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MEMORANDUM

TO: State Medicaid agency leads and advocates
FROM: Katie Thiede, Executive Director, ICAN! & Kai Tao, Principal of Impact and Innovation, ICAN!
DATE: February 13, 2025
RE: Medicaid State Plan Amendments for Family Planning

INTRODUCTION

Medicaid State Plan Amendments (SPAs) for family planning are the best vehicle for protecting people's access to preventative healthcare, including reproductive care, in this uncertain moment. Family Planning SPAs are limited eligibility programs that allow people ineligible for full Medicaid coverage to access benefits for specified family planning and related services.[1] Coverage may extend to citizens and qualified immigrants[2] of all genders and ages who are not pregnant and whose income does not exceed the highest income eligibility level for pregnant women under CHIP or Medicaid. The federal government reimburses states for 90% of the costs incurred providing family planning services to enrollees and at the regular Federal Medical Assistance Percentage (FMAP) rate for family planning-related services.[3]

While the Trump Administration is poised to attack Medicaid and Title X, family planning SPAs leverage federal dollars to safeguard people's access to birth control, STI testing and treatment, and other critical preventative care against these attacks. States with existing Medicaid family planning SPAs should accelerate enrollment and expand the scope of eligibility and covered services, and states without existing SPAs should submit applications for them.

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[1] Family planning services and supplies are those intended to "prevent or delay pregnancy and may include education and counseling in the method of contraception desired or currently in use by the individual, a medical visit to change the method of contraception, and (at the state's option) infertility treatment." CTRS. FOR MEDICARE & MEDICAID SERVS. SHO # 16-008, MEDICAID FAMILY PLANNING SERVICES AND SUPPLIES (2016). Family-planning related services "are medical, diagnostic, and treatment services provided pursuant to a family planning visit that address an individual's medical condition" and may include treatment for urinary tract infections or sexually transmitted infections, HPV vaccines, and preventative services routinely provided during family planning visits. *Id.*

[2] Qualified immigrants subject to the five-year bar must have completed that waiting period prior to receiving services.

[3] Generally, the federal government will not provide these match dollars for services provided to non-qualified immigrants or qualified immigrants who have not met the five-year bar. However, states who opt to include presumptive eligibility in their family planning SPA can opt not to ask applicants about citizenship or immigration status. If states opt not to, then non-qualified immigrants who otherwise meet the criteria for the SPA can receive immediate, temporary coverage for services, and the federal government will provide match dollars for that care.

I. FAMILY PLANNING SPAS PROVIDE FEDERALLY SUPPORTED HEALTHCARE COVERAGE DESPITE ATTACKS ON MEDICAID.

Republican lawmakers at the federal level are poised to change the financing structure of Medicaid and Medicaid expansion. A list of potential budget cuts and programmatic changes to reduce federal spending being circulated by Congressional Republicans, and Project 2025, each include proposals to restructure Medicaid.[4] These proposed changes, among others, include reducing FMAP rates, issuing block grants, or instituting per capita or aggregate caps on spending. While these changes would not end Medicaid expansion or other Medicaid benefits outright, they may require states to make difficult choices about where to prioritize Medicaid spending to maximize both coverage and funding. Family planning SPAs can save states dollars and protect covered lives amidst policy changes to Medicaid at a time when coverage for family planning services is critical.

A. *Family Planning SPAs Prevent People from Becoming Truly Uninsured if Medicaid Expansion is Dismantled.*

If the Trump Administration moves to dismantle Medicaid expansion, family planning SPAs are a critical lever to pull to ensure that many individuals, particularly adults without children, remain partially insured if they lose full Medicaid. Because people of any gender and any age can be eligible for family planning SPA coverage and the income threshold is higher than that for Medicaid expansion, anyone who loses expansion coverage will still be eligible for coverage for basic preventative care and family planning services. For example, in North Carolina 399,800 people became newly eligible for and enrolled in Medicaid because of expansion.[5] If Medicaid expansion is dismantled or the Trump administration reduces the FMAP match rate for the expansion group, then all of these North Carolinians will become

