

TENNESSEE COALITION FOR BETTER AGING

Promoting the general welfare of older Tennesseans and their families through partnerships that mobilize resources to educate and advocate for important policies and programs

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February 6, 2019

Secretary Alex M. Azar, II
United States Department of Health and Human Services
Washington, DC
via electronic submission

RE: TennCare Waiver Amendment 38

Dear Secretary Azar,

Please consider the following comments, which we are submitting in opposition to Tennessee's proposed Amendment 38 to its Section 1115 Medicaid Waiver.

The Tennessee Coalition for Better Aging exists to promote the general welfare of older Tennesseans and their families, through partnerships that mobilize resources to educate and advocate for important policies and programs. One of our goals is to support the ability of older Tennesseans to find and maintain productive employment or, if that is not possible, to be engaged in the community. Because the proposed eligibility changes will make it more, rather than less, difficult for many older TennCare parents and caretaker relatives to work and be healthy.

Amendment 38 would deprive people of health coverage for failing to report a certain number of hours of work or "community engagement" each month. The requirement would apply to non-disabled, non-pregnant parents and caretaker relatives, ages 19-64, of minor children. In households with a child under age 6, one parent or caretaker will be exempt, as will people in several other categories. Because Tennessee has refused to expand its Medicaid coverage in accordance with the Affordable Care Act, all individuals affected by the proposal have incomes below the federal poverty level.

Although proposed Waiver Amendment 38 raises numerous concerns, our comments focus on three principal risks to Tennesseans over the age of 50:

- The proposal will result in loss of insurance coverage, which will make it more difficult

MEMBER ORGANIZATIONS

AARP Tennessee
Alzheimer's Tennessee
Council on Aging of Middle Tennessee

Fifty Forward
Greater Nashville Regional Council
Mental Health America of Middle TN
Tennessee Association of Adult Day Services

Tennessee Chapter of the National
Association of Social Workers
Tennessee Conference on Social Welfare
Tennessee Disability Coalition

Tennessee Justice Center
Tennessee Respite Coalition

- to gain and maintain employment due to the inability to manage chronic medical conditions;
- The proposal will obstruct access to treatment for substance use disorders;
- The proposal will make it more difficult for older parents and grandparents to care school-age children in their care.

Loss of health coverage and its consequences for employment or community engagement

The proposal does not acknowledge the fact that many parents will lose their coverage and become uninsured. The amendment is entirely silent on the matter. That is a major oversight, because significant loss of coverage is inevitable, and it is likely to involve large numbers of vulnerable people.

The state legislature's Fiscal Review Committee drafted an analysis of Public Chapter 869, the law that directed the Division of TennCare to submit the work reporting requirement as a proposed amendment to the TennCare waiver. That analysis projected a disenrollment of 22,301. (Please see copy attached.) The Georgetown University Center for Children and Families has just released an updated projection that is informed by experience with a work reporting requirement in Arkansas. That report estimates that disenrollments will reach 68,000. J. Alker, et al., "Work Reporting Requirement for Tennessee Parents Would Harm Low-Income Families with Children," Georgetown University Health Policy Institute Center for Children and Families (January 2019) (copy attached).

Based on our experience serving older Tennesseans enrolled in TennCare, we fear that even the Georgetown University estimate is too low. Arkansas is in a better position to implement work reporting requirements than Tennessee for several reasons. Arkansas has expanded coverage under the Affordable Care Act, but Tennessee has not. Arkansas exempts all parents and caretaker relatives, while that is precisely the vulnerable population that Tennessee targets. The reporting requirements are more onerous in Tennessee.

Most important of all is the fact that TennCare has had great difficulty for many years in administering current eligibility rules. There are certain categories of Medicaid eligibility (e.g., Pickle Amendment coverage, Medically Needy Spend-Down, Disabled Adult Child, and Institutionalized Individuals in the hospital) for which individuals are seldom, if ever, found eligible by TennCare. It requires a trained assister to flag a person's eligibility in one of these categories and, even then, it sometimes requires an administrative appeal before the agency recognizes her eligibility.

For these reasons, we believe that the Fiscal Review Committee and Georgetown University projections, which focused solely on the target population of parents and caretaker relatives, may have seriously underestimated the level of disenrollment under the TennCare proposal. Both of those projections assumed that only those in the target population would be at risk of disenrollment, but if TennCare routinely fails to identify entire categories of eligibility, there is no assurance that it will be able to reliably identify the categories to whom the work reporting requirements apply, and exempt all others.

Parents and caretakers who try to establish that they are exempt, or who try to document that they have worked the required number of hours, will have to contend with a program that has difficulty handling routine operational tasks. TennCare is only now beginning to bring online a computer system that was due in 2013. Early experience of seniors applying for coverage of long-term services and supports raises concerns that the new system, known as TEDS, cannot reliably accept and process eligibility information submitted on behalf of applicants or enrollees.

Problems are not limited to the computer system. Five years ago, the state removed the Department of Human Services from the eligibility process and pulled it into a central office in Nashville. That means there is no meaningful in-person assistance or way for people to get local case management help in their communities.

