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Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
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Submitted electronically

RE: South Carolina § 1115 Demonstration Waiver Application

The National Women's Law Center (NWLC) writes to comment on South Carolina's § 1115 demonstration application. Since 1972, NWLC has fought for gender justice in the courts, in public policy, and in our society. We have worked to advance the progress of women and their families in core aspects of their lives, including health and reproductive rights, income security, employment, and education, with an emphasis on the needs of those who face multiple and compounding forms of discrimination. Through our work to preserve and strengthen Medicaid, we have seen its impact on the health and wellbeing of women and LGBTQI+ people, and we firmly believe in the value of robust Medicaid enrollment and access to services.

We urge the Centers for Medicare and Medicaid Services (CMS) to reject the South Carolina demonstration application. The proposed program, Palmetto Pathways to Independence, would enroll individuals in Medicaid if they meet the definition of "parent and caretaker relative" under 42 CFR § 435.110, have incomes between 67% and 100% of the Federal Poverty Level, and document 80 hours per month of employment or other qualifying activities. This proposal, however, is contrary to the requirements of §§ 1115 and 1902(xx) of the Social Security Act and CMS therefore does not have authority to approve it. The proposal also serves no legitimate experimental purpose, as similar programs in other states have failed to meet the objectives South Carolina outlines in its application. Palmetto Pathways to Independence shares their inherent flaws and will fail to meaningfully expand coverage, incentivize employment, or meet any of its other goals.

I. South Carolina's application contravenes statutory requirements.

South Carolina's application must be rejected as contrary to §§ 1115 and 1902(xx) of the Social Security Act. First, § 1115 allows states to apply for waivers of Medicaid's statutory requirements, but such waivers must:

- propose an "experiment[], pilot or demonstration";
- waive compliance only with requirements in 42 U.S.C. § 1396a;
- be likely to promote the objectives of the Medicaid Act; and

- be approved only “to the extent and for the period necessary” to carry out the experiment.¹

South Carolina’s application is inconsistent with the central objective of the Medicaid statute: to enable states to furnish medical assistance to individuals who are unable to meet the costs of care.² Even with the 119th Congress’ recent addition of Medicaid work requirements through H.R. 1,³ it remains true that “[t]he statute and the case law demonstrate that the primary objective of Medicaid is to provide access to medical care,”⁴ a fact that courts have repeatedly emphasized.⁵ While Congress may wish to incentivize “secondary benefits” through the Medicaid program, such as those that work requirements purportedly promote, the fundamental objective of providing health care coverage is still the same.⁶ And while the statute also refers to the goal of providing “rehabilitative and other services to help...families and individuals attain or retain capability for independence or self-care,”⁷ this reference to “independence” clearly appears “in the context of assisting beneficiaries in achieving functional independence through rehabilitative and other services, not financial independence” from public assistance programs.⁸

As explained below, rather than providing medical assistance to those who need it, South Carolina’s application serves to undermine access to coverage by imposing work requirements, making it more difficult for individuals to achieve independence and self-care. And the application offers no legitimate experimental purpose: The outcomes in other states that have implemented similar programs have already demonstrated that conditioning coverage on compliance with work requirements is a failed policy.

South Carolina’s application is also inconsistent with § 1902(xx) of the Social Security Act, recently enacted as § 71119 of H.R. 1. This section provides that a state may use a § 1115 waiver to implement work requirements before the federal mandate goes into effect in 2027 “subject to the succeeding provisions of this subsection.”⁹ These succeeding provisions define the “community engagement” requirements and set out nonwaivable exemptions from those requirements. South Carolina’s application fails to comply with those standards in several respects. For example, § 1902(xx) requires states to exempt parents, guardians, caretaker relatives, or family caregivers of a dependent child age 13 or under,¹⁰ but Palmetto Pathways to Independence would specifically target this population for work requirements.

South Carolina would also impose work requirements on other groups they are required to exempt, including:

- people who are pregnant or entitled to postpartum medical assistance;

¹ 42 U.S.C. § 1315(a).

² 42 U.S.C. § 1396a-1.

³ See One Big Beautiful Bill Act, Pub. L. No. 119-21 (2025).

⁴ *Gresham v. Azar*, 950 F.3d 93, 100 (D.C. Cir. 2020), vacated and remanded as moot sub nom. *Becerra v. Gresham*, 142 S. Ct. 1665, 212 (2022).

⁵ See *id.* (summarizing prior Supreme Court and circuit court decisions affirming the primary purpose of Medicaid).

⁶ *Id.*

⁷ 42 U.S.C. § 1396a-1.

⁸ *Gresham*, 950 F.3d at 102.