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[4] *See generally*, *Read: Draft Options for G.O.P. Cost Cuts for Tax Bill*, N.Y. TIMES, Jan. 23, 2025, available at https://www.nytimes.com/interactive/2025/01/23/us/politics/republican-tax-spending-cuts-options.html (includes proposed Medicaid changes such as reducing the FMAP rate for states that cover non-citizens with state dollars, reducing the Medicaid match rate floor, reducing the expansion population FMAP to the normal FMAP rate, establishing work requirements, and establishing per capita caps); THE HERITAGE FOUNDATION, PROJECT 2025 MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE 455, 466—472, 493 (Paul Dans & Steven Groves eds., 2023) (Proposes changes to Medicaid including reducing the match floor and expansion FMAP rates, issuing block grants, issuing aggregate or per capita caps, adding work requirements, strengthening eligibility determinations with proof requirements, excluding abortion providers and affiliates from Medicaid, and conditioning state Medicaid on states disclosing abortion information.).

[5] *Medicaid Expansion Enrollment*, KFF (Mar. 2024), https://www.kff.org/affordable-care-act/state-indicator/medicaid-expansion-enrollment/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

uninsured.[6] This goes for all of the people in Medicaid expansion in states like Arizona, Arkansas, Illinois, Indiana, Montana, New Hampshire, Utah, and Virginia, as well—along with North Carolina, each of these states have trigger laws that end their Medicaid expansion program if the FMAP rate is decreased.[7] However, family planning SPAs can ensure that these people do not lose all coverage—they can still receive coverage for their annual check-up, so long as the routine preventative primary services are related to family planning, pap tests, birth control including tubal ligation and vasectomy, STI testing and treatment including PrEP, and their HPV vaccines. This care is essential, particularly considering ninety-nine percent of sexually experienced women have used contraception[8] and 1.2 million Americans could benefit from PrEP.[9] States with existing family planning SPAs should focus efforts on making sure eligible people losing Medicaid expansion coverage know how to enroll in SPA coverage and can access as many services as possible. States with family planning waivers should transition to a SPA to make their coverage programs less vulnerable to being changed or terminated by CMS. States without SPAs should implement one expansive in both eligibility and service offerings.

B. *States Should Make Family Planning SPAs a Medicaid Priority Because Investing in Preventative Care Preserves State Dollars.*

Family planning SPAs are an investment in preventative care that includes not only contraception but the early detection of conditions like cancer, HIV, and STIs. It is well documented that an investment in family planning services saves public dollars.[10] For every dollar invested in family planning, a state saves $7.09 of public money.[11] One study found that the biggest share of government cost savings was publicly-supported family planning.[12] In 2014, that investment saved the government $15.2 billion in Medicaid-covered maternity, infant, and child care, and $409 million in Medicaid-covered miscarriage

[6] North Carolina has a "trigger law" that ends its Medicaid expansion program if the FMAP rate for expansion is reduced below the current 90% rate. Phil Galewitz, *Nine States Will End Medicaid for 3 Million People if Trump Cuts Program*, KFF HEALTH NEWS, Dec. 10, 2024.

[7] *Id.* Arizona's law ending expansion is triggered if funding falls below 80%. The laws of the other eight states trigger if it drops below 90%. *Id.*

[8] Kimberly Daniels & Joyce C. Abma, *Contraceptive Methods Women Have Ever Used: United States, 2015—2019*, 195 NAT'L HEALTH STATS. RPTS. 1 (2023).

[9] *AIDSVu Releases New Data Showing Significant Inequities in PrEP Use Among Black and Hispanic Americans*, AIDSVU, Jul. 29, 2022, https://aidsvu.org/news-updates/prep-use-race-ethnicity-launch-22/.

