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Rhode Island

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COMMENTS ON PROPOSED REGULATIONS
PERTAINING TO HEALTHSOURCE RI
[220-RICR-90-00-1]
December 2022

The ACLU of Rhode Island appreciates the opportunity to comment on these proposed regulations which would establish a program to automatically enroll eligible individuals who lose Medicaid coverage at the end of the Covid-19 public health emergency into a qualified health plan available through HealthSource RI (HSRI). This enrollment plan, and particularly its financial coverage of premiums for the first two months of coverage, will be an important stopgap for individuals losing Medicaid coverage once the emergency is declared over. At the same time, in order to ensure that eligible individuals are able to access appropriate reproductive health care services through the coverage established by these regulations, we urge an amendment to the proposal.

As the proposal is written, Medicaid enrollees losing coverage under federal law will be automatically, and potentially somewhat randomly, enrolled – based on either cost criteria or the enrollee's past Medicaid managed care issuer – in a silver plan available through the state's Health Benefits Exchange once their current pandemic coverage is eliminated. However, as HSRI is aware, not all qualified health plans provide coverage for essential reproductive health care services, and in fact at least one health plan in each tier must offer an exclusion of abortion coverage. R.I.G.L. § 42-157-3(d). Nothing in the proposed regulations would appear to prevent enrollees from being assigned by HSRI to such a plan.

While the proposed regulations offer beneficiaries the opportunity to change their plan within the 60-day period of free coverage, we fear this opportunity will not be exercised by many of the people this program is designed for, and who thus may unwittingly find themselves without necessary reproductive health care coverage. HSRI's regulatory analysis acknowledges the difficulties involved in ensuring "successful transitions from Medicaid to QHP and the transition process has long been a challenge for consumers and the Exchange." (Economic Impact Analysis, Page 3.) For many of the same reasons that the transition from Medicaid to QHP is a challenge – consumer inertia, language barriers, failure to "read the fine print," and the many more pressing issues that individuals in this situation will be dealing with upon their loss of Medicaid coverage – we are concerned some enrollees will only find out when it is too late that they do not have coverage for abortion services if they have been placed in a plan with such an exclusion.

We therefore consider it critical that the regulations both explicitly provide for initial enrollment of all eligible individuals in a silver plan that provides this coverage and advise enrollees of this fact and the opportunity for those who object to such coverage to switch to a plan that does not provide it. In short, the onus to change a plan they have been assigned to should be on those desiring less coverage rather than more.

We therefore propose amending the new language in Sections 1.8(D)(2) and (D)(7) as follows:

> 2. Plan Assignment and APTC Authorization – Upon determination that an individual is eligible for automatic enrollment under § 1.8(D) of this Part, the Exchange may use the available information in the IES to authorize APTCs on behalf of the applicable tax filer and, at the option of the Exchange, automatically enroll the individual or individuals in either:
>
> 1. The second (2nd) lowest cost silver plan that includes coverage for abortion services available through the Exchange; or
>
> 2. A silver level plan that includes coverage for abortion services offered by the eligible individual's previous Medicaid managed care plan issuer and available through the Exchange or, if no such plan exists, a similar plan that includes coverage for abortion services available through the Exchange.

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7. Notice. The Exchange will provide an eligible individual who is automatically enrolled under § 1.8(D) of this Part with a notice or notices that include the following information:

a. The QHP in which the individual is enrolled;

b. The individual's QHP coverage effective date;

c. The individual's APTC eligibility;

d. The enrolled plan includes coverage for abortion services and the individual can select a plan that does not;

~~d.~~ e. The individual's right to select another available plan for any other reason and any relevant deadlines for that selection; and

~~e.~~ f. The individual's right to opt out of automatic enrollment as permitted by § 1.8(D)(6) of this Part.

Absent this change, we are deeply concerned that this otherwise laudable program will place some enrollees in jeopardy of missing out on needed coverage for their reproductive health care needs. We therefore strongly urge your approval of the above amendments in the final version of these regulations.

Thank you for considering our views. If the suggestions we have made are not adopted, we request, pursuant to R.I.G.L. §42-35-2.6, a statement of the reasons for not accepting these arguments.

Submitted by: Steven Brown, Executive Director

American Lung Association.
Rhode Island

December 16, 2022

Benjamin B. Gagliardi, Esq.
Department of Administration
HealthSource RI
One Capitol Hill, 3rd Floor
Providence, RI 02915
Dear Director Sousa:

Re: **Rules and Regulations Pertaining to HealthSource RI (220- RICR-90-00-1)**

Dear Mr. Gagliardi:

Thank you for the opportunity to provide comments on Rhode Island's proposed Rules and Regulations Pertaining to HealthSource Rhode Island.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing the more than 34 million Americans living with lung diseases, including approximately 159,000 Rhode Islanders. The Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The Lung Association is committed to ensuring that Rhode Island's Medicaid program provides quality and affordable healthcare coverage. The end of the COVID-19 public health emergency (PHE) will be a critical period to ensure that patients who no longer qualify for Medicaid coverage maintain access to quality, affordable coverage without gaps in care that jeopardize their health and wellbeing. The Lung Association supports Rhode Island's proposal to establish a program to automatically enroll certain individuals losing coverage at the end of the PHE in a health plan through HealthSource RI. Using the State Fiscal Recovery Fund to pay those individuals' first and second months of premiums will remove financial barriers and ease the transition to marketplace coverage. This proposal is an innovative policy solution to preserve access to care for patients in Rhode Island. We encourage the adoption of the proposal.

