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Sept. 14, 2021

Via Email:
 Chiquita Brooks-LaSure
 Administrator
 Centers for Medicare and Medicaid Services
 7500 Security Boulevard
 Baltimore, MD 21244

Re: Withdrawal of Approval of Healthy Connections Works and Palmetto Pathways to Independence Section 1115 Waivers

Dear Ms. Brooks-LaSure,

The state of South Carolina vehemently disagrees with the Centers for Medicare and Medicaid Services' (CMS) Aug. 10, 2021, decision to withdraw the majority of the Healthy Connections Community Engagement Initiative CMS approved on Dec. 12, 2019. The South Carolina Department of Health and Human Services (SCDHHS) has enjoyed a strong partnership with CMS throughout the application, approval, and, thus far, through the implementation process of the two section 1115 waivers that make up the state's Healthy Connections Community Engagement Initiative. However, CMS' decision to partially withdraw the authorities that support the Healthy Connections Community Engagement Initiative prevents the state from being able to pursue the initiative's goal to promote better health outcomes and financial independence by providing access to resources to the most vulnerable South Carolinians while incentivizing able-bodied South Carolinians to achieve self-sustainability. Further, the state strongly disagrees with CMS' assertion that the "disruptions caused by the COVID-19 pandemic" constitute grounds for withdrawing the authorities used to approve this important public health initiative, particularly as the state experiences a well-documented surplus of job openings¹ and historically low labor force participation rate.²

SCDHHS has consistently stated that while CMS approved this initiative through two separate section 1115 waivers, the state interprets and would implement the two waivers as a single, comprehensive initiative. This includes SCDHHS' formal acceptance letter of the demonstration waivers in which the agency stated, "that the waivers will operate as a common initiative."³ CMS staff have acknowledged the commonly held interpretation that the two waivers together make

¹ SCDEW. (2021). SC Works Jobs Available Report – August 2021. Retrieved from <https://jobs.scworks.org/vosnet/>

² Joint Economic Committee. (2021). South Carolina Employment Report – August 20, 2021. Retrieved from https://www.jec.senate.gov/cards/_employment-updates/South%20Carolina%20Employment%20Report.html

³ Baker, Joshua. Letter to Adams, Valisha. Jan. 10, 2020.

⁴ Vance, Stefanie. Email to Buru, Karla. Dec. 9, 2020



up a single initiative or “demonstration” on multiple occasions including in a Dec. 9, 2020, email.⁴

Encouraging innovation and better health outcomes for Medicaid members through incentivizing healthy behaviors are both tenets of section 1115 demonstration waivers. In approving the Healthy Connections Community Engagement Initiative, then-CMS Administrator Seema Verma cited guidance issued by CMS on Dec. 10, 2012, under former CMS Administrator Marilyn Tavenner that supported “promoting better health and healthier behaviors,”⁵ adding it is “a matter of importance to the health care system generally, and state Medicaid programs, like other payers, can shape their benefit design to encourage such behaviors.” In approving this initiative, Administrator Verma also noted its goal of promoting better outcomes “designed to improve beneficiary health, promote financial independence and safeguard the fiscal sustainability of the Medicaid program”⁶ and “to create an incentive for individuals to engage in behaviors that improve health and promote financial independence.”⁶ CMS’ decision to withdraw the authorities used to support this initiative not only stifles innovation in coverage design, it also rejects the precedent that states should promote fiscal sustainability and healthy behavior set by a bipartisan group of CMS leadership.

Finally, CMS’ withdrawal of all but certain parts of one of the waivers that make up the initiative make it impossible for the state to maintain the budget neutrality requirements of section 1115 demonstration waivers as described in 42 CFR 431.428. The special terms and conditions (STCs) for the Palmetto Pathways to Independence Waiver, which CMS updated on Aug. 10, 2021, without consulting with its partners at SCDHHS, require the state to submit regular assurances that the remaining portion of the initiative is budget neutral. However, the nature of the changes made by CMS to the STCs prevent the state from operating this program in a manner that is budget neutral. Instead, this change amounts to a backdoor attempt to expand Medicaid in South Carolina that will result in an additional financial burden for taxpayers.

For the reasons described above, the state of South Carolina vehemently disagrees with CMS’ decision to reject the majority of the Healthy Connections Community Engagement Initiative. The state will not move forward with the version of the initiative CMS has arbitrarily attempted to recreate without consulting its partners at SCDHHS. As SCDHHS has not implemented the demonstration nor enrolled any individuals, and because the withdrawal is precipitated by CMS’ own actions in fundamentally changing the nature of the demonstration, the state does not believe the procedures laid out in STC 9 for suspension or termination apply.

Sincerely,

Robert M. Kerr

⁵ CMS. (2012). Frequently Asked Questions on Exchanges, Market Reforms, and Medicaid. Retrieved from <https://www.cms.gov/cciio/resources/files/downloads/exchanges-faqs-12-10-2012.pdf>

⁶ CMS. (2019). Healthy Connections Works Waiver Approval Letter to Baker, Joshua. Retrieved from <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/sc-healthy-connections-works-cms-appvl-12122019.pdf>