



May 25, 2021

Chiquita Brooks-LaSure
 Administrator
 Centers for Medicare and Medicaid Services
 U.S. Department of Health and Human Services
 200 Independence Ave, SW
 Washington, DC 20201

Re: TennCare III 1115 Waiver

Dear Administrator Brooks-LaSure:

The undersigned organizations are writing to urge you to rescind the TennCare III 1115 waiver approved on January 8, 2021. If implemented, this waiver would have a major impact on patients' access to care. Our concerns are twofold – first, we are concerned that as our nation continues to respond to the COVID-19 pandemic, the state is advancing a waiver that did not receive the required public comment period and second, that it does not adequately take into consideration the negative consequences its implementation would have on patients and consumers.

The TennCare III 1115 waiver includes numerous components – a funding cap, closed formulary, the continuation of Tennessee’s Medicaid Managed Care program and waiving of retroactive coverage - that did not go through the required public comment period. The TennCare II Amendment 42 application was posted on the appropriate Centers for Medicare and Medicaid Services (CMS) website for a public comment period, but the comment portal was down for approximately two days which likely limited the number of comments that could be received from the patient and stakeholder community.

Additionally, CMS did not provide *any* opportunity for public comment on the extension of the existing features of TennCare II. If CMS had accepted public comment on the extension of the existing features of TennCare II as it should have in 2020, patients and patient advocacy organizations would have made extensive comments. We are further concerned that both components were approved for 10 years— which is not permissible under any scenario. The public comment period allows stakeholders to have a voice in the regulatory process, including patients who get their medical care from the Tennessee Medicaid program.

CMS should revoke the waiver approval from January 8, 2021 due to these material errors. We do not believe the Amendment 42 provisions should be approved under any circumstances, but at a minimum *all* of the provisions should be subject to a new and proper comment period before reviewing them for approval.

Additionally, our organizations have deep concerns with the content of Tennessee’s waiver.¹ Per capita caps and block grants cap or limit the amount of federal funding provided to states to operate their Medicaid programs, forcing them to either make up the difference with their own funds or make cuts to their programs that reduce access to care for the patients we represent. Additionally, the approval allows Tennessee to limit prescription drug coverage, endangering patients who rely on prescription medication to manage serious and chronic conditions.

With the arrival of the COVID-19 pandemic in 2020, our concerns about how Tennessee's project will harm patients have only intensified. This project will limit Tennessee's flexibility in responding to recessions, pandemics, new treatments and natural disasters – and as a consequence, moves in the opposite direction of the lessons learned from 2020.

Our organizations urge your immediate action on this waiver to protect patients’ access to care in the Medicaid program and address these errors in the public comment process.

Sincerely,

American Lung Association
American Cancer Society Cancer Action Network
American Diabetes Association
American Heart Association
Arthritis Foundation
Cancer Support Community
CancerCare
Cystic Fibrosis Foundation
Epilepsy Foundation
Hemophilia Federation of America

March of Dimes
Mended Little Hearts
National Hemophilia Foundation
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
The AIDS Institute
The Leukemia & Lymphoma Society
United Way Worldwide

¹ Patient Groups Oppose Tennessee Medicaid Block Grant Proposal. [Press Statement]. December 19, 2019.
Accessed at: [Patient Groups Oppose Tennessee Medicaid Block Grant Proposal | American Lung Association](#)