When individuals or those assisting them try to contact the TennCare call center about eligibility matters, they often experience waits of 20 minutes or more, or dropped calls. Call center operators cannot provide crucial information about individuals' cases. This is a problem that has persisted for five years.

These problems force many people to deal with TennCare by mail or fax, which can be very difficult for older people living in poverty, many of whom have limited education and writing skills. systemic problems are also commonplace. We and those we help have frequently encountered the problem of TennCare or its contractors mailing eligibility renewal packets or requests for eligibility-related information to wrong addresses. These may be old addresses for people who have long since reported, sometimes repeatedly, their current address to the state. Very often, TennCare records purport to show that the document was mailed to the right address, but the documents were never received by individuals who have no difficulty receiving mail reliably from other correspondents, including from their TennCare managed care contractors or TennCare network providers. Affected individuals are unaware that TennCare has sent them a demand for information until they try to fill a prescription or seek other care and learn that their coverage was terminated for failure to reply. These problems remain unexplained and continue to recur, even after a report by the Tennessee Comptroller of the Treasury over a year ago. (Please see attached.)

The problems with mail and fax also include the problem of TennCare claiming not to have received documents that individuals or assisters have submitted, and for which they have proof of delivery in the form of a fax or postal receipt. (Agencies assisting TennCare enrollees and applicants make it a practice to always demand and retain a receipt for any documents submitted to the agency.) This can occur several times in the same case.

All of these problems lead us to conclude that a program that cannot reliably administer existing eligibility rules cannot be counted on to implement new rules that involve additional levels of complexity. Of course, not all of the administrative problems with the new requirements will be on the state's end, for affected enrollees will also find it very difficult to fulfill the administrative requirements imposed by the new rules. For impoverished families whose lives are already filled with challenges, any increase in already burdensome red tape will add to the numbers of eligible individuals who are overwhelmed or deterred from maintaining their coverage.

The consequences of losing health coverage are well-documented. As the Institute of Medicine documented in 2002, individuals without insurance "live sicker and die sooner." Significantly, the I.O.M. found that:

Adults with chronic conditions and those in late middle age stand to benefit the most from health insurance coverage in terms of improved health outcomes because of their high probability of needing health care services.

See Institute of Medicine, *Care Without Coverage: Too Little, Too Late*, Washington, DC (2002), p. 14. (Please see attached excerpt). Conversely, the loss of coverage will be especially harmful to these older

individuals. These harmful effects defeat the proposals intent “to promote improved health outcomes” in the target population. They also impair individuals’ fitness for employment and frustrate the proposal’s goal of promoting work. Sycamore Institute, “Three Ways Poor Health Hurts Our Economy & Workforce Development” (June 2018).

Diminished access to treatment for substance use disorders

TennCare is the principal source of funding for the prevention and treatment of SUD in Tennessee. For Tennesseans living in poverty, it is almost the only source of comprehensive coverage for SUD treatment. There are other programs which are valuable, but TennCare is the only program that combines behavioral and medical coverage, which is often essential to a successful outcome. Many Tennesseans over age 50 have become addicted to opioid painkillers because of chronic medical conditions, making it difficult to treat the addiction without health insurance that also covers medical treatment. A. Wadhvani, “Opioid-related hospitalizations more than triple for Tennessee seniors,” *The Tennessean* (August 1, 2017). (Please see attachment.) Loss of coverage for these individuals removes any realistic hope for recovery in most cases.

The waiver proposal would exempt people with SUD who are receiving inpatient or residential addiction treatment, or who are in an Intensive Outpatient Program (IOP). Unfortunately, that leaves a large number of people who are addicted and need treatment who will be subject to the work reporting requirements, which they are unable to meet. Even if someone is supposed to be exempt because they are in one of the protected types of treatment programs, they are in a condition in which it will be difficult for them to navigate the process necessary to establish that they are exempt.

Restricting the ability of older caretaker relatives to care for school-age children

The proposal would require all parents or caretaker relatives to meet the work reporting requirements unless they are caring for a disabled child. Because of the addiction epidemic and other factors, Tennesseans in late middle age are playing increasingly important roles as caretakers for their grandchildren or other children in their extended families, because the children’s parents become unable to care for them. These caretaker roles are invaluable for the welfare of the children, but many older people find them physically and emotionally exhausting. Adding work requirements to those caretaker responsibilities will make it more difficult for many of these caretakers to provide children the care and attention they need. In some cases, the strain will force the caretaker to choose between continuing to care for the children or complying with the work reporting requirements in order to maintain their own TennCare coverage. At a time when Tennessee’s foster care system is overtaxed by the additional demands placed on it by the addiction epidemic, a policy that burdens older caretaker relatives will only make matters worse for families and communities. See A. Wadhvani, “Driven by opioid crisis, more children in Tennessee living in foster care; DCS seeks additional funding,” *The Tennessean*, January 28, 2019) (Please see attachment.)

For all of these reasons, we respectfully urge you to disallow TennCare Amendment 38. Thank you in advance for considering these comments.

Sincerely yours,



Tom Starling, EdD
TCBA Chairperson