

August 31, 2018

The Honorable Alexander Azar, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Dear Secretary Azar:

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) appreciates the opportunity to comment on the New Hampshire Health Protection Program demonstration project.

Formed in 1975, Consumer Voice is the leading national voice representing consumers in issues related to long-term care, helping to ensure that consumers are empowered to advocate for themselves. We are a primary source of information and tools for consumers, families, caregivers, advocates and ombudsmen to help ensure quality care for long-term care consumers across the country. We advocate for public policies that support quality care and quality of life responsive to consumers' needs in all long-term care settings; empower and educate consumers and families with the knowledge and tools they need to advocate for themselves; train and support individuals and groups that empower and advocate for consumers of long-term care; and promote the critical role of direct-care workers and best practices in quality-care delivery.

### **General Comments**

The Medicaid program, now in its 53<sup>rd</sup> year, is a success story. Through Medicaid, low-income long-term care consumers have built well-being and gained greater economic security via access to health insurance coverage. This coverage has guaranteed health care to those who are unable to find work, whose employers or job types do not grant access to health insurance, or who are caregivers, students, or who have disabling conditions that interfere with regular work.

As an organization that focuses on the health coverage and well-being of long-term care consumers, we have a particular interest in how this waiver would harm New Hampshire family caregivers and long-term care consumers. This waiver would undermine access to health care coverage and services for family caregivers and impose aggressive reporting requirements, all while family caregivers are dealing with the stress of providing care to their loved ones. Accordingly, this waiver fails to "assist in promoting the objectives" of the New Hampshire Medicaid program (*see* 42 U.S.C. § 1315(a)), the same flaw a federal court found in the Kentucky waiver attempt. To the contrary, the New Hampshire waiver would terminate or reduce Medicaid coverage for tens of thousands of low-income New Hampshire residents. The terms of the waiver are punitive, and they do nothing to improve health care coverage for New Hampshire's current and future Medicaid beneficiaries.

*The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a 501(c)(3) nonprofit membership organization founded in 1975 by Elma L. Holder that advocates for quality care and quality of life for consumers in all long-term-care settings.*

We urge HHS to reject the New Hampshire Granite Health proposal. As more fully explained below, the state’s proposals to require low-income New Hampshire residents to work and to eliminate retroactive coverage will greatly harm long-term care consumers and their families.

**A. Work Requirements & Administrative Hurdles Will Cause Many Family Caregivers to Lose Health Coverage**

*Work Requirements*

Work requirements would greatly harm the health of many family caregivers who receive Medicaid, and in turn the long-term care consumers and other family members whom they care for. Many family caregivers leave the workforce or reduce their hours to provide informal care to family members. Therefore, these caregivers are likely to be low-income and unlikely to have access to health insurance through a job or spouse. Even though New Hampshire states individuals supplying “caregiver services for a nondependent relative or other person with a disabling medical or developmental condition” for an average of 25 hours a week per month are eligible for benefits, imposing a work requirement puts an enormous and unnecessary burden on these caregivers to understand and comply with reporting requirements in the midst of their caregiving and other duties.<sup>1</sup> Given these realities, many caregivers would be forced to choose between providing care for their loved ones and maintaining their own health.

*Administrative Hurdles*

New Hampshire requests permission to institute aggressive paperwork requirements, including proposed citizenship documentation requirements. This addition of red tape will result in eligible family caregivers being delayed or deterred from obtaining benefits. We object to this change as it would harm access to needed health insurance coverage and medical assistance for family caregivers.

These new bureaucratic hurdles would affect a broad swath of adults with Medicaid. Family caregivers who are already working would need to document hours worked at regular intervals. Those caregivers exempt from the work requirement would need to prove that they are exempt. Those not currently working would need to document hours in community service, job training, or hours spent applying for jobs. Eligible caregivers would have to verify citizenship in burdensome ways. All would stand to lose coverage if they don’t keep up with the paperwork requirements.

**B. Eliminating Retroactive Coverage Will Deprive Family Caregivers of Needed Coverage**

New Hampshire seeks to waive the important patient protection that allows Medicaid coverage to begin up to three months prior to a person’s application, as long as the person met the Medicaid eligibility standards during those months. Eliminating the retroactive coverage protection goes against Medicaid’s objectives by denying coverage to persons who cannot afford health care or private insurance coverage.

When the retroactive coverage guarantee was established in 1972, the Senate Finance Committee noted that the provision would “protect[] persons who are eligible for [M]edicaid but do not apply for assistance until after they have received care, either because they did not know about the [M]edicaid eligibility

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<sup>1</sup> Paperwork requirements have been shown to reduce Medicaid enrollment across populations. Margot Sanger-Katz, “Hate Paperwork? Medicaid Recipients Will Be Drowning in It,” *The New York Times*, January 18, 2018, <https://www.nytimes.com/2018/01/18/upshot/medicaid-enrollment-obstacles-kentucky-work-requirement.html>

requirements or because the sudden nature of their illness prevented their applying.”<sup>2</sup> This statement is just as true now as it was 45 years ago, and Congress has continued to support such coverage by rejecting recent legislative efforts to eliminate this protection.

In many instances, a family caregiver in need of health care cannot be expected to apply for Medicaid coverage at the exact moment they become eligible. They may be hospitalized after an accident or unforeseen medical emergency. They may also be unfamiliar with Medicaid, or unsure about when their declining financial resources might fall within the Medicaid eligibility threshold. However, under the proposal, a family caregiver could suffer a major heart attack on the evening of April 29 and be liable for thousands of dollars of hospital expenses due to the “failure” to file a Medicaid application within 36 hours, when April becomes May. Faced with such staggering debt, many family caregivers would no longer have the resources to provide support and services to keep their loved ones at home. As a result, their loved ones would be at increased risk of nursing home admission costing \$7,148/month.<sup>3</sup>

### **C. Conclusion**

We urge HHS to reject New Hampshire’s Granite Health proposal given the harm it would cause to long-term care consumers and their families and its violation of the statutory standards for waiver under Section 1115.

Thank you for consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Lori Smetanka".

Lori Smetanka, J.D.  
Executive Director

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<sup>2</sup> S. Rep. No. 92-1230, at 209 (1972), in Amendments to the Social Security Act 1969–1972, vol. 3, p. 221 of 1273.

<sup>3</sup> Compare Long Term Care Costs Across the United States, Genworth, 2017, <https://www.genworth.com/aging-and-you/finances/cost-of-care.html>.