[10] *See generally*, Jennifer Frost et al., *Return on Investment: A Fuller Assessment of the Benefits and Cost Savings of the US Publicly Funded Family Planning Program*, 15 MILBANK Q. 667 (2014); CONGRESSMAN DON BEYER, JOINT ECON. COMM., THE ECONOMIC BENEFITS OF BIRTH CONTROL AND ACCESS TO FAMILY PLANNING (2020).

[11] *See* Frost, et al, *supra* note11.

[12] CONGRESSMAN DON BEYER, *supra* note 11.

care.[13] Additionally, state-supported family planning prevented thousands of cases of STIs, pelvic inflammatory disease that causes ectopic pregnancies and infertility, and saved more than 2,000 people from dying of cervical cancer.[14] Catching conditions early and preventing them altogether is less expensive for the state, and safer for the patient, than treatment on the back end.

C. *Family Planning SPAs Preserve State Dollars Amidst Proposed Federal Changes to Medicaid Financing.*

The savings that result from investing in prevention through family planning SPAs will be particularly important if the federal government institutes per capita or aggregate caps, or block grants. If the federal government introduces a per capita cap model that based allotments on a state's average Medicaid spending, then a Medicaid birth could eviscerate the allotted expenditure for an individual. For example, in 2010 the estimated average amount that Medicaid paid for a vaginal birth was $9,002.[15] In 2015, only 6 states and DC spent an average of $8,000 or more per Medicaid enrollee.[16] Family planning SPA coverage would ensure that the state is not exceeding its per capita caps, running up the tab of its aggregate cap, or quickly drawing down on a block grant by covering births that the covered individual would have chosen to avoid if they had access to family planning coverage.

Enrollees in limited benefit programs, like family planning SPAs, are beneficial to states when per capita calculations are made. Under a per capita cap methodology, total Medicaid spending grows only as enrollment increases.[17] Consequently, family planning SPAs can raise state enrollment numbers and increase the amount of Medicaid dollars that the federal government provides to a state. Further, because these enrollees are only eligible to receive limited services, they are unlikely to receive the higher cost care that would more quickly deplete a state's Medicaid budget. In short, under a per capita cap regime, family planning SPA enrollees will bring more money into the state Medicaid budget than states will likely spend on their care.

If the federal government modifies Medicaid by reducing the base FMAP, then family planning SPAs are important tools to utilize because while this would reduce the match rate for family planning-*related* services, the family planning FMAP would still be 90% and thus a family planning SPAs would

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[13] *Id.*

[14] Frost et al., *supra* note 11.

[15] The estimated average amount Medicaid paid for a cesarean birth was $13,327. TRUVEN HEALTH ANALYTICS, THE COST OF HAVING A BABY IN THE UNITED STATES EXECUTIVE SUMMARY 2 (2013).

[16] *Essential Facts About Health Reform Alternatives: Medicaid Per Capita Caps*, THE COMMONWEALTH FUND, Apr. 11, 2017.

[17] Amanda Cassidy, *Per Capita Caps in Medicaid*, HEALTHAFFAIRS, Apr. 18, 2013.

give states a means to maximize services covered at 90% by the federal government. Further, if the FMAP for the expansion and family planning SPA populations are both reduced to the normal FMAP rate, then family planning SPAs still preserve state dollars because they permit the state to spend its limited dollars on less expensive preventative care that is matched at the regular FMAP rate, instead of more expensive treatment, matched at the same rate.

An investment in a family planning SPA, however, is a hedge on the bet that Republicans will use their political capital during budget reconciliation to focus on reducing the FMAP for Medicaid expansion, not family planning. Republicans looking to reduce federal Medicaid spending will look to the changes that can have the most significant budgetary impact, and because far more people are enrolled in Medicaid expansion than family planning SPAs, reducing the 90% FMAP for the expansion group is likely to be a higher priority than reducing the 90% match for family planning. If Republicans use the reconciliation process to reduce the expansion FMAP, then states can use family planning SPAs to maximize federal dollars and the higher match to cover more people and services.