The Lung Association appreciates the state's consideration of the effects that the unwinding of the PHE will have on patients. It is likely that the ending of the COVID-19 PHE will be one of the most significant enrollment events in the history of Medicaid. Approximately 15.8 million people are expected to lose Medicaid coverage nationwide at the end of the PHE.[1] For patients with lung disease, this can lead to dangerous gaps in coverage without access to regular care and prescriptions to manage their conditions, which can lead to their disease irreversibly worsening. Gaps in coverage will also stop patients from accessing potentially life-saving preventive services such as lung cancer screening and tobacco cessation.

This proposed policy will help to eliminate coverage gaps that often occur when individuals transition from Medicaid to marketplace coverage, a transition that could worsen health disparities. For example, one study found that only 3% of children and adults disenrolled from Medicaid were successfully enrolled in Marketplace coverage within a year, with gaps in coverage greater for people of color.[2]

Rhode Island's proposed policy will therefore be an important component of addressing health equity during the unwinding of the PHE.

The American Lung Association strongly supports Rhode Island's proposal to assist those losing Medicaid coverage at the end of the PHE. Thank you for the opportunity to provide comments.

Sincerely,



Daniel Fitzgerald, MPH, ICPS
Director of Advocacy, Rhode Island and Massachusetts
American Lung Association
260 W. Exchange Street, Suite 102B, Providence, RI 02903
[redacted]

[1] Buettgens, Matthew, Green, Andrew. "What Will Happen to Medicaid Enrollees' Health Coverage after the Public Health Emergency?" Urban Institute, March 2022. Available at: https://www.urban.org/sites/default/files/2022-03/what-will-happen-to-medicaid-enrollees-health-coverage-after-the-public-health-emergency_1_1.pdf

[2] "Transitions Between Medicaid, CHIP, and Exchange Coverage." MACPAC, July 2022. Available at: https://www.macpac.gov/wp-content/uploads/2022/07/Coverage-transitions-issue-brief.pdf

Planned Parenthood of Southern New England

December 28, 2022

Benjamin B. Gagliardi, Esq.
Department of Administration
HealthSource RI
One Capitol Hill, 3rd Floor
Providence, RI 02915

Submitted electronically via rules.sos.ri.gov

RE: Rules and Regulations Pertaining to HealthSource RI (220-RICR-90-00-1)

Dear Mr. Gagliardi,

Planned Parenthood of Southern New England (Planned Parenthood) is pleased to submit these comments in response to the proposed rule, "Rules and Regulations Pertaining to HealthSource RI (220-RICR-90-00-1)," released by the Department of Administration (the Department) on November 28, 2022. The proposed rule seeks to establish a HealthSource RI (HSRI) program for automatically enrolling eligible individuals who lose Medicaid coverage after the expiration of the Medicaid continuous coverage requirement into a Qualified Health Plan (QHP) available through HSRI. As a trusted sexual and reproductive health (SRH) care provider, educator, and advocate, we appreciate the opportunity to provide input on this proposed rule.

Planned Parenthood is a safety net provider for the people in Rhode Island most in need of health services and serves as a leading health care provider, educator, and advocate of high-quality, affordable health care. Every year, our Providence health center provides affordable birth control, lifesaving cancer screenings, testing and treatment for STIs, abortion, and other essential care to over 8,700 Rhode Island patients. Twenty percent of Planned Parenthood's patients in Rhode Island use Medicaid coverage to access affordable, preventive care and may be affected by the Department's proposed rule.

As a leading SRH care provider in the state, Planned Parenthood applauds the Department's initiative to ensure that as many people continue to have health insurance and access to quality health care after the end of the Medicaid continuous coverage requirement. In addition, Planned Parenthood uplifts the positive impact this program will have on the most vulnerable populations in Rhode Island, including those with low incomes, living in rural areas, experiencing unemployment, and people of color. However, we are concerned that the proposed rule does not ensure adequate information is provided to the people being transitioned to a new plan. This includes information about their new health coverage and benefits, alternative health plans available to them, and their financial responsibilities. Because of this, enrollees could potentially be assigned to plans that do not serve them well, be saddled with unexpected costs, and potentially cause or increase their medical debts. We provide the below considerations on how the proposed HSRI program can help Rhode Islanders stay insured through plans that meet their unique needs.

I. Planned Parenthood supports HealthSource RI's goal of preventing coverage loss following the expiration of the Medicaid continuous coverage requirement.

