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U.S. Department of Health and Human Services
Departmental Appeals Board MS 6127
Appellate Division
330 Independence Avenue, SW
Cohen Building Room G-644
Washington, D.C. 20201
Submitted via electronic filing

Re: Appeal of CMS Decision to Withdraw Ohio's Group VIII Work Requirement and Community Engagement 1115 Demonstration Waiver

To Whom It May Concern:

The Ohio Department of Medicaid ("ODM") by and through its undersigned counsel, hereby gives notice of its intent to appeal from the Withdrawal of the Group VIII Work Requirement and Community Engagement 1115 Demonstration Waiver Demonstration, as issued by the Centers for Medicare & Medicaid Services ("CMS") to ODM on August 10, 2021. A copy of the final decision is attached. This August 10, 2021 letter purporting to withdraw Ohio's demonstration notifies the State that the withdrawal decision becomes final in 30 days unless, within 30 calendar days after receiving the decision, the State submits a notice of appeal to the Departmental Appeals Board ("DAB"). There is no dollar amount in dispute; Ohio is challenging the attempted withdrawal of its community engagement waiver.

CMS's decision is incorrect for at least the following reasons. First, CMS relies on inaccurate and irrelevant assumptions to justify its conclusion that Ohio's demonstration project is unlikely to promote the objectives of Medicaid. Moreover, through its reasoning, CMS undercuts the purpose of the program itself: to "test new ideas and ways of dealing with the problems of public welfare recipients." S. Rep. No. 87-1589, at 19 (1962). CMS fails to adequately consider that Ohio's demonstration project will maintain coverage for individuals who have good cause for failing to meet the demonstration's requirements. CMS additionally fails to consider the overall effect on the Medicaid expansion group. CMS has elevated Medicaid coverage itself over a legitimate purpose of Medicaid, which CMS has repeatedly acknowledged is to

advance the health and wellness needs of its beneficiaries. In addition to these substantive errors, CMS failed to follow procedures bilaterally agreed to in a January 2021 memorandum of understanding, which CMS inappropriately and unilaterally rescinded. ODM will provide briefing on these errors through the administrative process.

ODM looks forward to the opportunity to more thoroughly explain its position.

Attachments (1):

Letter from Chiquita Brooks-LaSure, Centers for Medicare & Medicaid Services, to Maureen Corcoran, Ohio Department of Medicaid (Aug. 10, 2021)

Respectfully submitted,

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Ohio Attorney General

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Enclosure

CC: Chiquita Brooks-LaSure, Administrator, CMS
Judith Cash, Acting Deputy Director, CMS