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September 15, 2020

The Honorable Alex M. Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O.Box 8016
Baltimore, MD 21244

Subject: Georgia Section 1332 Waiver Comments

Dear Secretary Azar and Administrator Verma:

Thank you for the opportunity to comment on Georgia's proposal to waive federal rules under the Affordable Care Act (ACA). First Focus on Children, a bipartisan advocacy organization that makes children the priority in budget and policy decisions, is writing to express our deep concern about this waiver. Under the proposal, the state would exit the federal marketplace with no substitute. This would eliminate the central source of help for the roughly 500,000 Georgians, including over 90,000 children and young adults, who enroll in private health plans or Medicaid through HealthCare.gov.

Georgia's application frames the waiver as a solution for the state's high uninsured rate. But the best solution to that problem is to join 38 other states and DC and adopt the ACA's expansion of Medicaid to low-income adults and their families. We are distressed that Georgia is instead proposing a fragmented system that could cause tens of thousands of Georgians to fall through the cracks and lose coverage altogether, while other families with children would likely end up in skimpy plans that impose high costs if they get sick.¹ First Focus on Children vehemently opposes this proposed waiver. As an organization, we support expanding health coverage for children and their families, and the 1332 waiver will do exactly the opposite. Georgia already has the 5th highest rate of uninsured children in the country, with nearly 217,000 children without health coverage.² To decrease this number, we instead propose that Georgia adopts Medicaid expansion, which would sharply reduce the state's uninsured rate, help with responding to the ongoing pandemic, and bring billions in additional federal funding into the state. Research has shown that in states that have expanded Medicaid for adults, children are less likely to go uninsured because their parents have coverage.³ This proposed waiver is not the way to reduce the high uninsured rate as Medicaid expansion has been shown to be effective in increasing coverage for families and especially children.

¹ Tara Straw, "Tens of Thousands Could Lose Coverage Under Georgia's 1332 Proposal," Center on Budget and Policy Priorities, September 1, 2020. <https://www.cbpp.org/research/health/tens-of-thousands-could-lose-coverage-under-georgias-1332-waiver-proposal>

² Joan Alker and Lauren Roygardner, "The Number of Uninsured Children is on the Rise," Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, October 29, 2019. <https://ccf.georgetown.edu/2019/10/29/the-number-of-uninsured-children-in-on-the-rise-acs/>

³ Maggie Clark, "In Medicaid Expansion States, Fewer Young Children Go Uninsured," Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, January 15, 2020. <https://ccf.georgetown.edu/2020/01/15/in-medicaid-expansion-states-fewer-young-children-go-uninsured/>

The Proposal Will Insure Fewer Families and Children and Encourage Enrollment in Subpar Plans

The ACA 1332 waiver would change where and how families purchase health coverage. In 2019, 36,681 children under the age of 18 in Georgia were enrolled in an exchange plan found on HealthCare.gov.⁴ At the age of 18, kids age out of the Children’s Health Insurance Program (CHIP), also known as PeachCare in Georgia, and many become eligible for marketplace plans. In Georgia, 54,588 young adults from the age of 18 to 25 were enrolled in an exchange plan, and many of them may have been previously enrolled in PeachCare (CHIP). In 2020, the vast majority (79 percent) of Georgia marketplace enrollees used HealthCare.gov to sign up for coverage, even though they already had the option to use a private broker or insurer website. Georgia’s waiver would eliminate the one-stop shop of HealthCare.gov, *requiring* people in the state to use private insurance companies and brokers to compare plans, apply for financial assistance, and enroll in coverage. This would undoubtedly increase confusion about where and how to access good-quality health coverage, hindering enrollment and prompting many people to give up and become uninsured. When parents become uninsured, children are likely to follow, meaning that the uninsured rate for children will increase as well. Contrary to the promise of expanded choices, this waiver would rob families of their only option for a guaranteed, central source of unbiased information on the comprehensive coverage available to them.

Moreover, private brokers and insurers who operate through HealthCare.gov have a track record of failing to alert families of Medicaid and CHIP eligibility and picking and choosing the plans they offer, often based on the size of plan commissions.⁵ Indeed, in the system Georgia is proposing, families who are eligible for Medicaid and children that are eligible for CHIP could have a much harder time finding help with enrollment because Medicaid and CHIP generally do not pay commissions and agents and brokers have no incentive to fill the gap left for this population that would result from eliminating HealthCare.gov. Again, this could lead to the uninsured rate of children to increase, which could have severe consequences on the health of children.

Georgia’s waiver proposes that substandard plans, such as short-term plans, would be presented alongside comprehensive insurance. Even now, brokers sometimes steer people into such plans, which often come with higher commissions, a tactic that has continued during the pandemic.⁶ People enrolled in subpar plans are subject to punitive exclusions of their pre-existing conditions, benefit limitations, and caps on plan reimbursements that expose them to potentially high out-of-pocket costs. A study of short-term plans in Atlanta earlier this year showed that even though people would pay lower premiums up-front, they could be responsible for out-of-pocket costs several times higher for common or serious conditions, such as diabetes or a heart attack. The most popular plan in Atlanta refused to cover prescription drugs, mental health services, or maternity services, had pre-existing condition exclusions, and had a deductible three times as high as an ACA-compliant plan.⁷ High out-of-pocket costs can create an undue financial burden on low-income

⁴ “2019 Marketplace Open Enrollment Period Public Use Files,” Centers for Medicare and Medicaid Services, Updated April 1, 2020, https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2019_Open_Enrollment

⁵ Tara Straw, ““Direct Enrollment” in Marketplace Coverage Lacks Protections for Consumers, Exposes Them to Harm,” Center on Budget and Policy Priorities, March 15, 2019, <https://www.cbpp.org/research/health/direct-enrollment-in-marketplace-coverage-lacks-protections-for-consumers-exposes>

⁶ Christen Linke Young and Kathleen Hannick, “Misleading marketing of short-term health plans amid COVID-19,” Brookings Institution, March 24, 2020, <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2020/03/24/misleading-marketing-of-short-term-health-plans-amid-covid-19/>.