It is critical that people who lose their Medicaid coverage when the Medicaid continuous coverage requirement ends are able to enroll in new, comprehensive, and affordable coverage. Since the start of the

COVID-19 pandemic, Medicaid enrollment in Rhode Island has risen from approximately 269,000 to more than 319,000 people.[1] When Medicaid's continuous coverage requirement ends, an estimated 12% of Rhode Island Medicaid enrollees are expected to be determined ineligible for continued Medicaid coverage—this translates to over 38,000 people who may be disenrolled.[2] Because more than half of Medicaid enrollees in Rhode Island identify as people of color,[3] the end of the continuous coverage requirement may trigger disproportionate coverage declines among people of color, worsening existing coverage gaps and health disparities in these communities.

Rhode Islanders losing their Medicaid coverage risk becoming uninsured if they are unable to transition to other forms of health coverage. People who are uninsured are far more likely than those with insurance to postpone health care or forgo it altogether because of concerns over costs—and the health consequences can be severe.[4] This is particularly dangerous for Black and American Indian/Alaska Native people, who live fewer years on average than white people[5] and are more likely to die from treatable conditions,[6] and Black people, who are at higher risk for many chronic conditions, including diabetes[7] and hypertension.[8] These poorer health outcomes among people of color are due to decades of structural oppression, including racism, economic suppression, unequal access to education, and residential segregation.[9] Already, the expense of medical care is a major barrier to health care access for people of color in Rhode Island. In 2021, 9% of Black and 16% of Hispanic Rhode Islanders reported that they needed to see a doctor in the last year but could not afford it due to cost.[10] Planned Parenthood commends the Department for working to prevent coverage loss and its associated poor health outcomes for Rhode Islanders and recognizes this effort as one of many critical and necessary steps to address racial disparities in health.

Planned Parenthood is particularly interested in ensuring continuity of coverage because our patients will be directly impacted by Medicaid disenrollment. Over 40% of our patients in Rhode Island have income levels between 138% and 200% of the Federal Poverty Level (FPL). The patients among that group who are currently insured through Medicaid would be disenrolled from Medicaid after the continuous coverage requirement ends and automatically enrolled into a QHP through the proposed rule.

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[1] "Medicaid and CHIP Monthly Enrollment" (KFF, December 2, 2022), https://www kff.org/other/state-indicator/medicaid-and-chip-monthly-enrollment/.

[2] Tricia Brooks et al., "Medicaid and CHIP Eligibility and Enrollment Policies as of January 2022: Findings from a 50-State Survey - Table 18: State Estimates of the Share of Medicaid Enrollees Who Will Be Determined Ineligible When the Continuous Enrollment Requirement Ends and Primary Reason(s) for Loss of Eligibility, January 2022" (KFF, March 16, 2022), https://www kff.org/report-section/medicaid-and-chip-eligibility-and-enrollment-policies-as-of-january-2022-findings-from-a-50-state-survey-tables/.

[3] "Distribution of the Nonelderly with Medicaid by Race/Ethnicity" (KFF, October 28 2022), https://www kff.org/medicaid/state-indicator/medicaid-distribution-nonelderly-by-raceethnicity/.

[4] Jennifer Tolbert, Patrick Drake, and Anthony Damico, "Key Facts about the Uninsured Population" (KFF, December 19, 2022), https://www kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/.

[5] Elizabeth Arias and Jiaquan Xu, "United States Life Tables, 2020," *National Vital Statistics Reports* 71, no. 1 (August 8, 2022), https://www.cdc.gov/nchs/data/nvsr/nvsr71/nvsr71-01.pdf.

[6] Commonwealth Fund Health Systems Data Center, calculations from CDC National Vital Statistics System, "Mortality Amenable to Health Care," 2019, https://www.commonwealthfund.org/datacenter/mortality-amenable-health-care-deaths-100000-population.

[7] Centers for Disease Control and Prevention, "National Diabetes Statistics Report," 2020–2017, https://www.cdc.gov/diabetes/data/statistics-report/diagnosed-undiagnosed-diabetes html.

[8] Yechiam Ostchega et al., "Hypertension Prevalence Among Adults Aged 18 and Over: United States, 2017–2018," *NCHS Data Brief*, no. 364 (April 2020), https://www.cdc.gov/nchs/data/databriefs/db364-h.pdf.

[9] David C. Radley et al., "Achieving Racial and Ethnic Equity in U.S. Health Care: A Scorecard of State Performance" (Commonwealth Fund, November 18, 2021), https://doi.org/10.26099/ggmq-mm33.

[10] Rhode Island Department of Health, "Rhode Island BRFSS Web Query System - Inability to Afford Medical Care among Rhode Island Adults," 2021, https://rhode-island-brfss-rihealth hub.arcgis.com/.

II. Planned Parenthood urges HealthSource RI to provide comprehensive information to individuals automatically enrolled into a QHP.

A. About the plan's coverage and benefits

Planned Parenthood is concerned that under the proposed rule, individuals will be automatically enrolled into a QHP without knowing enough about what services the plan covers and what it will eventually cost them (e.g., premiums, deductibles, copayments, coinsurance, noncovered services, and other out-of-pocket expenses). It is vital for an individual to understand the changes to their coverage, since their new QHP would cost more than their prior Medicaid plan and would likely have more limited coverage and benefits. For example, individuals with QHP coverage typically pay more in copays, premiums, and deductibles than Medicaid beneficiaries, as well as generally do not have benefits like non-emergency medical transportation.[11] While the proposed rule at § 1.8(D)(7) proposes to send a notice to eligible individuals (eligibility notice) to inform them of the QHP in which they have been automatically enrolled, it does not require the notice to include any information about what the plan covers.

