Maine Medical Association

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Sept. 16, 2017

The Honorable Thomas Price, U.S. Secretary of Health and Human Services
Office for the Secretary Health and Human Services
The Hubert H. Humphrey Building
200 Independence Ave.
Washington, D.C., 20201

Re: State of Maine MaineCare Section 1115 Demonstration Project Application

Dear Secretary Price:

Please accept these comments on behalf of the Maine Medical Association (MMA) and our 4200 members who are physicians, residents in training and medical students. MMA's mission is to support Maine physicians, improve the quality of medicine in the state and improve the health of the public. One of the Association's priorities is supporting coverage for all Mainers. Unfortunately, prior cuts to eligibility and the failure to expand MaineCare (Medicaid) under the provisions of the Affordable Care Act has led to the removal of tens of thousands of Mainers from MaineCare.

According to the Maine Hospital Association, there are currently approximately 76,000 fewer people receiving MaineCare coverage today than five years ago. Many of these individuals are now uninsured and receiving charitable care in Maine's hospitals, federally qualified health centers and medical practices.
Uncompensated care in the hospital sector alone has increased by $124 million during the last six years and over one half of Maine's hospitals are operating in the red. So while the proposed changes in the application may be well intended, the likelihood that they will lead to even deeper reductions in the number of Mainers covered by MaineCare is of grave concern to MMA and its members. There is ample evidence that individuals without coverage have decreased access to care.

WORK REQUIREMENTS

Under the MaineCare Section 1115 Demonstration Project Application (Application), non-exempt (able-bodied) adults between the ages of 19-64 will have to engage in work (minimum of 20 hours per week) or other approved activities. Failure to engage in these activities will result in termination of MaineCare after 3 months of eligibility. While we appreciate that many categories of MaineCare recipients are exempt from the requirements, this requirement would be

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administratively burdensome to enrollees who already face many challenges. Its implementation and enforcement would present the state with a number of complex and costly administrative issues. It would also undoubtedly lead to a decrease in the number of individuals covered. Any income received by the state would likely be offset or even exceeded by the administrative costs.

A recent survey of our members demonstrated significant support for increasing the engagement of MaineCare enrollees, and a work requirement and modest premiums are one means to achieve that. But members felt strongly that the penalty for the failure to comply should not be loss of coverage. As one member stated (nearly 100 members provided comments while over 400 completed the survey), "*I get the theory of all of these but think in reality they may penalize some patients who are trying their best. I would rather a carrot than a stick - with offers of work program and work retraining and more enticement and access for primary care."*

In summary, while encouraging work or community engagement is a worthy goal, it should be done by offering voluntary incentives (e.g., access to child care, job training and education, job search assistance, etc.) rather than a punitive and cumbersome process that has, in other programs such as SNAP, led to a majority of people formerly covered losing their eligibility. This requirement will be a confusing mess with people coming on and off MaineCare with great frequency and people ending up giving up.

We also share the sentiment of the American Congress of Obstetricians and Gynecologists (AGOC) and its Maine Section, regarding the inappropriateness of applying this work requirement to enrollees receiving only the family planning benefit. Receiving only this limited benefit, they should not be subject to the requirement.

PREMIUMS

The application proposes that premiums be charged to "able-bodied" adults between the ages of 10 and 64. Premiums would range from $10 to $40 per month depending upon income. Failure to pay the premium would result in up to a 90-day suspension of eligibility. The same exemptions that apply to the work requirements also apply to the premium payment requirement. If approved, this proposal would be unprecedented as the federal government has not previously allowed a state to deny an enrollee coverage for failure to pay a premium.

Similar to comments on the proposed work requirement, many MMA members believe that it would be beneficial for enrollees to share in the cost of their coverage, *if they can afford to do so.* While we are pleased to see that premiums now start at 50% of the federal poverty level than at zero (as was included in the draft proposal), even this threshold is still very low and would impact individuals with very modest incomes.

The fact is, most MaineCare patients can simply not afford to pay a premium. As reported from members responding to the survey:

> *Most MaineCare patients I see (about half of my patients) are destitute and living hand to mouth. These restrictions will only lead to more pain, suffering and yes, disease and death.*

Those who qualify for MaineCare are already burdened by financial constraints. They don't need more.

I oppose asking the poor to pay as their personal budgets are insufficient for their basic needs. I think these fees would restrict access to potentially necessary care.

EMERGENCY ROOM VISITS

The waiver application proposes to charge a $10 co-payment for emergency department visits deemed to be non-emergencies by the Department based upon diagnosis. The proposal appears to violate the prudent layperson standard in federal EMTALA law (see 42 CFR section 447.51 which references the Secretary's definition at 42 CFR section 438.114). This requirement would apply to all MaineCare members, regardless of income. While the provision may be designed to encourage appropriate use of health care services its actual effect will be to discourage and even penalize MaineCare beneficiaries for seeking appropriate emergency medical care. Appropriate use of the emergency department should be controlled through the creation and implementation of patient centered medical homes wherein patients have good 24/7 access to a medical practice rather than utilizing the emergency department as another primary care office. DHHS has been a strong supporter of patient centered medical homes and has data demonstrating that providing access to such care can and does lower ED utilization.

RETROACTIVE AND PRESUMPTIVE ELIGIBILITY

Current law allows MaineCare applicants to seek coverage for the 3 month period prior to the month of application. Under the waiver application, eligibility could only date back to the first day of the month of application, except for those seeking coverage in a nursing facility. The impact of this provision will be felt solely by hospitals which are not in a financial position to take on this further burden. This change should be rejected. The state also requests the authority to no longer allow qualified hospitals to make MaineCare presumptive eligibility determinations. Since 2014, hospitals have been allowed to immediately enroll patients who are likely to qualify for MaineCare under the state's MaineCare eligibility guidelines for a temporary period of time. This change would serve only as a barrier to health care for low-income persons faced with an unexpected need for hospital care.

Thank you for the opportunity to provide comments on the state's Section 1115 Medicaid demonstration waiver application. While we believe that some positive incentives could be developed to give MaineCare patients more "skin in the game," we believe that the provisions in the application will primarily result in simply less coverage for enrollees which is bad for both patients and providers. We urge you to reject the application as written or to amend it as described above. I am happy to discuss our ideas further with your office and can be reached via e-mail to gsmith@mainemed.com or by calling me at 207-215-7461 (cell).

Very truly yours,

Gordon Smith, Esq.
Executive Vice President
Maine Medical Association