August 11, 2025

The Department of Public Health and Human Services
Director's Office
P.O. Box 4210
Helena, Montana 59604-4210

RE: Montana Budget and Policy Center Comments on Montana Department of Public Health and Human Services (DPHHS) Draft Section 1115 Demonstration Waiver

Director Brereton:

The Montana Budget and Policy Center submits this comment in relation to the Montana Department of Public Health and Human Services' (DPHHS) draft demonstration waiver pursuant to section 1115 of the Social Security Act of 1965 (herein "the draft waiver"), to condition health care coverage for adults below 138% of the federal poverty line with compliance with work reporting requirements and payment of premiums.

The Montana Budget and Policy Center (MBPC) is a nonprofit organization founded in 2008. MBPC's mission is to advance responsible tax, budget, and economic policies to promote opportunity and fairness for all Montanans. MBPC fulfills this mission by providing credible and timely research and analysis on state fiscal issues to legislators, Tribal leaders, advocates, the public, and the media.

MBPC supported the passage of the Health and Economic Livelihood Partnership (HELP) Act, passed by the Montana Legislature during the 64th Legislative Session in 2015. As of April 2025, 76,255 low-income Montanans were enrolled in affordable health care coverage.[1] Montana's expansion of Medicaid has had many economic, health, and employment benefits for the state and its participants. Montana's uninsured rate dropped from nearly 20 percent in 2014 to 12 percent in 2023.[2] Tens of thousands of Montanans have accessed preventative health care services, including wellness exams, cancer screenings, and preventive dental services. Medicaid expansion has been particularly important for rural access to health services. Rural critical access hospitals have reported adding or expanding services, including behavioral health, occupational therapy, and podiatry services. From 2015 to 2023, referrals for specialty services unavailable at Indian Health Service or Tribal facilities increased by 124 percent.[3] Medicaid expansion has been a critical source of health care coverage for Montana workers, including those in seasonal or fluctuating work and lower-wage sectors. In 2023, over 20,000 businesses in Montana employed at least one Medicaid expansion enrollee, including three-fourths of all accommodation and food service businesses and half of all retail employers.

Montana renewed the HELP Act in April of 2025 through HB 245, continuing critical health care coverage for roughly 77,000 Montanans. On July 4, 2025, Congress passed H.R. 1, which will require states to implement community engagement or work reporting requirements and cost sharing requirements for certain individuals enrolled in expanded Medicaid, and those provisions go into effect on January 1, 2027, and October 1, 2028, respectively.

Most Medicaid beneficiaries who can work, do work. Roughly two-thirds (65 percent) of all non-elderly adult Medicaid enrollees are working.[4] For those not working, most face health-related or labor-force barriers to

employment. In Montana, roughly 7 percent are in school, 13 percent reside in a household with a dependent child or disabled individual, and 10 percent have a disability.

The draft waiver's provisions to impose work reporting/community engagement requirements will result in the loss of coverage for many enrollees. The state's own estimates project that roughly 15,000 Montanans will lose coverage by 2027. This estimate likely understates the loss of coverage, as it assumes all those currently in compliance or exempt would not lose coverage. National estimates project 23,000 to 27,000 Montanans could lose coverage.[5]

MBPC Comments on Montana's Proposed Waiver

Given passage of H.R. 1 and upcoming requirements on states, MBPC urges DPHHS to pause on the draft waiver and follow the implementation timeline set forth in H.R. 1. If DPHHS proceeds with submission of the waiver, MBPC would request several changes, noted below, to reduce the loss of coverage for Montanans.

DPHHS should pause on the draft waiver and implement the requirements under the H.R. 1 timeline, effective January 1, 2027.

Montana's draft waiver proposes implementing work reporting requirements "as soon as possible," even though H.R. 1 provides states over a year to implement federal requirements. Section 71119 of H.R. 1 requires states to condition enrollment in expanded Medicaid with compliance with community engagement requirements, unless an individual is otherwise exempt. H.R. 1 requires states to implement these requirements no later than January 1, 2027. While Section 71119 provided some detail on allowable activities and exemptions that the state is required to implement, the federal bill leaves much of the detail in the hands of the United States Department of Health and Human Services (HHS). HHS is required to issue proposed rules by June 1, 2026, and the agency will be allocating federal funds to states to support implementation. DPHHS should follow the timeline provided in H.R. 1, which would allow time to receive additional guidance and federal funding for implementation.

Montana's experience with the Medicaid redetermination process has shown a significant need to improve existing systems and capacity to process applications in a timely manner. It would be prudent for the state to take adequate time to prepare for implementation. Section 71119 requires states to first utilize available data to verify compliance with and exemptions from the community engagement requirements, also known as "ex parte" data. Montana has one of the lowest ex parte rates in the country.[6] While the draft waiver indicates the state will use data in existing systems, it will require the state time to establish systems to properly access these data. Montana has also faced significant delays in processing Medicaid renewals, with roughly 60 percent of income-based (MAGI) applications taking more than 45 days to process. This compares to the national average of nine percent. DPHHS should provide the public with additional information on how it intends to come into compliance with current requirements for processing applications within 45 days, while also proposing to implement additional verification requirements under the draft waiver.