We urge HSRI to include in the eligibility notice information in plain language about the benefits covered by the plan chosen for an individual and its cost-sharing requirements (e.g., the premium, deductible, copayments, and coinsurance), compared to other plans available through the Marketplace. Further, we encourage HSRI to include instructions and contact information in the eligibility notice on how to connect with a patient navigator or certified application counselor (CAC) for people to discuss their plan details and alternative options.

We also specifically highlight that this eligibility notice should name whether the chosen plan covers abortion. Because Rhode Island does not mandate that all Marketplace plans cover abortion, we are concerned that an individual could be transitioned to a QHP that does not cover abortion. While we strongly advocate for Rhode Island to require that all Marketplace plans cover abortion, at a minimum, **we urge HSRI to select plans inclusive of abortion coverage for those auto-enrolled in coverage through this proposed rule.**

B. About an individual's right to select another available plan

The proposed rule at § 1.8(D)(7)(d) requires that the eligibility notice include information about an individual's right to select another plan. It is critical that individuals who are losing their Medicaid coverage have comprehensive, easy-to-understand information about all their coverage options. As discussed above, the eligibility notice should include instructions and contact information for individuals to connect with a patient navigator or CAC for enrollment support, including assistance reviewing other available plans, completing an application, and enrolling in a plan. This assistance should be available in multiple languages via phone, text messaging, online chat, video conferencing, and in-person.

At § 1.8(D)(8), the proposed rule specifies that the eligibility notice will be provided no later than *the day before* an individual's QHP coverage begins. This potentially provides only 24 hours for someone to review the plan and determine if they would like to select another plan or opt out. Planned Parenthood emphasizes this is not enough time to make these decisions and strongly urges HSRI to issue the eligibility notices so that individuals receive them no later than 30 days before their QHP coverage begins.

[11] Hannah Katch, Jesse Cross-Call, and Matt Broaddus, "Frequently Asked Questions About Medicaid" (Center on Budget and Policy Priorities, November 22, 2019), https://www.cbpp.org/research/health/frequently-asked-questions-about-medicaid; The benchmark plan that Rhode Island uses to define essential health benefits has more limited benefits than Rhode Island Medicaid. *See,* Centers for Medicare & Medicaid Services Consumer Information and Insurance Oversight, "RI 2017-2024 EHB Benchmark Plan Information," 2021, https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/RI-BMP.zip.

C. Via multiple modes of communication

The proposed rule does not specify how the eligibility notice will be sent to individuals. We urge HSRI to send the eligibility notice via all available modes of communication, including postal mail, phone, text message, and email. We recommend that the notice is written in plain language. Because nearly a quarter of Rhode Islanders speak a language other than English at home,[12] the notice should be written in the most commonly spoken languages in the state, with a language tagline on where to find versions in other languages.

III. Planned Parenthood urges HealthSource RI to provide comprehensive information to individuals eligible for payment of premiums.

At § 1.8(D)(3), the proposed rule describes that HSRI may pay the first- and second-months' premium for a QHP for individuals losing Medicaid coverage with household incomes up to 250% FPL. However, the eligibility notice at § 1.8(D)(7) is proposed to only be sent to individuals who are automatically enrolled in a QHP, which applies to the individuals losing Medicaid coverage with household incomes up to 200% FPL. Planned Parenthood is concerned that the group of individuals losing Medicaid coverage with household incomes between 200% and 250% FPL will not be aware that they are eligible to have the first two months of their QHP premium waived.

At a minimum, we believe HSRI must provide notice to individuals losing Medicaid coverage with household incomes between 200% and 250% FPL that (1) they are being disenrolled from their Medicaid coverage, and (2) if they select a QHP available through the Marketplace within five months of disenrollment, the premium for their first two months of coverage will be paid for them. As discussed above in Section II, this notice should be sent through all available modes of communication, written in plain language, available in multiple languages, and provide instructions and contact information for individuals to receive assistance from a patient navigator or CAC.

As a solution to this inconsistency, Planned Parenthood would support expanding the automatic enrollment established under section § 1.8(D) and the notice requirement at § 1.8(D)(7) to individuals losing Medicaid coverage with household incomes up to 250% FPL.

Planned Parenthood urges HSRI to ensure that they are communicating with all Rhode Islanders who are losing Medicaid coverage during redetermination to ensure that they know their coverage status, coverage options, how to enroll in other health plans, and the financial assistance available to them. Frequent and clear communication can help to mitigate the widespread coverage loss that is still forecasted at the end of the Medicaid continuous coverage requirement[13] and enable Rhode Islanders to affordably access their necessary health care services.

