August 18, 2017

Daniel Tsai
Assistant Secretary for MassHealth
Executive Office of Health and Human Services
One Ashburton Place, 11th Floor
Boston, MA 02108

*Sent by email*

Re: Comments for Demonstration Amendment

Dear Assistant Secretary Tsai,

On behalf of the undersigned organizations and individuals, all dedicated to preserving and improving affordable health coverage for all Massachusetts residents, thank you for the opportunity to comment on the MassHealth 1115 Demonstration Waiver Amendment released on July 20, 2017. We share your commitment to a sustainable MassHealth program and to maintaining the gains Massachusetts has made in access to affordable health coverage for low-income residents. While we understand the significant fiscal challenges the Commonwealth currently faces, and the intent of the Administration to keep people covered, we are concerned that many of the proposals included in the 1115 waiver amendment will likely decrease access to affordable coverage and care for low-income consumers.

With this waiver amendment, MassHealth requests broad flexibility to make various eligibility and coverage changes. However, the draft document does not include a level of specificity needed to ascertain the intent and impact of the proposed changes. We ask that you make available more information on the estimated impact of these proposals in terms of the number of people affected and associated costs and cost-savings. In addition, the proposal seeks broad authority to waive important protections in the federal Medicaid Act without committing to the kinds of safeguards necessary to mitigate harm to affected populations. Before any of the proposed changes referenced below are submitted for approval, clear and strong safeguards should be included as part of the waiver request and in any authorizing state legislation.

**Transferring Non-Disabled Adults to ConnectorCare**

MassHealth proposes to shift coverage for non-disabled adults ages 21 to 64 with incomes over 100% of the federal poverty level (FPL) to ConnectorCare as of January 1, 2019. Currently, this population includes 100,000 parents in MassHealth Standard and 40,000 childless adults in MassHealth CarePlus. ConnectorCare is a valuable program, integral to Massachusetts' health coverage system, as it offers more affordable coverage than even the federal Advanced Premium Tax Credits (APTCs) and Cost-Sharing Reductions (CSRs) alone would provide. However, ConnectorCare coverage provides fewer benefits, is more costly to consumers and presents more enrollment barriers than MassHealth coverage.

We strongly urge the Executive Office of Health and Human Services (EOHHS) to reconsider shifting non-disabled adults with incomes over 100% FPL from MassHealth to ConnectorCare, as this will result in:

- *Loss of benefits*:
    - *Dental care*: While the Health Connector offers stand-alone dental plans, the cost of these plans is not subsidized, and would be out of reach for most. In addition, the Health Safety Net – which provides "wrap" dental coverage to ConnectorCare enrollees

– already has long wait times for patients to receive dental services, and adding more people to ConnectorCare will exacerbate this problem. Many people will have no choice but to seek services at hospital emergency departments, which are ill-equipped to provide comprehensive dental care.
    - *Behavioral health:* ConnectorCare plans are required to cover inpatient and outpatient mental health and substance use disorder services; however, ConnectorCare plans may not offer the same range of behavioral health services as MassHealth. In particular, access to diversionary services, such as Community Support Programs (CSPs) and Emergency Services Programs (ESPs), are not a part of traditional commercial insurance benefit packages and therefore may not be available to many individuals covered through ConnectorCare plans.
    - *Prescription drugs*: ConnectorCare plans are able to implement more restrictive formularies than MassHealth, and may impose more utilization management techniques, which create barriers to both obtaining needed medications and continuing on a course of treatment.
- *Higher premiums for consumers for all but one MCO*: ConnectorCare Plan Type 2A will offer only one $0 premium plan in 2018. Unlike Medicaid or the former Commonwealth Care program, in ConnectorCare there is no legal requirement that the Connector continue to offer a $0 premium contribution plan to low-income individuals. The premiums for plan options other than the lowest cost plan are substantial – up to $174 per month in 2017. Many MassHealth members transitioning to ConnectorCare will not be able to continue enrollment in their current health plan or maintain continuity of care due to the higher cost of ConnectorCare plans.
- *Higher copays:* In addition, ConnectorCare copays at this income level are substantially higher than those in MassHealth, impacting access to services for members. For example, MassHealth copays for prescription drugs are $1 or $3.65 per medication, and MassHealth members cannot be turned away for inability to pay. ConnectorCare Plan Type 2A members are required to pay between $10-40 to fill each prescription. ConnectorCare imposes copays for a wider range of services than MassHealth, including $10 for a primary care or mental health/substance use disorder visit, $18 for a specialist visit, and $50 for emergency room and other hospital services.
- *Increased number of uninsured*: Unlike MassHealth, Connector enrollees must take the step of choosing a plan and paying a premium before their coverage is effectuated. In fact, the most recent numbers we obtained from the Health Connector show that at one point in time, 40% of people eligible for ConnectorCare Plan Type 2A remain unenrolled. ConnectorCare, unlike MassHealth, does not automatically enroll eligible individuals into a health plan. In addition, ConnectorCare has eligibility rules that would bar certain people from qualifying, such as those who have access to employer sponsored insurance (ESI) with a premium that costs less than 9.69% of their family income in 2017; veterans with access to the VA Health System; Deferred Action Childhood Arrivals; and married couples living apart filing taxes separately (with limited exceptions).

