consequence that contravenes Congress's clear intent in creating the Medicaid program. We urge you to faithfully administer the Medicaid Act and to reject Section 1115 demonstration requests that jeopardize the health and financial security of Medicaid beneficiaries.

Congress enacted Title XIX in 1965 with the unambiguous statutory objective to provide (1) "medical assistance 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." Millions of children, seniors, individuals with disabilities, pregnant women, and low-income adults have since benefited from comprehensive, affordable health care through Medicaid, which today covers over 70 million Americans. As the primary payer of long-term care in the nation, Medicaid plays a particularly crucial role for seniors, children, and other adults with disabilities who rely on the program for home and community-based services, or care in nursing facilities where Medicaid helps pick up the tab for two out of three individuals. Since the passage of the Affordable Care Act, low-income adults, including the working poor, have also had the opportunity to access care through Medicaid in states that took up the Medicaid expansion. Today, thirty-two states and the District of Columbia cover over 11 million adults through the Medicaid expansion.

Medicaid plays an essential role in ensuring that millions of low-income Americans can access affordable and comprehensive health care. Yet, CMS continues to make statements and take actions demonstrating the agency's intent to approve state Section 1115 demonstration waivers that we believe would bar eligible individuals from Medicaid through restrictive and onerous eligibility conditions. For example, on January 11th, CMS issued a State Medicaid Director Letter that advertised the agency's intent to approve 1115 waivers that would condition an otherwise eligible individual's medical assistance on unprecedented work requirements. Most recently, on January 12th, CMS approved an amendment to Kentucky's ongoing Section 1115 demonstration tying the receipt of medical assistance for otherwise eligible individuals to meeting burdensome work and other requirements. In the Medicaid program's history, this is the first time CMS has approved a state request to condition access to health care on work and related activities.

Section 1115 of the Social Security Act permits states to waive certain federal Medicaid requirements to conduct an “experimental, pilot, or demonstration project” that achieves the goals of the Medicaid program. Over thirty states across the country have taken advantage of this flexibility by conducting demonstrations that improve health care access, coverage, or delivery, including by expanding mental health and substance use disorder services, transitioning individuals to community-based care, and integrating primary and behavioral health care in hospitals. These projects fundamentally advance Medicaid by improving the care beneficiaries receive and helping them access the services they need.

In contrast to these demonstrations, harmful ideological policies such as work requirements, mandatory drug testing, time limits, onerous cost-sharing and the like undercut and exceed the statutory authority provided to the Secretary under Section 1115 and contravene longstanding Congressional intent. Imposing such policies on Medicaid families, who are generally living on a budget of roughly less than \$15,000 per year, is not only punitive but also counterproductive. At their core, policies such as work requirements assume that individuals should work in order to have health, when the opposite is plainly true: health is essential for successful employment. Even CMS’s own guidance acknowledges that while Medicaid has a history of assisting individuals, particularly those with disabilities, in obtaining independence through policies that maximize their integration into the community – the true, original, and longstanding intent of Medicaid’s independence objective – receipt of these services, including employment supports, has never been a condition of eligibility or coverage. Requiring poor families to jump through punitive administrative hurdles or pay more than they can afford makes it harder for them to access the care they need and are entitled to under Title XIX. Ultimately, this leads to poorer health and more frequent use of the emergency room, all of which ends up costing the system and taxpayers more in the long run. Such harmful proposals clearly undermine the purpose of the Medicaid Act, prioritizing ideology over health.

While we share your philosophy that states should have the tools to shape policies that address the diverse needs of their communities, innovation and flexibility should not come at the expense of our nation’s most vulnerable, and need not risk the health and financial security of millions of people who depend on Medicaid to receive essential care. For these reasons, we urge you to reject and reconsider proposed demonstrations that will obstruct access to health care in violation of statutory limits and longstanding Congressional intent that have governed the Medicaid program for more than fifty years.