



March 22, 2023

The Honorable Dr. Ellen Montz
 Deputy Administrator and Director
 Center for Consumer Information & Insurance Oversight
 Centers for Medicare and Medicaid Services
 7500 Security Boulevard
 Baltimore, MD 21244

Re: Georgia SBE Blueprint Letter

Dear Director Montz:

Our organizations write to express our concerns about Georgia's proposed transition to a state-based exchange (SBE) for plan year 2024. The state's request to develop and operate a SBE for the upcoming year violates federal rules governing exchange establishment. If allowed to proceed in violation of these rules, the state would jeopardize coverage for the hundreds of thousands of Georgians who currently rely on the marketplace and who are likely to enroll during the unwinding of the Medicaid continuous coverage requirements. We urge you to not approve Georgia's request.

Our organizations represent millions of individuals facing serious, acute and chronic health conditions across the country, including many who receive coverage through the Affordable Care Act (ACA) marketplaces. It is critical that patients in Georgia and throughout the nation maintain access to a strong, robust marketplace through which they can enroll in comprehensive coverage at an affordable cost.

While generally we collectively do not engage on the issue of whether a state should create an SBE, in this case we have specific concerns with Georgia’s proposal in light of the state’s recent actions. On February 14, 2023, Georgia submitted a “SBE Blueprint Letter” announcing the state’s intention to establish and fully implement a SBE by November 1, 2023, the start of the 2024 open enrollment period.¹ It is unclear whether the state has also submitted an official SBE Blueprint Application, but if it has, it has not shared that application with the public. Federal rules require a state seeking to establish a SBE to submit an Exchange Blueprint at least 15 months prior to the new exchange’s first open enrollment.² Current rules also mandate that the state have in effect an approved or conditionally approved Exchange Blueprint and operational readiness assessment at least 14 months prior to exchange launch.³ These rules exist for the protection of patients and consumers: to ensure there is enough time for states to design, finalize, and implement a host of Exchange operations and policies and for extensive state-federal coordination and collaboration on these efforts, so people’s access to marketplace coverage is preserved. Georgia has clearly missed these mandatory deadlines, putting Georgians’ access to coverage at risk.

Georgia argues that previous work to implement its “Georgia Access” Section 1332 waiver — a program suspended in August 2022 because it did not comply with federal rules — entitles it to pursue a SBE on an accelerated timeline. It does not. Establishing an exchange and developing a Section 1332 waiver are fundamentally different processes, and therefore are subject to different rules. Georgia’s waiver would not have created a SBE. In its 1332 waiver, the state made a deliberate choice not to use a state-run eligibility and enrollment portal and not to develop consumer assistance functions, such as a Navigator program.⁴ Instead, its waiver would have done away with the whole concept of a one-stop marketplace where consumers can compare all their plan options and enroll in coverage. The waiver would have prohibited Georgians from enrolling in coverage through Healthcare.gov and, in contrast to a SBE, dictated that they use an insurer or broker to find a plan. This would have reduced enrollment in comprehensive coverage in violation of the statutory requirements for 1332 waivers. Many of our organizations submitted comments expressing strong opposition to this proposal, and we raised serious concerns about the inadequate public comment process the state used when pursuing its waiver.^{5,6}

¹ Office of Commissioner of Insurance and Fire Safety. Georgia State-Based Exchange Blueprint Letter. February 15, 2023. Available at: <https://oci.georgia.gov/news/2023-02-15/georgia-state-based-exchange-blueprint-letter>.

² 45 C.F.R. § 155.106(a)(2)

³ 45 C.F.R. § 155.106(a)(3). The Notice of Benefit and Payment Parameters for 2024 Proposed Rule has proposed to remove the hard requirement for Blueprint approval and operational readiness 14 months in advance of open enrollment. However, this proposal is not final and we respectfully suggest it should not be finalized. In all events, we note that the proposed rule did not propose to alter the requirement to submit an Exchange Blueprint at least 15 months prior to exchange launch.

⁴ The Blueprint Letter acknowledges that to establish an SBE, the state still must create a public-facing eligibility and enrollment portal and develop and launch a Navigator program. However, as of the date of that letter, state officials were prohibited by law from establishing an exchange and from implementing or operating a Navigator program. O.C.G.A. § 33-1-23. The Georgia legislature may soon repeal these prohibitions, at which time the state presumably could begin work on these essential functions.

⁵ Letter to Secretary Azar and Secretary Mnuchin re: Georgia 1332 Application. September 18, 2020. Available at: [https://www.lung.org/getmedia/d9b71de1-aa93-4a65-80b7-17ed3b17c001/Health-Partner-Access-2-0-Comments-\(FINAL\).pdf](https://www.lung.org/getmedia/d9b71de1-aa93-4a65-80b7-17ed3b17c001/Health-Partner-Access-2-0-Comments-(FINAL).pdf).

⁶ Letter to Secretary Yellen and Secretary Becerra re: Request for Comment on the Georgia Access Model. January 7, 2022. Available at: <https://www.lung.org/getmedia/b5efc568-76b9-4a95-859c-3a8eeff49de8/Health-Partner-Comments-re-Georgia-1332-Waiver-Final.pdf>.

These experiences related to Georgia's Section 1332 waiver should not excuse the state from its many specific responsibilities related to exchange establishment.

The state's request to rush the establishment of a SBE is particularly worrisome in light of upcoming changes to the individual market. As you know, Georgia and the rest of the country are about to embark upon the largest enrollment event since the implementation of the Affordable Care Act with the unwinding of the Medicaid continuous coverage requirements. As of November 2022, nearly 2.5 million individuals in Georgia were enrolled in Medicaid or the Children's Health Insurance Program (CHIP).⁷ All of these individuals will need to go through a renewal process and some will likely need to transition to other coverage, including through the marketplace. Nationally, coverage losses are predicted to be particularly large among children, young adults and communities of color – nearly one-third of those predicted to lose coverage are Latino and 15 percent are Black.⁸ Exchange transitions on their own, even when implemented at a deliberate pace in compliance with regulatory deadlines, still introduce complexities for consumers and require extensive outreach and consumer assistance. Our organizations are deeply concerned that allowing Georgia to establish a SBE on a drastically compressed schedule, while state (and federal) officials simultaneously work to manage the challenges posed by the unwinding, will lead to significant confusion and coverage loss, thereby harming the health of patients.

Thank you for considering our feedback. We look forward to continuing to partner with you to ensure access to quality, affordable coverage for the patients we represent.

Sincerely,

Alpha-1 Foundation
ALS Association
American Cancer Society Cancer Action Network
American Diabetes Association
American Kidney Fund
American Lung Association
Arthritis Foundation
Asthma and Allergy Foundation of America
CancerCare
Chronic Disease Coalition
Cystic Fibrosis Foundation
Epilepsy Foundation

Hemophilia Federation of America
Lutheran Services in America
National Hemophilia Foundation
National Kidney Foundation
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
Susan G. Komen
The AIDS Institute
The Leukemia & Lymphoma Society

⁷ Centers for Medicare and Medicaid Services. November 2022 Medicaid & CHIP Enrollment Data Highlights. Available at: <https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html>.

⁸ Assistant Secretary for Planning and Evaluation, Office of Health Policy. Unwinding the Medicaid Continuous Enrollment Provision: Projected Enrollment Effects and Policy Approaches. August 2022. Available at: <https://aspe.hhs.gov/sites/default/files/documents/a892859839a80f8c3b9a1df1fcb79844/aspe-end-mcaid-continuous-coverage.pdf>.