While there is no guarantee that Republicans will not opt to reduce the FMAP rate for both expansion and family planning, it is unlikely that they will try to dismantle all of Medicaid at once. Three-quarters of Americans—including sixty-five percent of Republicans—say they either have a "very favorable" or "somewhat favorable" view of Medicaid.[18] Republicans must balance their constituents' favorable views of the Medicaid program against their goals for reducing federal spending. Consequently, these lawmakers will be deciding which parts of Medicaid stay intact and which they will attack. They are most likely to focus their attacks on the pieces of Medicaid, like the expansion FMAP, that go the furthest in achieving their budgetary goals. This strategy may preserve the family planning FMAP rate and therefore preserve a means by which states can maximize federal Medicaid dollars.

II. STATES SHOULD MAKE FAMILY PLANNING SPAS A MEDICAID PRIORITY BECAUSE THE COVERAGE THEY PROVIDE IS CRITICAL IN THIS MOMENT.

Contraceptive care is essential and in-demand in this moment. In the days after the 2024 election, Planned Parenthood reported a 760% increase in IUD appointments,[19] and Wisp, a telehealth company, reported that sales of emergency contraception and birth control increased by 460%.[20] This data demonstrates that individuals recognize the risk that the Trump administration poses to their reproductive

[18] *5 Charts About Public Opinion on Medicaid*, KFF (Mar. 30, 2023).
[19] IUDs, or intrauterine devices are long-acting, reversible contraceptives. Madeline Hewett, *What a Second Trump Term Means for Reproductive Rights*, POPULATION MATTERS, Jan. 20, 2025.
[20] Laura Ungar, *Birth Control and Abortion Pill Requests Have Surged Since Trump Won the Election*, AP, Nov. 13, 2024.

health. However, despite this risk, contraceptive care is not always accessible or affordable. Among women who are uninsured, 20% have had to stop using a method of birth control because they were unable to afford it.[21] Nearly one in four are not using their preferred method of contraception.[22] More individuals may be likely to lose coverage for contraception if the Trump administration expands religious exceptions from contraceptive coverage requirements. [23] This shows there is an immense need for states to make contraceptives accessible and affordable.

Family planning SPAs address these access and affordability issues and thus must be prioritized within Medicaid programs. Family planning SPAs have generous eligibility standards—people may be eligible up to the income threshold for pregnant women under the state plan, making it the most generous Medicaid eligibility category for non-pregnant adults. Consequently, this eligibility group brings coverage to the most people and ensures that people rolling off postpartum coverage, just over the income eligibility limit for expansion, or who lose coverage due to an employer's religious refusal can still access the birth control of their choice, plus other family planning and preventative care, at a time when they need it most.

III. FAMILY PLANNING SPAS ARE A LOW-RISK MEANS TO CREATE A SAFETY NET FOR ACCESS TO FAMILY PLANNING SERVICES.

Now is the time for states without family planning SPAs to submit applications for them. The fiscal risk in applying for a SPA is low, while the reward received from providing state residents with coverage and leveraging federal dollars for that care is high. If a state submits all the paperwork necessary to apply for a SPA to the Centers for Medicare and Medicaid Services (CMS), then CMS has ninety days to approve, deny, or request additional information on the application; if they do not, the SPA is

[21] Brittni Frederiksen et al., *Contraceptive Experiences, Coverage, and Preferences: Findings from the 2024 KFF Women's Health Survey*, Nov. 22, 2024, https://www.kff.org/report-section/contraceptive-experiences-coverage-and-preferences-findings-from-the-2024-kff-womens-health-survey-issue-brief/#:~:text=Overall%2C%205%25%20of%20reproductive%20age,afford%20it%20(Figure%209).

