NEMOURS CHILDREN'S HEALTH | Well Beyond Medicine

**National Office of Policy & Prevention**

1201 15th St. NW
Ste. 520
Washington, DC 20005

November 7, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Blvd
Baltimore, MD 21244

Attention: CMS-2421-P

Dear Administrator Brooks-LaSure:

On behalf of Nemours Children's Health, thank you for the opportunity to provide public comments on the Centers for Medicare and Medicaid Services' (CMS) proposed rule to streamline the Medicaid, Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Application, Eligibility Determination, Enrollment and Renewal Processes. We applaud CMS for this groundbreaking proposal.

**ABOUT NEMOURS CHILDREN'S HEALTH**

Nemours Children's Health is one of the nation's largest multistate pediatric health systems, which includes two free-standing children's hospitals and a network of more than 70 primary and specialty care practices. Nemours Children's seeks to transform the health of children by adopting a holistic health model that utilizes innovative, safe, and high-quality care, while also caring for the health of the whole child well beyond medicine. Nemours Children's also powers the world's most-visited website for information on the health of children and teens, Nemours KidsHealth.org.

The Nemours Foundation, established through the legacy and philanthropy of Alfred I. duPont, provides pediatric clinical care, research, education, advocacy, and prevention programs to the children, families and communities it serves.

**EXECUTIVE SUMMARY**

Nemours strongly supports the intent of this rule and believes the proposed changes will make a significant, positive impact for children and families applying for and enrolled in Medicaid and CHIP. We share CMS' goals of ensuring that eligible individuals can obtain and maintain coverage through CMS programs with minimal disruption resulting from procedural issues. In our comments and recommendations below, we express our support in more detail and offer potential improvements to the proposal. In summary, our recommendations are:

1. In efforts to streamline enrollment, particularly for non-MAGI individuals, address the unique needs of children with medical complexity and medically needy children.
2. Work toward a future state in which electronic verification system (s) could provide corrected demographics to payers and providers, ensuring accuracy and continuity, particularly when enrollment data is self-entered.
3. Develop policies to expedite eligibility for emergency services Medicaid provided to undocumented children, including applying the same

streamlining and timeliness standards, where appropriate, to applications for emergency services Medicaid.

4. Consider further streamlining the renewal process for individuals with a qualifying disability, particularly when coverage is determined by a medical diagnosis.
5. Work with Congress to require CHIP effective dates to begin in the month of the application/eligibility determination, explicitly allow states the option to provide presumptive eligibility for CHIP coverage and provide a 60-grace period thereafter for patient families to complete premium and managed care organization (MCO) selection requirements.

## DETAILED COMMENTS AND RECOMMENDATIONS

### Streamlining Application and Enrollment

Nemours supports CMS' proposed changes to align and streamline application and enrollment protocols across CMS programs and across eligibility groups. Some of the most persistent barriers to Medicaid and CHIP coverage are administrative, resulting in increased burden on applicants and beneficiaries, and inappropriate terminations. We are encouraged to see CMS' efforts to remove these barriers.

*Facilitating Medicaid Enrollment*

Nemours is pleased to see proposals to apply application and enrollment simplification policies across MAGI and non-MAGI populations, which directly and positively impact children with medical complexity. Further, we are encouraged to see proposals to facilitate Medicaid enrollment by allowing medically needy individuals to deduct prospective medical expenses from their income. We recognize that this proposal is not written specifically for pediatric patients; yet we believe it will positively impact medically needy children. While most children fall in the MAGI category, some children with medical complexity and/or serious disability access Medicaid through medically needy eligibility. Currently, our patients entering the Medicaid program under medically needy eligibility have not been allowed to use prospective expenses, even though some of those expenses are predictable (e.g. home health, equipment, etc.). ***We encourage CMS to consider the unique needs of children with medical complexity and medically needy children as you finalize this rule, and consider that while the specifics of these patients' high-cost medical needs may not be constant and/or predictable, it is predictable that needs will occur (e.g. surgeries, hospitalizations, specialty care).*** Further, although states generally have pathways to cover children with significant disabilities whose household income exceeds the income limits, some children still do not qualify. Some of these families face bankruptcy from medical bills, especially for services such as home nursing, that are often subject to benefit limits in commercial plans. Allowing these children to qualify through the medically needy pathway and use prospective expenses is sound policy. **Therefore, we also recommend including expenses that are significant, but not necessarily predictable from month to month.**

