National
Urban League

January 9, 2022

CMS Administrator Chiquita Brooks-Lasure
7500 Security Boulevard
Baltimore, MD 21244

Via electronic mail: stateinnovationwaivers@cms.hhs.gov

Dear Administrator Brooks-Lasure,

On behalf of the National Urban League, with 91 affiliates in 36 states and the District of Columbia, including the Urban League of Greater Atlanta and the Urban League of Greater Columbus, we write to share our belief that Georgia's 1332 waiver and "Georgia Access Model" do not comply with federal requirements for the following reasons.

The "Georgia Access Model" would eliminate Georgians' access to HealthCare.gov — a centralized platform that displays and allows enrollment in all marketplace health plans. Instead, beginning in 2023, Georgia would scatter marketplace functions for more than half a million enrollees among a multitude of private brokers and health insurers. This would create mass confusion and result in even fewer Georgians successfully gaining access to affordable health insurance.

Georgia's model can't produce enrollment comparable to enrollment that would happen absent the waiver. Therefore, it fails the "coverage guardrail" that 1332 waivers are required by law to meet. In its application, Georgia painted a bleak view of the future of the marketplace and claimed that the waiver was necessary to stem enrollment losses. But the state's baseline projections, based on the 2018 plan year, are incorrect.

Consider these carefully researched statistics: Georgia's marketplace enrollment is more than 180,000 higher in August 2021 than in 2018 — a roughly 50 percent increase. The state projected its plan would increase marketplace enrollment from about 366,000 in 2018 to 392,000 in 2023. Even if Georgia's waiver could generate those coverage gains over 2018, it would fall well short of the 549,000 enrolled as of August 2021.

Georgia's waiver conflicts with recent Executive Orders on equity and health coverage. First, Executive Order 13985 calls on federal agencies to review new and existing policies to assess whether they advance equity for marginalized and historically underserved communities. Georgia did not analyze the waiver's impact on equity, which should raise the Department's

level of scrutiny. Second, Executive Order 14009, on strengthening Medicaid and the Affordable Care Act, calls for an immediate review of all federal agency actions, with the goal of making coverage accessible and affordable to everyone. This includes policies that undermine protections for people with pre-existing conditions; waivers that may reduce coverage under Medicaid or the ACA; policies that undermine the marketplace; policies that create unnecessary barriers to families attempting to access ACA coverage; and policies that may reduce the affordability of coverage. ***Georgia's waiver conflicts with each of these goals.***

Georgia's analysis doesn't account for significant changes in law that increase enrollment. For 2021 and 2022, the *American Rescue Plan Act* boosted the premium tax credit to reduce marketplace premiums across the board and extended eligibility to people with incomes above 400 percent of the poverty line. While the enhancements are currently set to end in 2022, the Congressional Budget Office (CBO) predicts an enrollment "tail" as more people stay enrolled in 2023, the year the Georgia Access Model would begin. Even if subsidies return to pre-Rescue Plan levels in 2023, as many as 80 percent of Georgia's enrollees could still be eligible for zero- or low-cost plans, likely boosting enrollment beyond Georgia's expectations. Additionally, the *Families First Coronavirus Response Act* included a provision under which states must keep Medicaid-eligible people enrolled for the duration of the COVID-19 public health emergency to get a higher federal matching percentage for Medicaid costs. The CBO anticipates the provision will begin to unwind in July 2022. As it does, some people with income too high for Medicaid might qualify for a premium tax credit in the marketplace and, if the system works well, enroll in marketplace coverage. ***Georgia's analysis does not account for this.***

Georgia's analysis doesn't account for changes in federal rules that increase enrollment. First, a longer open enrollment period for HealthCare.gov gives people more time to enroll each year and has already contributed to a surge in marketplace enrollment. Second, a rule change allows people with incomes at or below 150 percent of the poverty line to enter the marketplace in any month starting in 2022, rather than needing to have a separate life event to qualify for a special enrollment period (SEP). In Georgia, about 160,000 uninsured adults have incomes between 100 and 150 percent of poverty.

Georgia would opt out of important federal investments that raise enrollment. The Biden Administration made a historic $100 million investment in nationwide marketing during the six-month emergency enrollment period in 2021. This contrasts with the Trump Administration's $10 million in annual funding in prior years, and it is a demonstration of the current administration's commitment to making people aware of affordable coverage in the marketplace. Leaving HealthCare.gov means Georgia would no longer benefit from such investment; and foregoing government-funded advertising means Georgia can expect lower enrollment under its waiver.

In 2021, HealthCare.gov navigators received a $70 million funding increase. Assisters are more likely than agents and brokers to report that their clients were previously uninsured, help with Medicaid or CHIP enrollment, perform public education and outreach activities, or to help

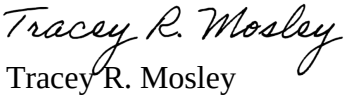
Latino clients, people who have limited English proficiency, or people who lack internet at home. ***However, Georgia made it illegal to use state funds on navigators.*** Meanwhile, brokers can enroll people in plans that will not benefit them and can lead to increased inequities in health. The Georgia Access Model would opt out of this federal investment and wouldn't establish any form of impartial, unbiased help. This means that vulnerable, uninsured people would be less likely to find coverage. We work with these populations and know firsthand their circumstances and the depth of their need.

Thank you for your consideration of these points. Please reach out to Morgan Polk (mpolk@nul.org) on National Urban League's staff with any follow up questions.

Sincerely,

Marc H. Morial
President and CEO, National Urban League

Nancy A. Flake Johnson
President and CEO, Urban League of Greater Atlanta



Tracey R. Mosley
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