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December 3, 2019

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The Honorable Brian Kemp, Governor  
State of Georgia  
Atlanta, Georgia 30334

Dear Governor Kemp:

The American Psychiatric Association (APA), the national medical specialty society representing more than 38,500 psychiatric physicians nationwide, writes in opposition to the proposed 1332 waiver and adding work requirements in the 1115 waiver proposal. These proposals will adversely impact people with mental health and substance use disorders, making it more challenging for vulnerable populations to access the coverage they need to address important medical issues, including psychiatric conditions. We strongly urge you to withdraw these proposals.

Under the 1332 waiver proposal, all or part of four major provisions of the Affordable Care Act appear to be waived. This would include section 1301(a), requiring Qualified Health Plans (QHP) to cover the essential health benefits (EHBs) that requires coverage of mental health and substance use disorders as well as section 1311(c) that requires the Department of Health and Human Services to develop QHP certifications standards related to discriminatory benefit design, network adequacy, essential community providers, accreditation, quality improvement, standard format to compare plans, and quality ratings. It also requires mental health parity protections apply to QHP and leaves uncertain if the state would have to comply with section 1557, the nondiscrimination provision of the Affordable Care Act (ACA). The law prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. Without the requirements of the EHB, parity compliance, and 1557, we are concerned that services for the most chronically ill and complex patients would be scaled back.

These patient protections are essential since the very nature of treatment for this patient population is complicated by chronic needs and the stigma surrounding their illness. For example, addiction is a complex brain disease and seeking treatment can take several attempts. According to the National Survey on Drug Use and Health, only 12 percent of the nearly 20 million adults in America who needed substance use disorder treatment received it in 2018.<sup>1</sup> These very complications have served as the

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<sup>1</sup> Substance Abuse and Mental Health Services Administration. (2019). *Key substance use and mental health indicators in the United States: Results from the 2018 National Survey on Drug Use and Health* (HHS Publication No. PEP19-5068, NSDUH Series H-54). Rockville, MD: Center for Behavioral Health Statistics and Quality,

basis of the historically discriminatory policies and practices of insurance companies, which have unduly limited treatment for these populations and the very reason the Mental Health Parity and Addiction Equity Act was enacted. To undermine its requirements would be an incomprehensible undermining of federally guaranteed patient access protections.

An additional area of fundamental concern is waiving the network adequacy requirements that set criteria to ensure a sufficient choice and timely access to providers, including to behavioral health providers. Waiving the requirement will exacerbate the problem of narrow provider networks, resulting in inadequate access to convenient and quality care. In addition, this could lead to adverse selection with patients who need comprehensive care and access to specialty clinicians based on their health needs having higher costs than healthier individuals that opt for a lower plan rate with a narrower network.

Adding to a patient's financial burden is the state's proposal to essentially block grant subsidies and use federal funds to subsidize certain plans. As a result, this could drive up costs for vulnerable patients that aren't able to access the subsidies for plans that best meet their health needs. Delaying care for people will in turn, drive up health care costs and burden other systems. People with psychiatric issues who are unable to access care are more likely to end up in the criminal justice system and emergency room.

Many mental illnesses are chronic, lifelong conditions with both acute and stable phases characterized by a broad array of symptoms, even among patients who have the same or similar diagnoses. If these mental illnesses go untreated, or are inappropriately treated, a patient's risk of hospitalization, persistent or significant disability, or death is heightened. Although this is particularly true when a patient needs treatment for acute symptoms like suicidality or psychosis, it is also of concern during his/her ongoing "maintenance" treatment. Clinical evidence from population-based studies clearly indicates that the risk of suicide attempts and completed suicide increases for patients with any psychiatric disorder, and this risk can increase exponentially for patients who suffer from disorders like depression and anxiety.

In addition, we are concerned about the effort to impose work requirements on Medicaid patients under the 1115 waiver. While we appreciate the intent to improve coverage, under the proposal, the effort to expand Medicaid to those working at least 80 hours a month and with incomes below 100 percent provides unnecessary barriers to coverage. People with mental illness and/or substance use disorder also face unique barriers to stable employment due to their fluctuating ability to function, which can lead to job loss. These patients disproportionately have criminal records, often tied to their medical conditions. Additionally, research shows that patients with serious mental illnesses die years earlier than the general population, with the majority of them perishing due to physical health conditions. Taking coverage away from these patients will likely lead to delayed treatment and costly physical and mental health outcomes.

Even if individuals with a mental illness and/or a substance use disorder meet the requirements of the waiver, there remains a real risk of eligible people losing coverage due to miscommunication, their inability to navigate these processes, or other breakdowns in the administrative process. For many working adults struggling with a mental illness and/or a substance use disorder, overcoming the

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Substance Abuse and Mental Health Services Administration. Retrieved from <https://www.samhsa.gov/data/>  
<http://www.samhsa.gov/data/sites/default/files/NSDUH-DR-FFR2-2016.htm>

administrative obstacles to prove they are eligible for an exemption may be cumbersome due to the nature of their condition, leading them to lose coverage on purely technical grounds. Notably, patients may find themselves in an impossible position where they may lose Medicaid coverage because they cannot get their disability documented, but they also cannot get the disability documentation because they do not have health coverage.

In just a few months, we have already identified the consequences of this policy's implementation in Arkansas. As of December 1, nearly 17,000 Arkansas Medicaid beneficiaries have lost coverage due to the new requirements. The loss of coverage for these recipients has been particularly significant in rural populations. The findings have highlighted that simply notifying recipients about the new requirements has been challenging when so many do not have stable addresses and phone numbers. Additionally, a lack of computer literacy and internet access among recipients has led to individuals not being able to set up online accounts or comply with the reporting requirements, even when they may be fulfilling the requirements. We worry that the same factors may be applicable to Georgia's Medicaid population.

These proposals will further harm individuals already experiencing hardship. Across the country, the combined death rate for alcohol, drug, and suicide increased from 43.9% to 46.6% deaths per 100,000 people from 2016 to 2017.<sup>2</sup> In Georgia, the combined death rate was 36.6%. A U.S. Census Bureau report found Georgia's uninsured rate rose slightly in 2018 to 13.7 percent. The proposals taken together will likely result in a slight increase in coverage under Medicaid but could be offset by the change in the 1332 waiver that makes comprehensive coverage unaffordable and increases the number of people who are underinsured. We urge you to make changes that will help improve access for all Georgians, especially those with psychiatric conditions.

We thank you for the opportunity to respond to Georgia's proposal. If you have questions, please contact Michelle Dirst, Director of Practice Management and Delivery Systems Policy, at [mdirst@psych.org](mailto:mdirst@psych.org). We welcome an opportunity to further continue this conversation with your office, so please feel free to reach out if you have any questions.

Sincerely,



Saul Levin, MD, MPA, FRCP-E  
CEO and Medical Director

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<sup>2</sup> "Pain in the Nation: Healthcare Systems Brief." Trust for America's Health and Well Being Trust. May 17, 2018. Available at <http://allh.us/ng6X>.