DPHHS should access all data available to the state to determine compliance and mandatory and short-term hardship exemptions.

While the draft waiver references some data sources DPHHS intends to access, the state should provide additional information on its commitment to access all data available to the state to determine compliance and exemptions. DPHHS should access postsecondary enrollment data from Office of Commissioner of Higher Education, inmate and custody data from the Department of Corrections, DPHHS claims data to determine medical frailty and participation in treatment programs, DPHHS data on those who are American Indian participating in the Tribal Health Improvement Program, DPHHS enrollment data on enrollees who are parents or

have a dependent, and DPHHS data on former foster youth. We support the Department's intent to access Department of Labor and Industry wage data for enrollees with income above the calculated amount, and as noted below, an individual who meets this criterion should be considered exempt, consistent with state and federal law.

DPHHS should accept self-attestation for exemptions that require an individual to report their exempt status.

In circumstances where ex parte data is unavailable, federal law allows an individual to self-attest to their exemption at the time of application and renewal. This is particularly important for exemptions that may have limited documentation available. Section 71119(a)(xx)(3) provides that the state "may elect to not require an individual to verify information," providing DPHHS the full authority to accept self-attestation for exemptions provided in subsections (3) and (9). We urge DPHHS to utilize self-attestation and to clearly note in the waiver instances where self-attestation will be accepted.

MBPC *strongly urges* the state to maintain its current self-attestation process for American Indians (who may not already be determined exempt with existing DPHHS data). Over the past ten years, Montana has provided the ability for Medicaid enrollees to report whether they are American Indian. This is a familiar process for individuals and organizations who assist with the application process. DPHHS should maintain this existing process to determine exemption from the community engagement, six-month redetermination, and premium requirements.

DPHHS should align its compliance checks with the required one-month period reflected in H.R. 1.

H.R. 1 requires an individual to demonstrate compliance or exemption for the one month prior to application and at least one month within the redetermination period. (The redetermination period is currently a 12-month period; however, H.R. 1 requires states to implement six-month redetermination for expansion enrollees, effective December 31, 2026.) DPHHS is proposing more frequent compliance checks than required under H.R. 1, creating additional hurdles for enrollees, increasing administrative burden on the state, and increasing the risk of coverage losses. In addition to the one-month preceding application and redetermination date, the draft waiver proposes that an individual must demonstrate compliance or exemption for at least *five additional months* within the 12-month period.

Most Montanans on expanded Medicaid are already working or face a barrier to work (and would be exempt). In 2023, 91 percent of Medicaid expansion enrollees were employed at least half of the time enrolled.[7] A high percentage of workers in job sectors with seasonal employment, fluctuating hours, or working multiple jobs are often enrolled in expanded Medicaid. Over a 12-month period, an individual may meet the hour requirements in one month, experience a temporary hardship in a subsequent month, or qualify under one of the exemptions. More frequent compliance checks will create additional administrative work for DPHHS and additional barriers for enrollees who meet the requirements under H.R. 1 but face barriers to meeting these additional reporting requirements. We strongly urge DPHHS to align the proposed waiver with H.R. 1, requiring one month of compliance in each redetermination period.

An individual who meets the criteria of income greater than minimum wage multiplied by 80 hours should be considered exempt, consistent with state and federal law.

MBPC appreciates DPHHS's intent to use existing wage data to verify that income exceeds the calculation of federal minimum wage multiplied by the required 80 monthly hours. Pursuant Section 53-6-1308(4), MCA, an individual found to have wages in excess of this calculation shall be determined exempt. This is also consistent with H.R. 1, which allows states to *exempt* an individual from the requirements found to have calculated wages.

DPHHS should clarify that an individual with wages above this calculation will be considered exempt from reporting requirements and other requirements tied to these exemptions.

MBPC urges DPHHS to provide additional detail on individuals who may be exempt from the community engagement requirements and the length of time of each exemption.

While the draft waiver includes the list of exemptions as required by new federal law, the waiver does not include detail on how those exemptions will be defined. DPHHS should provide additional detail on how exemptions will be determined. For example, the waiver does not articulate how the state will exempt an individual with a substance use disorder, disabling mental disorder, or a developmental disability.

The draft waiver provides limited information for enrollees to understand the length of time an exemption would apply. The draft waiver notes two examples – an individual who is blind and an individual who is pregnant – but otherwise provides no further information on how long an exemption will apply. The state should clarify that someone who is American Indian and is exempt will be considered permanently exempt. An individual who has a dependent age 13 or younger should be considered exempt for the period until all dependents in the household are age 14.

DPHHS should provide additional detail on outreach and implementation plans.

H.R. 1 requires states to conduct outreach for at least three months plus the period in which the state requires compliance prior to the application date. We urge DPHHS to provide details on the state's outreach plans and confirm that the state will not enact new community engagement requirements until the state completes the required time of outreach in H.R. 1.