⁹ 42 U.S.C. § 1396a.

¹⁰ 42 U.S.C. § 1396a.

- veterans with a disability rated as total;
- individuals who are “medically frail or otherwise ha[ve] special needs,” including those who qualify as blind or disabled under 42 U.S.C. 1382; people experiencing substance use disorders (South Carolina’s application would only exempt those who are currently demonstrating “participation in/compliance with” a treatment program); people with mental health disabilities; people with physical, intellectual, or developmental disabilities that significantly impair their ability to perform a major life activity; and people with a “serious or complex medical condition”; and
- people who are incarcerated in jails or prisons, both during their incarceration and for three months after release.

Additionally, § 1902(xx)(8) includes mandatory notice and outreach requirements that a state must follow prior to implementing work requirements. South Carolina’s application fails to include an outreach plan that shows compliance with these standards.

Because the application is contrary to the statute, does not further its objectives, and is inconsistent with the exemption and notice requirements, CMS does not have the authority to approve it.

II. Palmetto Pathways to Independence will fail to meet its objectives.

South Carolina claims that its proposal will offer parents and caretaker relatives opportunities to enroll in coverage while incentivizing employment. But Palmetto Pathways to Independence’s significant flaws will prevent it from realizing these goals. In addition to its highly restrictive income cap and narrowly defined eligibility criteria, Palmetto Pathways to Independence conditions Medicaid enrollment on documentation of work requirements—a policy that has been shown to lead to widespread denials of coverage and disenrollment of eligible individuals. As demonstrated by evidence in states with similar programs, the proposed program will likely fail to enroll a meaningful number of people, fail to increase investment in health care for individuals with low incomes, and fail to have a demonstrable impact on employment.

a. The proposed program disregards the employment barriers facing caregivers.

By targeting parents and caretaker relatives for a work requirements program, the application disregards the significant barriers to employment faced by South Carolinians with unpaid caregiving responsibilities. For example, abysmal access to childcare and other caregiving services prevents many caregivers from entering and remaining in the paid workforce. In an AARP scorecard of long-term services and supports, South Carolina ranked 49th among states overall—and last in the country for measures related to affordability and access.¹¹ Lack of access to affordable child care has also hit a crisis point in South Carolina, pushing many parents out of

¹¹ Susan Reinhard et al., *Innovation and Opportunity: A State Scorecard on Long-Term Services and Supports of Older Adults, People with Physical Disabilities, and Family Caregivers*, 2023 Edition 162 (2023), <https://ltsschoices.aarp.org/sites/default/files/documents/doi/ltss-scorecard-2023-innovation-and-opportunity.doi.10.26419-2Fppi.00203.001.pdf>.

the paid workforce.¹² At the same time, South Carolina does not guarantee paid family and medical leave, leaving about 78% of South Carolinians without it and forcing many to choose between caregiving and employment.¹³ Together, these barriers make it difficult for caregivers to maintain a paid job. In one survey of South Carolinian caregivers, less than half (47%) of respondents were employed outside of their home.¹⁴ Among those who did have jobs, 53% said that caregiving had caused them to decrease work hours and 40% said caregiving had led them to quit a job in the past.¹⁵

These barriers have an outsized impact on women. Consistent with national data,¹⁶ a South Carolina study found that the vast majority of family caregivers in the state were women.¹⁷ Women are also more likely to face employment barriers related to caregiving. For example, a South Carolina Department of Employment and Workforce survey found that women who were not employed were more likely than men to report lack of child care as a primary barrier to obtaining a job.¹⁸ This pattern is also reflected in data on Medicaid enrollees, both nationally and in South Carolina. Among Medicaid enrollees in the United States, 19% of women did not work due to caregiving responsibilities, compared to 4% of men.¹⁹ Nearly three in ten (28%) women enrollees with children under the age of 18 were not working due to caregiving responsibilities, seven times the rate among men with children under the age of 18 (4%).²⁰ It is therefore unsurprising that, nationally, women enrolled in Medicaid are less likely to be working than men.²¹ In South Carolina's traditional Medicaid program, the gap is especially pronounced among parents of minor children: Among men with children under the age of 18, 87% were working in 2023, compared to only 60% of women.²²

South Carolina's application fails to acknowledge the barriers that caregivers face to the paid workforce, instead suggesting that the low employment rate among low-income caregivers

¹² E.g., Ross Turner & Bob Morgan, *Fixing Our Childcare Crisis Is Key to Supporting South Carolina's Workforce Growth* (Jan. 22, 2024), <https://scchildren.org/fixing-our-childcare-crisis-is-key-to-supporting-south-carolinas-workforce-growth>; Rachel Ripp, *By the Numbers: A Look at South Carolina's Child Care Crisis*, WLTX (Jun. 15, 2023), <https://www.wltx.com/article/news/local/new-data-south-carolina-childcare-crisis/101-aaa1e7b2-b33e-421b-bcc8-f705f1187b23>.

