December 3, 2019

Submitted via online portal

Re: NORD Comments on Georgia's 1332 Wavier Application – GA Access Model

The National Organization for Rare Disorders (NORD) appreciates the opportunity to submit comments on Georgia's Section 1332 Waiver Application to implement the Georgia Access Model.

NORD is a unique federation of voluntary health organizations dedicated to helping people with rare "orphan" diseases and assisting the organizations that serve them. We are committed to the identification, treatment, and cure of rare disorders through programs of education, advocacy, research, and patient services.

While NORD supports reinsurance as a tool to stabilize premiums in the individual marketplace, we are deeply concerned that the Georgia Access Model will jeopardize access to quality and affordable healthcare coverage for patients with rare diseases and other pre-existing conditions. The state's 1332 waiver fails to satisfy the guardrails in the statutory language of the Affordable Care Act (ACA) requiring that coverage must be as affordable as it would be without the waiver; coverage must be as comprehensive as it would be without the waiver; a comparable number of people must be covered under the waiver as would be without it; and the waiver must not add to the federal deficit. The waiver would also put the healthcare coverage of the 450,000 Georgians who currently get their insurance through the state's marketplace at risk while only attempting to expand coverage for a small fraction (30,000 individuals) of the more than 1.4 million uninsured individuals in Georgia.[i] NORD urges Georgia to withdraw its application for the Georgia Access Model.

<u>State Subsidy Program</u>
Georgia has proposed to create a new state-administered subsidy system to replace the Advanced Premium Tax Credits (APTC) created by the ACA. These subsidies are not satisfactory to meet the affordability needs of patients with rare diseases and will be allowed to be used toward the purchase of "eligible non-QHPs," driving individuals towards enrolling in substandard coverage. The proposal will reduce access to affordable healthcare coverage for patients with rare diseases and NORD opposes this change.

First, the draft application requests to waive the cost-sharing reduction (CSR) program that helps patients with incomes below 250 percent of the federal poverty level (FPL) to pay deductibles, coinsurance and other cost-sharing required by their health plan. It is unclear whether individuals who currently qualify for CSRs under the ACA will still get this financial assistance under the state-administered subsidy system.

Additionally, the state has likely underestimated the impact of the Georgia Access Model on premiums in Georgia. Eligible non-QHPs will attract healthier consumers, segmenting the market and increasing the cost of comprehensive coverage. Additionally, as discussed later in our comments, the loss of Healthcare.gov and the incentives for insurers and brokers selling products outside of an exchange will likely boost enrollment in short-term and other skimpy plans, further undermining the risk pool and destabilizing the market. A substantially greater premium increase would both make QHPs more expensive for individuals who do not qualify for subsidies and also increase the cost of QHP subsidies for the state, meaning that the state's pool of financial assistance funds would not be able to help as many individuals.

The state subsidy system is significantly under-resourced, which would have serious implications for patients with rare diseases and other individuals in Georgia. The state has budgeted $13.5 million in the first three years and $5 million thereafter for implementation costs, which seems quite low given the significant investments in new technical and administrative systems needed to operate the Georgia Access Model. Additionally, the state's contribution to the subsidy fund is just $144 million in 2022, which will not go far if the Georgia Access Model increases premiums as predicted above. This lack of funding is particularly dangerous for patients given the Georgia Access Model's cap on subsidy funding. Currently, any individual who meets the eligibility criteria for financial assistance for coverage under the ACA receives that financial assistance. However, patients could be placed on a wait list if the state exceeds its capped contribution under the Georgia Access Model.

Promotion of Substandard Plans

As mentioned in the previous section, Georgia's proposal would allow subsidies to be used for QHPs currently offered in the state as well as for "eligible non-QHPs." This will result in more individuals enrolling in less comprehensive coverage and NORD opposes this change.

The draft waiver application does not contain sufficient information about the standards for eligible non-QHPs, particularly what the state means when it says that the plans will maintain protections for people with pre-existing conditions. For example, even if these plans cannot deny coverage to patients with pre-existing conditions, could plans vary premiums based on health status? Protecting patients with rare diseases and other pre-existing conditions involves much more than guarantee issue; patients need community rating, bans on exclusion periods and condition exclusions, cost-sharing protections, bans on annual and lifetime limits and many other protections currently required for plans sold on the individual market to truly access comprehensive, affordable healthcare coverage.