MBPC would urge the state to provide greater detail on its plans for implementation, including, but not limited to, its plans to engage health care providers, training plans for staff, plans to increase capacity, and timeline and plans for memoranda with state agencies to access data.

DPHHS should remove its proposed premium requirements, as these requirements would be inconsistent with H.R. 1.

The draft waiver proposes to implement premium requirements on the demonstration population, including increased premiums for those enrolled for more than two years. Those found out of compliance could be subject to disenrollment. H.R. 1 requires states to implement cost sharing, or copay, requirements on certain enrollees, effective October 1, 2028. Further, H.R. 1 prohibits states from imposing premium requirements on the same population. Given H.R. 1 limitations, we would urge DPHHS to remove premium requirements from the draft waiver.

In addition to premiums conflicting with new federal law, Montana has clear evidence that imposing premiums on enrollees will result in a greater loss of health care coverage. In fact, studies show that imposing premiums on enrollees leads to reduced coverage, worse access to care, and increased financial burdens.[8] Montana previously implemented premium requirements prior to the COVID-19 pandemic, and in the first two years, over 6,000 enrollees lost coverage as a result of their inability to pay the premiums.[9] This loss of coverage represented roughly one-quarter of those subject to both premiums and disenrollment provisions.

Furthermore, it makes little sense to suggest that imposing premiums would have a positive impact on the utilization of lower-cost health care services. The amount of premiums charged is tied to a family's income level, unlike copays, which can be imposed on higher-cost services. If the state desires to influence the utilization of

lower-cost, primary and preventive services, studies show the state should consider more targeted incentives for the use of those services.[10]

DPHHS should clarify existing exemptions from premium requirements, including those set out in state law and provided for in the state's previous 1115 waiver.

Should DPHHS move forward with requesting approval to impose premiums, MBPC urges DPHHS to clearly articulate the populations exempt from the demonstration population. Section 53-6-1304, MCA, sets forth those individuals to be exempt from the demonstration and premium requirements, including: those with exceptional health needs; those living in a geographical area, including Indian reservations, that would not be effectively or efficiently served under the demonstration; and those needing continuity of care not available. Furthermore, in the state's negotiations with CMS in 2015, the state's approved waiver exempted from premiums individuals with incomes below 50 percent of the federal poverty line.

Studies show that premiums result in eligible individuals struggling to access or maintain health care coverage.[11] This effect is greatest on those living on low incomes and in poverty. For many families living on low wages and struggling to afford food, housing, and other necessities, the requirement to pay even modest premiums can result in fewer individuals accessing health care services. Those who can maintain coverage still face greater financial burdens. We urge DPHHS to clarify the exemptions for premiums and that those exemptions include all available under state law and previous waivers.

Conclusion

MBPC remains concerned about the likely loss of coverage under this proposed waiver. Given significant administrative costs in implementing new federal laws, we urge DPHHS to wait until the implementation timeline set out in H.R. 1, giving the state more time to improve systems and conduct outreach to enrollees, providers, and other stakeholders.

MBPC appreciates the opportunity to submit this comment.

Sincerely,

Heather K. O'Loughlin
Executive Director
Montana Budget and Policy Center

---

[1] Department of Public Health and Human Services, "Montana Medicaid Enrollment Dashboard," April 2025.
[2] Montana Healthcare Foundation, "2025 Medicaid in Montana: How Montana's Current Medicaid Program Impacts the State Budget, Economy, and Health," January 2025.
[3] Montana Healthcare Foundation, "2025 Medicaid in Montana: How Montana's Current Medicaid Program Impacts the State Budget, Economy, and Health," January 2025.
[4] Montana Healthcare Foundation, "2025 Medicaid in Montana: How Montana's Current Medicaid Program Impacts the State Budget, Economy, and Health," January 2025.
[5] Karpman, M., Haley, J., and Kenney, G., "State-by-State Estimates of Medicaid Expansion Coverage Losses under a Federal Work Requirement," Urban Institute, Apr. 2025.
[6] Centers for Medicare & Medicaid Services, "April 2025: Medicaid and CHIP Eligibility Operations and Enrollment Snapshot," Jul. 25, 2025.

[7] Holom, N. and Bradley, C., "Medicaid Expansion and Montana Employers," Department of Labor & Industry, Jan. 2025, on file with MBPC.
[8] Guth, M., Ammula, M., and Hinton, E., "Understanding the Impact of Medicaid Premiums & Cost-Sharing: Updated Evidence from the Literature and Section 1111 Waivers," KFF, Sept. 9, 2021.
[9] HELP Act Oversight Committee, "2018 Report to the Governor and Legislative Finance Committee," Aug. 2018.
[10] Contreary, K., et al., "Medicaid Section 1115 Demonstrations Summative Evaluation Report: Premium Assistance, Monthly Payments, and Beneficiary Engagement," Mathematica, Jan. 17, 2020.
[11] Guth, M., Ammula, M., and Hinton, E., "Understanding the Impact of Medicaid Premiums & Cost-Sharing: Updated Evidence from the Literature and Section 1111 Waivers," KFF, Sept. 9, 2021.