⁷ Dane Hansen and Gabriela Dieguez, “The impact of short-term limited-duration policy expansion on patients and the ACA individual market,” Milliman, February 2020, <https://www.ills.org/sites/default/files/National/USA/Pdf/STLD-Impact-Report-Final-Public.pdf>; Kelsey Waddill, “Do Short-Term Limited Duration Plans Deserve Industry Skepticism?,” HealthPayerIntelligence, March 4, 2020, <https://healthpayerintelligence.com/news/do-short-term-limited-duration-plans-deserve-industry-skepticism>.

families, taking away money that could have been spent on food, housing, clothing, and other familial expenses.⁸

The Proposal Violates Statutory Requirements

Because it would likely increase the number of uninsured Georgian families and leave many others with worse coverage, the ACA waiver fails to meet the statutory “guardrails” intended to ensure that people who live in states that implement an ACA waiver are not worse off than they would be without the waiver. Section 1332(b)(1) of the ACA requires that ACA waivers cover as many people, with coverage as affordable and comprehensive, as without the waiver. However, under the proposed waiver, the coverage that many Georgians would have would be less comprehensive, and more families would find themselves with less affordable coverage and out-of-pocket costs than would be the case without the waiver. And Georgia would likely see a reduction, rather than an increase, in coverage under the 1332 waiver. The waiver therefore does not meet the guardrails under federal law and is not approvable.

In addition to our concerns about the impact of the waiver on Georgians, we are deeply concerned about the precedent that would be set by approving a waiver that is expected to result in more families uninsured and more families enrolled in plans that do not provide comprehensive coverage than without the waiver, directly violating the statutory requirements.

Georgia Has Better Options to Address Waiver’s Purported Goals

Notably, the waiver also includes a proposal to establish a reinsurance program. Similar programs have been successfully implemented in other states, reducing premiums for unsubsidized consumers. Georgia could move forward with this proposal while dropping the harmful components of the waiver.

Even more important, Medicaid expansion offers Georgia the opportunity to expand coverage to hundreds of thousands of adults and their children. That would result in significant benefits to the state’s residents, including fewer premature deaths and improved access to care and financial security for people gaining coverage.^{9,10} Affordable Care Act policies, such as Medicaid expansion and subsidized Marketplace exchange coverage, has led to an increase in the number of insured children. Research has shown that such policies create a “welcome mat” effect where children gain coverage when their parents do.¹¹ When parents have coverage, they are also less likely to struggle with managing personal health problems that could prevent them from being an effective caregiver. Not only that, having insurance is critical in maintaining family economic security, as medical debt can plunge a family into bankruptcy and even poverty, especially for parents of young children who experience the highest poverty rates of any age group.¹² Medicaid expansion will not only increase coverage rates for parents and their children, but it can also protect the health and economic security of families. Georgia’s section 1332 proposed waiver will prevent families from gaining

⁸ Allison Galbraith, Sabrina Wong, Sue Kim, and Paul Newacheck, “Out-of-Pocket Financial Burden for Low-Income Families with Children: Socioeconomic Disparities and Effects of Insurance,” *Health services research* vol. 40,6 Pt 1 (2005): 1722-36. doi:10.1111/j.1475-6773.2005.00421.x <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1361224/>

⁹ Matt Broaddus and Aviva Aron-Dine, “Medicaid Expansion Has Saved at Least 19,000 Lives, New Research Finds,” Center on Budget and Policy Priorities, November 6, 2019, <https://www.cbpp.org/research/health/medicaid-expansion-has-saved-at-least-19000-lives-new-research-finds>

¹⁰ Center on Budget and Policy Priorities, “Chart Book: The Far-Reaching Benefits of the Affordable Care Act’s Medicaid Expansion,” Updated November 6, 2019, <https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid>

¹¹ Maggie Clark, “In Medicaid Expansion States, Fewer Young Children Go Uninsured,” Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, January 15, 2020. <https://ccf.georgetown.edu/2020/01/15/in-medicaid-expansion-states-fewer-young-children-go-uninsured/>

¹² “Children in poverty by age group in the United States,” Kids Count Data Center, The Annie E. Casey Foundation, Updated September 2019. <https://datacenter.kidscount.org/data/tables/5650-children-in-poverty-by-age-group?loc=1&loct=1#detailed/1/any/false/37,871,870,573,869,36,868,867,133,38/17,18,36/12263,12264>

coverage, which will lead to negative consequences for children. First Focus on Children therefore strongly opposes this proposed rule, and we urge HHS to not approve this waiver request.

Thank you for the opportunity to submit this comment. If you have any questions, please contact me at 202-657-0605 or Brucel@firstfocus.org.

Sincerely,

A handwritten signature in blue ink that reads "Bruce Lesley". The signature is written in a cursive style with a prominent loop at the end of the last name.

Bruce Lesley
President