Other aspects of the standards for these plans are unclear as well. The draft application requests to waive network adequacy requirements. Without this, patients in the rare disease community may not have access to their lifesaving providers that help maintain their health. Additionally, it is unclear how eligible non-QHPs could be part of the single risk pool with current QHPs given how dissimilar these products could be. This would make risk adjustment – a process that discourages plans from cherry-picking heathier individuals by transferring funds from plans with lower risk enrollees to higher risk ones – difficult to implement.

The draft application does clearly state that eligible non-QHPs would not have to cover all ten essential health benefits (EHBs), which are currently required by QHPs. The state claims that eligible non-QHPs will provide 90 percent of the benefits that current QHPs cover. However, the state provides no explanation or analysis to support this assumption. By offering plans that do not cover all EHBs but are still eligible for subsidies, issuers will be able to segment the market and charge lower premiums to healthier individuals for eligible non-QHPs while charging high premiums for patients with pre-existing conditions who need comprehensive coverage. This is a backdoor to discrimination against patients with pre-existing conditions.

Finally, given the destabilizing impact of the state subsidy program on the individual marketplace, it is possible that some issuers may rethink their decisions to offer QHPs in Georgia. Yet the state assumes that issuers will still offer QHPs in all ratings areas after the implementation of the new state subsidy program with no explanation to support that assumption. If this assumption does not hold, patients in some areas of the state would no longer have access to comprehensive care and have to choose between eligible non-QHPs or other skimpy plans or going without coverage. [As a result, the choose between coverage for patients could lead to h].

Enrollment Platform

In addition to administering a state subsidy program, Georgia's application proposes to no longer use Healthcare.gov for enrollment and instead have people enroll directly through insurers or brokers. This policy will make it harder for patients to enroll in comprehensive, affordable healthcare coverage and NORD opposes this change.

While the state acknowledges that leaving Healthcare.gov would require a detailed transition strategy, NORD fears that some of the 450,000 Georgians who currently purchase coverage through Healthcare.gov would inevitably lose coverage during the transition. This gap in coverage could negatively impact rare disease patients who rely on this care and put their health in jeopardy. The state assumes that there will be no coverage losses without any analysis to support that assumption, calling into question whether the Georgia Access Model will truly lead the same or more people to obtain coverage than would without the waiver.

Today, patients with rare diseases who shop on Healthcare.gov can trust that they are purchasing a health insurance plan that will allow them to manage their health conditions. However, under the Georgia Access Model, issuers and brokers could sell QHPs alongside other types of plans that discriminate against people with pre-existing conditions and will not cover enrollees' medical expenses if they get sick. This could create confusion for patients and lead them to purchase coverage that does not meet their needs. There is already evidence of misleading marketing related to short-term and other skimpy plans leading individuals to unwilling enroll in coverage that lacks key patient protections.[ii] This problem would likely worsen in Georgia under this proposal.

Healthcare.gov shows consumers all QHPs available in their area and does not favor certain plans over others. However, brokers who would be helping individuals through the enrollment process under the Georgia Access Model would not have to show individuals all of their plan options and may receive larger commissions for certain plans over others that influence their recommendations to patients. Increasing the reliance on insurers and brokers will limit the ability of patients with rare diseases to compare plan price and benefit design in an unbiased manner to choose the right plan for them and could ultimately result in harm to patients who become enrolled in sub-standard or inadequate insurance coverage that does not meet their needs. This failure to appropriately shield patients from risk is unacceptable.

NORD opposes this waiver proposal. Instead, we urge Georgia to focus on solutions that promote adequate, affordable and accessible coverage without jeopardizing access to care for patients with rare diseases and other pre-existing conditions.

Thank you for your consideration.

Sincerely,

/s/

Rachel Sher,
Vice President of Policy and Regulatory Affairs

[i] American Community Survey Tables for Health Insurance Coverage, Health Insurance Coverage Status and Type of Coverage by State and Age for All People: 2018. Available at: https://www.census.gov/data/tables/time-series/demo/health-insurance/acs-hi.html.

[ii] https://www.commonwealthfund.org/blog/2019/seeing-fraud-and-misleading-marketing-states-warn-consumers-about-alternative-health, https://www.rwjf.org/en/library/research/2019/01/the-marketing-of-short-term-health-plans.html