IV. The proposed rule does not sufficiently protect individuals against unknowingly assuming financial obligations.

Though Rhode Island mandates health insurance coverage and may assess a penalty from non-exempt individuals who decline to obtain coverage,[14] Planned Parenthood maintains concerns that the auto-

[12] Sandy Dietrich and Erik Hernandez, "Language Use in the United States: 2019," American Community Survey Reports (United States Census Bureau, August 2022), https://www.census.gov/content/dam/Census/library/publications/2022/acs/acs-50.pdf.

[13] Matthew Buettgens and Andrew Green, "The Impact of the COVID-19 Public Health Emergency Expiration on All Types of Health Coverage" (Urban Institute, December 5, 2022), https://www.urban.org/research/publication/impact-covid-19-public-health-emergency-expiration-all-types-health-coverage (estimating that 18 million people will lose Medicaid coverage in the 14 months after the Medicaid continuous coverage requirement expires).

[14] Health Source RI, "RI Health Insurance Mandate," accessed December 2022, https://healthsourceri.com/mandate/.

enrollment model in the proposed rule could impose financial hardship on individuals without additional safeguards and information-sharing.

A. HealthSource RI should modify the proposed rule so that enrollees must opt in to maintain QHP coverage for longer than two months.

Though Planned Parenthood understands and appreciates the value of the "opt out" structure of the current proposal as a way to ensure increased coverage, we have significant concerns about unintended financial consequences that this model could have for people who are auto-enrolled beyond the initial two-month period. Specifically, Planned Parenthood is concerned that the current proposal could lead people to owe money for premiums that they may not understand they are responsible for and potentially cause or increase medical debts. People must be fully aware of any coverage for which they will owe money and should indicate that they wish to take on that financial obligation before being auto-enrolled.

Planned Parenthood proposes that instead of auto-enrolling people beyond the initial two months, HSRI confirms with an enrollee that they wish to remain enrolled before premiums can be charged. This confirmation should be communicated in several ways, including through postal mail, phone, text message, and email. The enrollee would agree with the statement that they want to retain health insurance coverage and understand that they will owe a monthly premium of the specific amount owed, to be paid by the due date each month. In this same communication, HSRI should be clear that if an individual opts out of coverage, the individual could have to pay a penalty in accordance with Rhode Island's health insurance mandate. Individuals should also be provided information about the exemptions to the health insurance mandate. This information should be included in the notice discussion in the proposed rule at § 1.8(D)(7).

The proposed rule at § 1.8(D)(6) specifies that if an individual opts out of automatic enrollment, their QHP enrollment will be canceled. It also notes that HSRI will inform the individual opting out "that services received in the canceled period will not be covered." We urge HSRI to instead allow individuals opting out to maintain their QHP coverage for the entire two-month period during which their premium is paid. At a minimum, the final rule should clarify that if an individual uses their QHP coverage and then opts out later during the two-month period, the services they received before opting out are not part of the "canceled period." In other words, they cannot be retroactively denied coverage for those services received before opting out.

B. HealthSource RI should make clear in communications when enrollees are responsible for premium payments.

Planned Parenthood urges HSRI to be clear with enrollees when they will be responsible for premium payments.

At § 1.8(D)(4), the proposed rule states that "If an individual elects to accept less than the full amount of APTCs for which the individual is determined eligible … the Exchange will not utilize funds under § 1.8(D)(3) of this Part to pay that portion of the premium." Communication to enrollees through the eligibility notice must make clear what it means to accept less than the full amount of APTCs for which they are eligible and detail the individual's financial obligations if they make this choice.

Additionally, at § 1.8(D)(10), the proposed rule states that "The Exchange may uniformly restrict or otherwise reduce eligibility for automatic enrollment and premium payment in the case of limited funding availability." In the event of insufficient funds, Planned Parenthood strongly urges HSRI to implement these restrictions and reductions with adequate and clear notice to enrollees, leaving enrollees with enough time to select another affordable Marketplace plan. Specifically, the proposed rule should contain a clause making clear that enrollees will be notified at least 30 days in advance if their premiums cannot be covered because of insufficient state funds. This notice should, consistent with Planned Parenthood's

recommendations in part A above, require an enrollee to confirm that they wish to remain enrolled before premiums can be charged, information on the specific premium amount owed, and the due date for the first out-of-pocket premium payment. It should also give enrollees the option to instead disenroll from the QHP.

Notices to enrollees in the case of insufficient state funds should detail the above-mentioned financial obligations of enrollees and present enrollees with the option of selecting a new plan, as well as phone numbers and websites with information and assistance on how to effectuate that choice.