¹³ National Partnership for Women and Families, *Paid Leave Means a Stronger South Carolina* (Feb. 2023), <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-means-a-stronger-south-carolina.pdf>.

¹⁴ South Carolina Respite Coalition, *South Carolina Respite Coalition Caregiver Survey: Key Findings 1* (2022), <https://archrespitc.org/wp-content/uploads/2022/11/SC-AUGUST-2020-CAREGIVER-SURVEY-KEY-FINDINGS.pdf>.

¹⁵ *Id.*

¹⁶ See AARP & National Alliance for Caregiving, *Caregiving in the US 9* (Jul. 2025), <https://www.aarp.org/content/dam/aarp/ppi/topics/ltss/family-caregiving/caregiving-in-us-2025.doi.10.26419-2fppi.00373.001.pdf>.

¹⁷ South Carolina Respite Coalition, *supra* note 14 at 1.

¹⁸ South Carolina Department of Employment and Workforce, *South Carolina Labor Force Participation* (Sep. 30, 2022), <https://dew.sc.gov/sites/dew/files/Documents/FinalReportSEP30.pdf>.

¹⁹ Ivette Gomez et al., *Medicaid Work Requirements: Implications for Low Income Women's Coverage* (Apr. 30, 2025), <https://www.kff.org/womens-health-policy/issue-brief/medicaid-work-requirements-implications-for-low-income-womens-coverage>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* Data is among nonelderly Medicaid enrollees who do not receive benefits from Supplemental Security Income or Social Security Disability Insurance programs and are not also covered by Medicare.

results from a lack of incentive or personal responsibility. Nor does the application offer even minimal individual supports for caregivers struggling to obtain or maintain a job. A proposal that fails to mitigate or even recognize the underlying barriers facing caregivers cannot meet its goal of improving their employment rate, nor will it meaningfully expand their opportunities for coverage.

b. The proposed program will lead to widespread denials of coverage regardless of employment status.

The work requirements will impose barriers to coverage even among parents and family caregivers who are currently employed or otherwise engaged in qualifying activities. In states that attempted to implement Medicaid work requirements, many enrollees, including those who were employed, were uncertain about how the requirements apply to them or what they need to do to comply. Inadequate outreach, lack of notice of reporting obligations, and the inherent complexity of these policies have all contributed to widespread uncertainty regarding compliance with work requirements.²³ South Carolina's application does not detail how it will overcome these barriers, but a clearer outreach plan would not prevent these problems: Confusion about work requirements has persisted even in states that have prioritized robust outreach.²⁴

Many enrollees who do become aware of these requirements would struggle to navigate the administrative burdens of the proposed policy or would face barriers to obtaining and submitting the necessary documentation. These barriers may be especially pronounced for those who face language or literacy barriers or who have certain disabilities. They may also be especially severe for people who lack the reliable internet access they need to receive up-to-date information and upload documents: In South Carolina, people with low incomes are substantially less likely to have internet access, especially those who are people of color, older adults, veterans, or disabled people.²⁵ And navigating the documentation requirement would likely pose particular challenges for women, people of color, and people with low incomes—all of whom are more likely to work multiple jobs or have precarious employment²⁶ and thus have more complex documentation requirements and less predictable income.

c. Data from other states demonstrates the harms of work requirements.

The proposed project appears to be modeled after Georgia's Pathways to Coverage, a program that has been proven to be harmful, ineffective, and wasteful. Enrollment in Pathways to Coverage has fallen far short of expectations. Although 240,485 uninsured people were initially

²³ Gideon Lukens & Elizabeth Zhang, *Medicaid Work Requirements Could Put 36 Million People at Risk of Losing Health Coverage* (Feb. 5, 2025), <https://www.cbpp.org/sites/default/files/1-16-25health.pdf>.

²⁴ *Id.*

²⁵ Benton Institute for Broadband & Society, *Creating a Foundation of Digital Equity in South Carolina* (Feb. 9, 2024), <https://www.benton.org/blog/creating-foundation-digital-equity-south-carolina>.

