

**Congress of the United States**  
**Washington, DC 20515**

January 12, 2018

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street NW  
Washington DC 20548

Dear Comptroller Dodaro:

In light of a number of new and unprecedented 1115 demonstration waiver approvals, we write to request that GAO examine the public transparency of major changes that the Centers for Medicare & Medicaid Services (CMS) has allowed states to make to their Medicaid demonstrations. In fiscal year 2015, approximately one third of federal Medicaid spending—over \$100 billion—was made under Medicaid demonstrations approved by CMS. These Medicaid demonstrations can have a significant impact on beneficiaries, providers, states, and local governments. As such, it is critical that key decisions regarding eligibility, coverage, benefits, delivery system reforms, federal Medicaid spending, and other important aspects of these demonstrations are transparent, accountable, and in line with Congressional intent under Title XIX.

Medicaid is one of our nation's most critical programs; together with the Children's Health Insurance Program (CHIP), Medicaid provides health insurance to over 74 million people every month. Medicaid is a health insurance program that is intended to provide "medical assistance [to eligible individuals] whose income and resources are insufficient to meet the costs of necessary medical services" and "rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care."<sup>1</sup> Therefore, it is critical that any demonstration adhere to and promote the statutory objectives of the Medicaid program.

The Affordable Care Act required that the Department of Health and Human Services implement processes to ensure a transparent review and approval of states' demonstration proposals<sup>2</sup>; it is vitally important that states and the federal government comply with these requirements, which ensure that stakeholders and consumers have an opportunity to analyze and comment on the changes under consideration by State Medicaid programs. The Medicaid program serves beneficiaries; evaluation of any demonstration before, during and subsequent to implementation must operate from that standpoint. As part of your ongoing work, we believe that GAO should continue to review the compliance of states and the federal government with existing law as part of its ongoing work and advise Congress on needed improvements to public transparency and accountability.

---

<sup>1</sup> 42 U.S.C. § 1396-1.

<sup>2</sup> 10201(i) of the Affordable Care Act

However, in addition to this ongoing work, we are concerned that those requirements generally only apply to the initial processes when a demonstration is first approved. It is unclear the extent that CMS is approving states' requests to seek new funds or otherwise change key aspects of their demonstrations, such as reducing covered benefits, adding new eligibility barriers or requirements, or increasing cost sharing for beneficiaries, without some level of transparency, including documentation of the basis for the approval. As such, we also ask that GAO examine the following:

1. CMS's policies and procedures for ensuring transparency and compliance with federal law when approving new 1115 demonstrations as well as amendments to and extensions of existing demonstrations;
2. CMS's policies and procedures for ensuring transparency of changes CMS has allowed to ongoing demonstrations, including amendments to extensions, modifications to terms and conditions of demonstrations, and changes states are allowed to make to benefits or cost sharing, allowable costs, or to allowed amounts of spending for demonstrations;
3. CMS's policies and procedures for ensuring transparency of state data and public input on the impact of proposed changes on benefits, coverage, and access;
4. CMS's policies, procedures and actions for independent evaluation before, during and after the implementation of new, extended or amended 1115 demonstrations;
5. CMS's policies, procedures, and actions for ensuring states provide necessary and relevant data to CMS and related independent evaluators of 1115 demonstrations; and
6. State and federal documentation and transparency for evaluation and incorporation of public comments into the 1115 waiver approval.

Thank you for your prompt attention to the request. If you have any questions, please contact Rachel Pryor of the Committee on Energy and Commerce Minority Staff at (202) 225-5056 or [rachel.pryor@mail.house.gov](mailto:rachel.pryor@mail.house.gov) and Anne Dwyer of the Committee on Finance at (202) 224-4515 or [anne\\_dwyer@finance.senate.gov](mailto:anne_dwyer@finance.senate.gov).

Sincerely,



Frank Pallone, Jr.  
Ranking Member  
House Committee on Energy  
and Commerce



Ron Wyden  
Ranking Member  
Senate Committee on Finance