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Planned Parenthood commends the Department's initiative to ensure that people who are disenrolled from Medicaid after the end of the Medicaid continuous coverage requirement continue to have health insurance coverage, so they may access quality health care and better manage their health. In addition, by promoting continuity of coverage, this initiative is an essential step in advancing health equity for Rhode Islanders, including communities with low incomes and people of color. We urge the Department to incorporate our recommendations into the final rule to ensure that those transitioned to a QHP fully understand their coverage and benefits, their alternative options, and their financial responsibilities. Should you have any questions about the issues discussed in this comment, please contact Gretchen Raffa at [redacted]

Thank you for your consideration,

Gretchen Raffa

Gretchen Raffa
Vice President, Public Policy, Advocacy and Organizing
Planned Parenthood of Southern New England



American Civil Liberties Union of RI
American Congress of Obstetricians & Gynecologists
Catholics for Choice
Hope and Change for Haiti
Humanists of Rhode Island
League of Women Voters, RI
Medical Students for Choice
National Council of Jewish Women, RI Action Team
Perinatal Quality Collaborative
Planned Parenthood of Southern New England
Reproductive Health Access Project, RI Chapter
RI Academy of Family Physicians
RI Coalition Against Domestic Violence
RI National Association of Social Workers
RI National Organization for Women
RI Religious Coalition for Reproductive Freedom
RI Working Families Party
Sojourner House
Upstream
Women's Fund of Rhode Island
Women's Health and Education Fund

COMMENTS ON PROPOSED REGULATIONS PERTAINING TO HEALTHSOURCE RI
[220-RICR-90-00-1]

Attn: Benjamin B. Gagliardi, Esq.
Department of Administration
HealthSource RI
One Capitol Hill, 3rd Floor
Providence, RI 02915
hbe.regulations@exchange.ri.gov

From: Nicole Jellinek, Chair, Rhode Island Coalition for Reproductive Freedom

Date: December 27, 2022

I am submitting these comments on behalf of the RI Coalition for Reproductive Freedom (RICRF.) We are a Coalition comprised of 21 organizations working together to share resources, build strategies and coordinate efforts to connect reproductive freedom with social and economic justice. We focus on advocacy and legislative action to enact change.

We have concerns regarding the proposed HealthSource RI (HSRI) regulations which could have a negative impact on people currently enrolled in Medicaid. The proposed rule would have people who currently have Medicaid under the COVID-19 public health emergency (PHE) to be auto-enrolled into a Qualified Health Plan (QHP) when the PHE ends--but there is no guarantee the plan will have comprehensive reproductive health care coverage including abortion. Although an individual does have "the right to select another available plan" it is not clear that their notice of enrollment **must** include information about the benefits covered by the plan chosen for them vs. benefits covered by other plans on the exchange (including, but not limited to, abortion coverage); it also is not clear that information on the premiums of the various plan options will be provided.

Therefore, we are advocating for the following amendment (submitted in greater depth from our Coalition partners the ACLU of RI and Planned Parenthood of Southern New England):

1. Require that HSRI auto enroll all these individuals in select plans that are inclusive of abortion coverage, and advise them of their right to seek a plan that does not offer this coverage if they so wish.

We are also aware of concerns with Rhode Islanders unknowingly ending up in debt due to miscommunication about state-paid premiums and the transition to individuals being responsible. We encourage consideration that:

1. Communications are made clear when enrollees are responsible for premium payments.
2. Eligibility notices are issued so that individuals receive them no later than 30 days before their QHP coverage begins which should include instructions and contact information for individuals to get enrollment support.

We greatly appreciate the opportunity to comment on these proposed regulations.

Thank you,



Nicole Jellinek, Chair, Rhode Island Coalition for Reproductive Freedom

December 27, 2022

Mr. Benjamin B. Gagliardi, Esq.
Department of Administration
HealthSource RI
One Capitol Hill, 3rd Floor
Providence, RI 02915

By email to hbe.regulations@exchange.ri.gov

Dear Mr. Gagliardi:

Thank you for the opportunity to provide comments in **strong support** of the proposed amendment to 220-RICR-90-00-1, "Rules and Regulations Pertaining to HealthSource RI." The end of the Medicaid continuous coverage requirement will significantly disrupt many Rhode Islanders' access to needed health care services. HealthSource RI's proposed auto-enrollment program for individuals with incomes slightly over the Medicaid income threshold is a unique and innovative proposal which will help ensure a smooth transition for individuals losing Medicaid to affordable, high-quality coverage through the individual marketplace.

RIPIN offers two relatively minor comments on the proposed program, one substantive and one technical:

- We believe that the appropriate maximum income for the program is the 250% FPL threshold at which an enrollee is eligible for CSRs. While some individuals between 200% and 250% FPL may be better served in a more robust gold- or platinum-tier plan, or may only wish to purchase a less expensive bronze-tier plan, we believe the default of a CSR-73 silver plan for those eligible is preferable to the alternative default of noncoverage, given the opt-out option. RIPIN would therefore recommend increasing the income threshold for the automatic enrollment population to include households with projected income up to 250% FPL.
- The proposed 220-RICR-90-00-1.8(D)(9) states that the duration of the program will be the 12 months after the end of the Public Health Emergency, with the possibility of a further extension. RIPIN's understanding is that HealthSource RI intends for this program to be available to all individuals who lose Medicaid eligibility at their initial redetermination following the termination of the Medicaid continuous coverage requirement, established by the Families First Coronavirus Response Act, which is currently directly tied to the extent of the Public Health Emergency. However, RIPIN's

understanding is also that, under Rhode Island's PHE unwinding plan proposed by EOHHS and approved by CMS, Rhode Island Medicaid will begin terminations in the third month following the sunset of the continuous coverage requirement, with redeterminations and terminations conducted over a twelve-month period ending 14 months after the end. Additionally, under the language of the 2022 federal omnibus appropriations package, the end of the public health emergency and the end of the Medicaid continuous coverage requirement are no longer directly linked. RIPIN would therefore recommend slightly rewording the section describing the duration of the program to extend through no earlier than the end of the period for initial post-unwinding redeterminations established by EOHHS after the sunset of continuous Medicaid coverage established in Section 6008(b)(3) of the Families First Coronavirus Response Act.