²⁶ U.S. Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey: Multiple Jobholders by Selected Characteristics* (Jan. 29, 2025), <https://www.bls.gov/cps/cpsaat36.htm>; Vanessa M. Oddo et al., *Changes in Precarious Employment in the United States: A Longitudinal Analysis*, 47 SCANDINAVIAN JOURNAL OF WORK, ENVIRONMENT & HEALTH 171 (Dec. 7, 2020), [www.doi.org/10.5271/sjweh.3939](https://doi.org/10.5271/sjweh.3939); Urban Institute, *Unstable Work Is All Too Common, Especially for Black Women* (Sep. 12, 2024), <https://www.urban.org/data-tools/black-women-precarious-gig-work>.

estimated to be potentially eligible for the program,²⁷ a mere 8,078 were enrolled as of June 30, 2025.²⁸ An Interim Evaluation Report of the program was unequivocal: Work requirements have been a significant barrier to enrollment.²⁹ This held true even for individuals who were already employed or otherwise engaged in qualifying activities. Due in part to inadequate outreach and lack of effective notice, many applicants and enrollees did not have sufficient information about how to comply with the work requirements.³⁰ Others have struggled to navigate the associated administrative burdens or faced barriers to obtaining and submitting the necessary documentation.³¹ Meanwhile, the costs of administering the program have been significantly higher than initially projected,³² with one analysis finding that by the end of 2024, it had cost federal and state taxpayers more than \$86.9 million—the vast majority of which went to the consultants who were managing the program rather than health insurance payments.³³ Palmetto Pathways to Independence does not acknowledge the fundamental problems in the program it seems to emulate, let alone offer remedies to avoid replicating those problems.

Other states that have conditioned Medicaid coverage on work requirements have similarly seen widespread denial or loss of coverage. For example, Arkansas imposed work requirements in 2018. In the seven months the work requirement was in operation before a federal court stopped the program,³⁴ over 18,000 people lost coverage—amounting to one in four of those subjected to the work requirement.³⁵ These included many people who were working, qualified for an exemption, or were otherwise eligible.³⁶ Indeed, most people who lost coverage did not lose it because they failed to work or qualify for an exemption, but rather because of extensive administrative hurdles, red tape, and confusion.³⁷ The impacts on coverage were lasting. The vast majority—89%—of those who lost Medicaid coverage in 2018 did not regain it the following year, leaving many uninsured.³⁸ Arkansans who lost coverage in this time period faced

²⁷ Leah Chan, *Georgia's Pathways to Coverage Program: The First Year in Review* 5 (Oct. 3, 2024), https://gbpi.org/wp-content/uploads/2024/10/PathwaystoCoverage_PolicyBrief_2024103.pdf.

²⁸ Georgia Pathways, Current Enrollment (last accessed Jul. 24, 2025), <https://www.georgiapathways.org/data-tracker>.

²⁹ Georgia Department of Community Health, *Georgia Section 1115 Demonstration Waiver Extension Request* 10 (Apr. 28, 2025), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ga-pathway-pa-04282025.pdf>.

³⁰ Chan, *supra* note 27 at 8.

³¹ Margaret Coker, *Georgia Touts Its Medicaid Experiment as a Success. The Numbers Tell a Different Story*, PROPUBLICA (Feb. 19, 2025), <https://www.propublica.org/article/georgia-medicaid-work-requirement-pathways-to-coverage-hurdles>.

³² Laura Harker, *Georgia's Medicaid Experiment Is the Latest to Show Work Requirements Restrict Health Care Access* (Dec. 19, 2024), <https://www.cbpp.org/blog/georgias-medicaid-experiment-is-the-latest-to-show-work-requirements-restrict-health-care>; Chan, *supra* note 27 at 9.

³³ Coker, *supra* note 31.

³⁴ See *Gresham v. Azar*, 363 F. Supp. 3d 165 (D.D.C. 2019).

³⁵ Laura Harker, *Pain But No Gain: Arkansas' Failed Medicaid Work-Reporting Requirements Should Not Be a Model* (Aug. 8, 2023), <https://www.cbpp.org/research/health/pain-but-no-gain-arkansas-failed-medicaid-work-reporting-requirements-should-not-be>.

³⁶ *Id.*

³⁷ Jennifer Wagner & Jessica Schubel, *States' Experiences Confirm Harmful Effects of Medicaid Work Requirements* (Nov. 18, 2020), <https://www.cbpp.org/sites/default/files/atoms/files/12-18-18health.pdf>.