Additionally, we fully support CMS' proposals related to verification of citizenship and identity. Using a single verification strategy for citizenship and identity will reduce burden on patients who otherwise would have to complete two separate verification processes. However, we note that online applications often contain typographical errors that cause records to become misaligned and ultimately result in duplicate records and/or patient matching issues between payers and providers. ***It would be helpful if, in a future state, the electronic verification system could provide corrected demographics and other personal identifiers to ensure accuracy and continuity, particularly when data is self-entered.*** Date of birth errors, patient sex errors (not related to gender transition), multiple spellings of names, etc. are

commonplace and introduce delays and friction in treatment and payment processes.

Finally, while not contemplated in this rule, we ask CMS to ***consider policies for expedited eligibility for emergency services Medicaid provided to undocumented children.*** As a multi-state provider, we have found that the process to determine eligibility for this population is inconsistent across states and can sometimes cause egregious delays in care or reimbursement. In one case at Nemours Children's Hospital, Delaware, approval for payment took 12 months. ***We ask CMS to consider applying the same streamlining and timeliness standards, where appropriate, to applications for emergency services Medicaid.***

*Eliminating Barriers to Access in Medicaid*
Nemours supports CMS' proposal to remove the requirement that Medicaid applicants or beneficiaries apply for other benefits as a condition of eligibility determination. We also support CMS' reinterpretation of Medicaid eligibility requirements to be based on an applicant or beneficiary's actual income and resources within their immediate control. It is widely documented that these benefit programs have barriers to long-term access, and people often cycle on and off these programs due to inconsistent income. Eliminating this requirement supports the agency's broader goals in pursuit of health equity by ensuring that health coverage is not dependent on "income" that is both inconsistent and outside the beneficiary's direct control.

**Improving Retention Rates at and Between Regular Renewals**
As stated above, Nemours strongly supports CMS' proposal to align and streamline application and enrollment requirements between MAGI and non-MAGI eligibility groups. Ensuring that applicants and beneficiaries are not overburdened with requests for information, are not terminated from coverage due to returned mail, and are able to submit information using all modalities (internet, telephone, mail, in person, or other commonly available electronic means) are important steps.

*Promoting Enrollment and Retention of Eligible Individuals*
With respect to proposals to change application requirements, Nemours supports the use of the single streamlined application, the requirement for states to accept applications and supplemental forms via all modalities, and the elimination of in-person interviews for non-MAGI applicants and beneficiaries during the application and renewal processes. We are aware of states that require beneficiaries to complete renewals using the same modality as their initial application. For example, if a family applied for Medicaid in person, some states are requiring the family to appear in person for renewal. This requirement is overly burdensome and should not be permitted.

Further, we support the requirement that states first use all available ex parte information to complete renewals for MAGI and non-MAGI groups, the requirement to send pre-populated renewal forms for both groups when ex parte information is insufficient, the addition of a 90-day reconsideration period, and the limit of scheduled renewals of eligibility to once every 12 months for both groups.

As CMS works with states to implement new 1115 waivers allowing longer periods of continuous enrollment, we encourage CMS to share learnings. Oregon's demonstration testing continuous enrollment for children until age 6, and 2-year continuous enrollment for all other Medicaid enrollees, is of particular interest and promise to improve children's health access and outcomes. It will be important for CMS to evaluate whether this approach should become easier for state adoption, while also monitoring its impact on churn, rates of gaps in coverage and decreased

periods of uninsurance, as well as potential unintended consequences such as negative impacts on access to care, more providers choosing not to accept Medicaid and any potential shift of Medicaid patient populations to a small number of providers.