Thank you for the opportunity to provide these comments, and for your work in developing this innovative and nationally-leading auto-enrollment program. We would be happy to discuss these recommendations in greater detail at your convenience.

Sincerely,

Shamus Durac
Senior Attorney / Health Policy Analyst
[redacted]

December 28, 2022

Department of Administration
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East Providence, RI 02915

Submitted online via the Rhode Island Code of Regulations

Re: Rules and Regulations Pertaining to HealthSource RI (220-RICR-90-00-1)

To Whom it May Concern:

UnitedHealthcare Community Plan of Rhode Island (UnitedHealthcare) has served Rhode Islanders as a Medicaid managed care organization (MCO) since 1994. We currently support more than 109,000 Rhode Islanders who rely on Medicaid, including almost 100,000 through the Statewide Medicaid Managed Care program and over 9,000 dually eligible individuals enrolled in our Rhode Island Dual Eligible Special Needs Plan (D-SNP).

In addition to our strong understanding of and commitment to Rhode Island, UnitedHealthcare brings four decades of experience serving Medicaid programs across the country and partnering with states to deliver high-quality Medicaid programs grounded in program sustainability and accountability. Today, UnitedHealthcare serves more than 7.1 million Medicaid members nationally and over 1.6 million dually eligible members enrolled in our D-SNPs across 42 states and the District of Columbia. As a key partner in delivering health care to Medicaid enrollees, we are eager to see Rhode Island adopt policies that enable members to maximize coverage to the greatest extent possible. UnitedHealthcare wants consumers to become successful in the marketplace and we believe that with the right support, all consumers are capable of making decisions that benefit them.

We appreciate the opportunity to provide feedback on the proposed rules pertaining to HealthSource RI and have focused our comments on the proposed additions that automatically enroll individuals losing Medicaid coverage into specified Qualified Health Plans (QHP). Many aspects of these proposed rules intersect with Medicaid eligibility and coverage rules, and we recommend that the state convene interagency stakeholder sessions to revise, develop, and refine plans that are in greater alignment with Medicaid program designs around eligibility, redeterminations, and enrollment.

D.2. Plan Assignment and APTC Authorization

While UnitedHealthcare is supportive of presumptive eligibility, auto-assignment to health plans within Medicaid and efforts to streamline access to QHPs, we encourage the Department to evaluate existing comparability between Medicaid and QHPs as it considers implementation of changes to enrollment processes. There can be considerable structural differences between Medicaid and QHPs that members should be aware of and supported as they exercise their choice of QHP. Specifically, provider networks, pharmacy formulary, benefit limits and exclusions as well as out of pocket costs can vary significantly between QHPs and Medicaid. Across QHPs these program designs can also vary. Given this inherent variability in the marketplace, it can be difficult to facilitate auto enrollment into a product that would be similar enough to the individual's Medicaid coverage to not cause confusion for the consumer. In instances where sufficient comparability in design between Medicaid and QHPs exist, then such cross-walking between Medicaid and QHP can be established. However, we recommend focusing on

engagement with the consumer to prioritize and define support in selecting the most appropriate plan for the individual.

We recommend that the state Executive Office of Health and Human Services (EOHHS) partner with Medicaid MCOs to proactively outreach and educate beneficiaries who may be losing Medicaid coverage about their QHP options. If beneficiaries are not proactively educated around their options, they risk gaps in care and could face significant administrative burden to regain coverage. This outreach should not be restricted only to members who have had their Medicaid coverage terminated but targeted to those members whose Medicaid coverage may also be ending.

By educating members on their coverage options and more importantly, key coverage differences, members would be less likely to be confused about what plan changes mean and more empowered to make choices that are aligned with their preferences and needs.

In addition, we recommend that the state provide disenrollment reasons to MCOs to provide additional clarity and information on connecting beneficiaries to other insurance affordability programs. This will allow MCOs to better track their membership, including those that are transferred to other insurance affordability programs. We also recommend that the state permit MCOs to proactively outreach and educate these beneficiaries on their ability to obtain other coverage through QHPs. If beneficiaries are not proactively educated around their options, they risk gaps in care and could face significant administrative burden to regain coverage.

Auto-enrollment into a comparable QHP can be used as a coverage safety net after a time period of outreach and engagement to ensure individuals retain coverage.

D.6. Opt Out

As noted above, consumers benefit from active engagement in their coverage selection and management. Should the state choose to implement an opt-out policy, it should come with sufficient consumer outreach and engagement to ensure consumers are aware of the actions being taken on their behalf. In addition, we recommend the proposed timeline be aligned consistent with proposed federal regulations extending the Special Enrollment Period to five months (2 months prior to Medicaid disenrollment and 3 months post).