³⁸ Harker, *supra* note 35.

significant repercussions: 50% reported serious problems paying off medical debt, 56% delayed care because of cost, and 64% delayed taking medication because of cost.³⁹

Another case in point is New Hampshire. Despite promising more flexibility in reporting requirements and pursuing more robust outreach efforts than other states, New Hampshire's 2019 work requirements threatened to disenroll large numbers of beneficiaries. Amid widespread confusion about how to comply with the new policy, about two thirds of enrollees subject to the requirements were anticipated to lose coverage after just two months.⁴⁰ New Hampshire suspended the work requirement as a result, and a federal court ultimately ended the program.⁴¹

d. Work requirements fail to increase employment.

While South Carolina suggests that its work requirements will incentivize employment for parents and family caregivers, the evidence demonstrates otherwise. Work requirements are based on the false premise that Medicaid enrollees choose not to work and are taking advantage of the program's benefits—a narrative that is driven by stereotypes based on race, gender, disability, and class. In fact, about two thirds of Medicaid enrollees ages 19-64 already work; the remaining do not work primarily due to caregiving responsibilities, illness or disability, or school attendance.⁴² Denying individuals coverage actually makes it *more* difficult for them to sustain employment: Access to health insurance makes it possible for enrollees to get the care and supports they need to be able to work, particularly for those with health conditions and disabilities.⁴³ Simply put, those who are insured are more likely to become and remain employed.⁴⁴

Other states' experiences with work requirements demonstrate that they fail to incentivize or increase employment. In Arkansas, for example, Medicaid work requirements did not result in significant changes to employment while they were in effect.⁴⁵ Georgia's assessment of its Pathways to Coverage program also offers no evidence of a change in employment rates related to its work requirements.⁴⁶ Similarly, work requirements in public benefit programs like Temporary Assistance for Needy Families (TANF)—often used as a model for such requirements in Medicaid—have failed to improve employment rates or move people out of poverty. Research has found that TANF work requirements made little difference in long-term employment rates. Regardless of whether individuals were subject to the requirements, at least 75% of TANF

³⁹ Benjamin D. Sommers et al., *Medicaid Work Requirements in Arkansas: Two-Year Impacts on Coverage, Employment, and Affordability of Care*, 39 HEALTH AFFAIRS 1522 (Sep. 2020), <https://www.healthaffairs.org/doi/epdf/10.1377/hlthaff.2020.00538>.

⁴⁰ Lukens & Zhang, *supra* note 23.

⁴¹ *Id.*

⁴² *Id.*

⁴³ David Machledt, *How Medicaid Work Requirements Hurt People with Disabilities* (Dec. 16, 2024), <https://healthlaw.org/resource/unfit-to-work-how-medicaid-work-requirements-hurt-people-with-disabilities-2>.

⁴⁴ Larisa Antonisse & Rachel Garfield, *The Relationship Between Work and Health: Findings from a Literature Review* (Aug. 7, 2018), <https://www.kff.org/medicaid/issue-brief/the-relationship-between-work-and-health-findings-from-a-literature-review>.

⁴⁵ Harker, *supra* note 35.

⁴⁶ See Georgia Department of Community Health, *supra* note 29.

recipients worked by the fifth year of leaving the program.⁴⁷ This ineffective policy came at a cost: The share of families living in deep poverty increased in states with these requirements.⁴⁸ The large majority of individuals subject to work requirements remained poor and worked in low-quality, low-wage jobs with high volatility.⁴⁹ Requirements in the Supplemental Nutrition Assistance Program (SNAP), which impose time limits on program eligibility conditioned on documentation of work or training, similarly failed to increase employment, while significantly decreasing participation in SNAP.⁵⁰ This evidence clearly indicates that work requirements are not experimental; they are harmful and wholly unjustified.

III. Conclusion

South Carolina's application fails to meet the statutory requirements for § 1115 waivers and would create unwarranted hardships for individuals who need access to coverage, harming communities that already face disparities in access to care. We urge CMS to reject it.

We request that the supporting documentation we have made available through direct links in our citations be considered as part of the formal administrative record for purposes of the Administrative Procedure Act. If CMS does not intend to consider these materials part of the record as requested, we ask that you notify us and provide us with an opportunity to submit copies of the studies and articles into the record.

For further information, please contact Ma'ayan Anafi, Senior Counsel for Health Equity and Justice, at manafi@nwlc.org.

⁴⁷ LaDonna Pavetti & Ali Zane, *TANF Cash Assistance Helps Families, But Program Is Not the Success Some Claim* (Aug. 2, 2021), <https://www.cbpp.org/research/income-security/tanf-cash-assistance-helps-families-but-program-is-not-the-success-some>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Lauren Bauer & Chloe N. East, *A Primer on SNAP Work Requirements* (Oct. 2023), https://www.hamiltonproject.org/wp-content/uploads/2023/10/20231004_THP_SNAPWorkRequirements.pdf.