**ESI and Student Health Insurance "Gate"**

MassHealth proposes to preclude otherwise eligible residents from qualifying for MassHealth if they have access to "affordable" employer sponsored insurance (ESI) or student health insurance. In a recent public presentation, MassHealth stated that it intends to apply their current thinking on affordability: the employee share of premiums and the deductible for the ESI is less than 5% of family income. While this is a welcome change from the original proposal of using a 9.69% of income affordability test, taking into account only the premium cost, this metric does not account for other forms of cost-sharing, including copays and coinsurance, that may present substantial access barriers to low-income workers.

Nor is even 5% of income affordable for adults with income below the poverty level given the high costs for housing and other life necessities.

There is no precedent for this type of restriction in MassHealth; access to other health insurance has never been a bar to MassHealth coverage. Rather, MassHealth acts as a secondary or tertiary payer when other coverage is available, which protects low-income members from unaffordable medical bills and reduces MassHealth spending. We urge EOHHS to remove the ESI and SHIP "gate" from its proposed 1115 waiver amendment.

Instead, we support increased participation in the MassHealth Premium Assistance program as the best way to leverage employer contributions and reduce state spending while also ensuring that low-income workers have affordable and comprehensive coverage. Through programs like Premium Assistance, MassHealth has remained an important support for low-income families striving to work themselves out of poverty. We are hopeful that the use of the Health Insurance Responsibility Disclosure (HIRD) form to streamline the Premium Assistance process for MassHealth, consumers, and employers alike.

**MassHealth Premium Assistance "Wrap" Benefits**

The MassHealth Premium Assistance program has always provided a benefit "wrap" in addition to assistance with the cost of ESI premiums and cost-sharing. Commercial health insurance coverage is often not sufficient to meet the needs of low-income families, especially with regards to behavioral health and other community-based services. Thus, these "wrap" benefits are critical to ensuring MassHealth-eligible individuals and families enrolled in commercial coverage have access to the same level of benefits as if they were enrolled in MassHealth as a primary payer.

We are concerned that MassHealth seeks "flexibility not to provide any additional benefit wrap, except for a limited number of services not typically covered by commercial" in the 1115 waiver amendment. We request that MassHealth amend the proposed waiver language to provide more specificity regarding the flexibility requested, and preserve the benefit wrap currently offered in the Premium Assistance program.

**MassHealth Limited and ConnectorCare Coverage**

MassHealth proposes to eliminate MassHealth Limited coverage 90 days after an individual is determined eligible for ConnectorCare, as is done with access to the Health Safety Net. We understand the purpose of this change and believe it may help mitigate confusion for individuals currently enrolled in both coverage types. However, we are concerned that those who remain eligible for ConnectorCare but unenrolled will not have access to even emergency coverage after 90 days, and will be foreclosed from enrolling in ConnectorCare. Therefore, we suggest that MassHealth amend its request to provide that MassHealth Limited coverage is terminated only when the coverage is truly redundant; that is, after an individual has successfully enrolled in ConnectorCare. We support the proposed plan to open a special enrollment period for individuals enrolled in MassHealth Limited and eligible for – but unenrolled in – ConnectorCare.