Before disenrollment, states should consider an outreach grace period before terminating Medicaid coverage. Many members who have not replied may still be eligible for Medicaid and may not have replied for several reasons including not getting requests due to the state having incorrect address information. We also encourage the state to allow MCOs a 90-day window following determination of ineligibility due to procedural reasons to engage with the consumer to get them re-enrolled in Medicaid. Given these potential administrative delays, the proposed Opt Out process and timeline could potentially create additional burden, costs, and gaps in care for Medicaid enrollees who are determined ineligible due to administrative reasons. It is critical that the state make every effort, including partnering with MCOs, to ensure these enrollees remain in Medicaid. The proposed Opt Out process and timeline does not account for these situations and could result in increased Medicaid appeals and grievances from members who are inappropriately enrolled in QHPs.

D.7. Notice

We recommend that the notice requirement be updated to include information about key benefit differences between QHPs and Medicaid plans. Specifically, we recommend the notice requirements include information about benefit limits and exclusions, information about out-of-pocket costs (deductible, co-pay, and co-insurance requirements) as well as provider network information.

UnitedHealthcare supports informed consumer choice and given the significant differences between Medicaid plans and QHPs, believes this information is critical for members to receive during the enrollment period.

D.8. Notice Timing

We recommend the Notice Timing be revised to provide consumers with information in advance of effective date. By providing this information *prior to* coverage effective date, the state would be empowering members with tools they need to make a fully informed enrollment choice.

Additional Medicaid Considerations

Given the complex interplay between Medicaid redeterminations and QHP eligibility, these rules cannot be adopted in a vacuum. We strongly recommend the state prioritize examining its redetermination plans prior to developing regulations that establish a process to automatically enroll individuals from Medicaid into QHPs. This examination should include considering extending 12-month eligibility for specific populations and other strategies to minimize churn across Medicaid populations. We also recommend that the state track membership churn following resumption of redeterminations, including for individuals who regain Medicaid coverage after being disenrolled. Finally, we recommend that the state prioritize populations most prone to enrollment churn – primarily beneficiaries in the TANF and Expansion eligibility categories – and develop plans that are targeted to the unique needs of these members. Transparency and coordinating planning for the resumption of redeterminations is critically important. We remain committed to partnering with the state to connect Rhode Islanders with the most appropriate health coverage options to meet their needs.

Conclusion

UnitedHealthcare appreciates the opportunity to provide feedback and your thoughtful consideration of our comments. Making certain enrollees can maintain coverage, whether through Medicaid or through transitioning to other insurance affordability programs if found ineligible for Medicaid, is key to supporting both beneficiaries and providers in achieving improved health outcomes. We are grateful for the ongoing partnership with the state and appreciate the opportunity to provide feedback on the proposed rules, and we look forward to continued collaboration. If you have any questions or need more information about the feedback provided, please do not hesitate to contact me by phone or email.

Sincerely,

"/s/" *Michael Florczyk*

Michael A. Florczyk
Chief Executive Officer UnitedHealthcare Community Plan of Rhode Island
[redacted]

WOMEN'S fund
RHODE ISLAND

COMMENTS ON PROPOSED REGULATIONS
PERTAINING TO HEALTHSOURCE RI
[220-RICR-90-00-1]
December 2022

Women's Fund of Rhode Island would like to comment on the above proposed regulations which would automatically enroll eligible individuals who lose Medicaid coverage at the end of the Covid-19 public health emergency into a qualified health plan available through HealthSource RI (HSRI). As a nonprofit organization that has worked to ensure that all people have the right to choose when and how to build their families and enable access to abortion care if needed, we have some concerns.

As the proposal is written, Medicaid enrollees losing coverage under federal law will be automatically in a silver plan available through the state's Health Benefits Exchange once their current pandemic coverage is eliminated. Not all qualified health plans provide coverage for essential reproductive health care services and nothing in the proposed regulations appears to prevent enrollees from being assigned to a plan where such services are not available. In addition, enrollees may be inadvertently covered by plans that require payments of premiums after two months.

Although proposed regulations offer enrollees an opportunity to change provider plans within a two month timeframe, we are concerned a variety of barriers exist within the enrollee population that may prevent them from selecting a better plan for themselves.

Women's Fund of Rhode Island with other advocates in requesting that the following amendments be made to the proposed regulations:

- Require that HSRI auto enroll all these individuals in select plans that are inclusive of abortion coverage and advise them of their right to seek a plan that does not offer this coverage if they so wish.
- Make clear in communications when enrollees are responsible for premium payments.
- Issue the eligibility notices so that individuals receive them no later than 30 days before their QHP coverage begins.
- Notices should include instructions and contact information for individuals to connect with a patient navigator or certified application counselor for enrollment support, including assistance reviewing other available plans, completing an application, and enrolling in a plan. This assistance should be available in multiple languages via phone, text messaging, online chat, video conferencing, and in-person.

Submitted by: Kelly Nevins, Chief Executive Officer

Mission: Women's Fund of Rhode Island invests in women and girls through research, advocacy, grantmaking, and strategic partnerships designed to achieve gender equity through systemic change.