*Timeliness Standards & Changes in Circumstance*
While we generally support the timeliness standards outlined in the rule, ***we encourage CMS to consider further streamlining the renewal process for individuals with a qualifying disability.*** For example, many states determine eligibility based on medical diagnosis, and some provide conditional approval on that basis while completing other verification requirements. Renewals for individuals whose eligibility is based on a medical diagnosis could be conditionally approved much sooner than 90 days. The state could then complete the remaining verification requirements thereafter, providing final approval by the end of the 90 period.

With respect to action on changes in circumstance, we strongly support the proposed provisions and underscore the need for determinations to be completed and communicated to the beneficiary as soon as possible. Further, we support the requirement that redeterminations be completed with ex parte information when possible, and when not possible, the agency limit its requests for information to only the change in circumstance. We support the allowance for states to begin a new 12-month eligibility period if the agency has sufficient information to complete such renewal.

*Action on Returned Mail*
Nemours enthusiastically supports the proposed changes to state Medicaid agency action on returned mail, particularly provisions related to required steps to pursue updated information from other trust third-party sources (e.g. MCOs, United States Postal Service, etc.); the requirement for state Medicaid agencies to attempt contact at least twice, using one more method other than mail; and the prohibition on terminating coverage when mail is returned with an in-state forwarding address. Returned mail currently accounts for a large percentage of coverage terminations for eligible individuals. We also support the requirement that coverage be reinstated, without requiring additional information, when previously unknown whereabouts become known to the state. These provisions will be especially important as states begin redeterminations after the end of the COVID-19 Public Health Emergency. It is likely that many enrolled families will have moved in the preceding three years.

*Transitions Between Medicaid, CHIP and the Basic Health Program*
Nemours fully supports the proposed provisions to require states to determine eligibility across programs (including Exchange programs) and to transfer an individual's account when eligibility across programs changes. Further, we support the requirement to send a combined eligibility notice, and for that notice to include eligibility determinations for all household members to the extent possible, even if they are eligible for different programs.

**Removing Barriers Specific to CHIP Enrollment**
Nemours fully support CMS' effort in this proposed rule to align requirements between Medicaid and CHIP related to timely determinations, changes in circumstance, returned mail and transitions between CHIP and Medicaid. Our above comments on those proposals for Medicaid apply to CHIP provisions as well.

In addition, we ask CMS to consider addressing a common barrier faced by CHIP enrollees related to effective coverage dates. Some states do not retroactively initiate CHIP coverage on the date of the individual's application, which can cause delays in care. Further, some state policies result in additional delays by requiring the family to

pay a premium and select an MCO before coverage can be initiated. We aware of cases in which notices of eligibility and requests for payment and MCO selection do not reach the family with enough time to meet the deadline. ***We ask CMS to consider working with Congress to require CHIP effective dates to begin in the month of the application/eligibility determination. Further, CMS should explicitly allow states the option to provide presumptive eligibility for CHIP coverage, and a 60-grace period thereafter for patient families to complete the premium and MCO requirements***.

Nemours also supports CMS' proposed changes to prohibit premium lock-out periods, waiting periods and annual and lifetime limits on benefits in CHIP. These current barriers cause delays in care and loss of coverage for children when they most need it. Families and children that qualify for CHIP are often economically vulnerable and may experience changes in income that make CHIP premium payments unaffordable. Becoming locked out of coverage could compound the financial distress of the family, result in worse health outcomes, and widen existing health disparities among low-income populations.

**CONCLUSION**

Nemours stands ready to leverage our expertise and relevant experiences to assist CMS in improving Medicaid and CHIP application, eligibility determination and enrollment policies. Thank you for your consideration of our recommendations, and we look forward to continued collaboration. Please do not hesitate to reach out to Daniella Gratale, Director of the Office of Child Health Policy and Advocacy, at Daniella.Gratale@nemours.org with questions or requests for additional information.

Sincerely,

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Executive Vice President
Chief Population Health Officer
Nemours Children's Health