**Closed Drug Formulary and Selective Specialty Pharmacy Network**

We understand that prescription drugs are a key driver of increasing health care costs and must be managed. However, we are concerned that more limited specialty pharmacy networks and a closed formulary, as proposed in the 1115 waiver amendment, would impose unnecessary barriers to needed medications. Unlike several of the other proposed changes, these changes apply to all MassHealth members, including people with disabilities, children, and seniors. Prescription drugs are a lifeline for

people with chronic diseases; barriers should not imposed without an effective means for granting exceptions based on individual medical need. It is extremely important that there are strong consumer protections in place, perhaps building off of those afforded to Medicare Part D enrollees, before making any restrictions to the MassHealth formulary or limiting access to specialty pharmacies.

**Narrower Primary Care Clinician (PCC) Plan Networks**

MassHealth proposes to implement narrower networks in the PCC Plan to encourage enrollment in Accountable Care Organizations (ACOs) and MCOs. While the differential is decreasing, people with complex medical needs frequently choose the PCC Plan over MCOs. Most often, applicants choose the PCC Plan because their preferred providers are not all included in Managed Care Organization (MCO) networks, or are not included in the same network. We request that MassHealth provide more detail about how the narrower PCC Plan networks will be established, identify impacts on people with complex needs or disabilities, and demonstrate how the narrower networks will continue to meet Medicaid network adequacy requirements.

**Limited Managed Care Options**

Similar to the proposed PCC Plan network changes, we request more details about the proposal to waive the requirement for multiple managed care options in certain areas of the state. Which areas of the state will be impacted? What are the implications for member choice and continuity of care? Without this information we cannot assess this proposal.

**CommonHealth Premiums and Cost-Sharing**

MassHealth proposes to implement cost-sharing greater than 5% of income for members over 300% FPL, which would impact adults and children with disabilities enrolled in the CommonHealth program. We request that MassHealth amend its waiver proposal to include more specificity about how this change would be implemented. We have questions about how this policy will be implemented, and request that MassHealth include more details in its proposal. For CommonHealth members with other primary insurance, will the new cost-sharing levels take into account the cost of the primary coverage? What percentage of income does MassHealth anticipate using for enrollees with incomes over 300% FPL? Will there be exceptions for certain services? We also urge MassHealth to use a progressive cost-sharing schedule, charging a lower percentage of income at lower income levels.

We appreciate the dialogue the Administration has opened to discuss our concerns, and look forward to working with you to ensure that any changes to MassHealth do not adversely impact members. Should you have any questions or wish to discuss these comments further, please contact Suzanne Curry, Associate Director of Policy and Government Relations at Health Care For All at (617) 275-2977 or scurry@hcfama.org. Thank you for your time and consideration.

Sincerely,

*Organizations*:
AIDS Action Committee
American Heart Association and American Stroke Association
Boston Center for Independent Living
Boston Public Health Commission
The Center for Health Law and Policy Innovation of Harvard Law School
Community Servings
Council on American-Islamic Relations-Massachusetts

Disability Law Center
Disability Policy Consortium
Easter Seals Massachusetts
Greater Boston Legal Services
Health Care For All
Healthcare for Artists
Health Law Advocates
Healthcare Rights Coalition
Home Care Aide Council
JRI Health Law Institute
Massachusetts Communities Action Network
Massachusetts Law Reform Institute
Mass Home Care
Mental Health Legal Advisors Committee
MetroWest Center for Independent Living
National Alliance on Mental Illness of Massachusetts (NAMI Mass)
The National Multiple Sclerosis Society
Parent/Professional Advocacy League
Stavros

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Louis Malzone
Nancy Turnbull
Celia Wcislo

cc: Marylou Sudders, Secretary, Executive Office of Health and Human Services
Robin Callahan, Deputy Director, MassHealth