[22] Brittni Frederiksen et al., *Contraceptive Experiences, Coverage, and Preferences: Findings from the 2024 KFF Women's Health Survey*, Nov. 22, 2024, https://www.kff.org/report-section/contraceptive-experiences-coverage-and-preferences-findings-from-the-2024-kff-womens-health-survey-issue-brief/#:~:text=Overall%2C%205%25%20of%20reproductive%20age,afford%20it%20(Figure%209).

[23] The Trump Administration is expected to expand religious exceptions to the ACA mandate that employers provide coverage for contraception without cost sharing. *See e.g.*, Pete Williams, *In Win for Trump, Supreme Court Allows Plan for Religious Limits to Obamacare Contraceptive Coverage*, NBC NEWS, July 8, 2020 8:14 MDT; Usha Ranji et al., *A New Reproductive Health Landscape? Possible Actions that Could be Undertaken During the Second Trump Administration*, KFF, Dec. 19, 2024. SPAs can serve as supplemental coverage and allow individuals with qualifying incomes to receive contraceptive coverage through the family planning SPA, even if they have employer-based insurance.

approved.[24] After a SPA is approved, either formally or through the lapse of the ninety-day clock, it can become effective retroactively to the first day of the quarter of the federal fiscal year that it was submitted.[25] States can then seek federal reimbursement for costs incurred since the date the approved SPA was submitted.[26] Therefore, SPAs provide a policy lever that can be pulled to rapidly provide people with coverage options and states with federal dollars. Further, if the SPA is denied but the application was submitted in line with the SPA guidelines, then the state may obtain an administrative hearing to reconsider and, if applicable, appeal that administrative order to a United States circuit court of appeals.[27] Between the retroactive reimbursement and appeals process, there are safeguards in place that make family planning SPAs low-risk means to implement a safety net for people's access to family planning and family planning-related care.

IV. STATE BUDGETARY CONSTRAINTS DEMAND THAT STATES TAKE A NEW APPROACH TO PROTECTING ACCESS TO FAMILY PLANNING SERVICES.

States' approach to protecting access to family planning services during this Trump administration must differ from the approach taken during his last administration because the timeline and budget landscape is different. In 2019, President Trump's administration issued the "domestic gag rule" that prohibited Title X family planning providers from referring patients for abortion care and removed requirements that providers counsel pregnant patients in a nondirective manner on all their pregnancy options.[28] To avoid the gag, several progressive state governors withdrew from the federal Title X program and replaced federal Title X dollars with state funds until the Biden administration rescinded the gag rule. Because President Biden was able to reverse the gag rule in 2021, states only had to replace federal funds for just over two years.

President Trump will likely reinstate the domestic gag rule, however this time he may initiate that rulemaking earlier in his term, effectively forcing states to withdraw from federal Title X and replace federal dollars for four or more years. This is happening at a time when state resources are limited. States

[24] If CMS submits a formal request for additional information (RFA) then the 90-day clock stops and a new 90-day clock begins on the date that the state submits its response to the RFA. CMS can only stop the clock with an RFA once. *See* 42 C.F.R. § 430.16 (2024); Social Security Act, 42 U.S.C. § 1915(f)(2). *See also State Plan*, MACPAC (Aug. 14, 2019), https://www.macpac.gov/subtopic/state-plan/#:~:text=Once%20approved%2C%20copies%20of%20each,posted%20to%20the%20CMS%20website.&text=States%20must%20also%20submit%20a,Medicaid%20state%20plan%20amendment%20process.

[25] *State Plan*, KAN. DEP'T HEALTH & ENVIRO. DIV. HEALTH CARE FIN., https://www.kdhe.ks.gov/227/State-Plan (last visited Dec. 12, 2024).

[26] RACHEL BENSON GOLD, MEMO: IMPLEMENTATION OF THE MEDICAID FAMILY PLANNING STATE OPTION IN HEALTH CARE REFORM 4 (Guttmacher Inst. ed., 2010).

[27] JANE PERKINS, Q&A – STATE MEDICAID PLANS 4 (Nat'l Health L. Program ed. 2006).

[28] TITLE X, POPULATION CONNECTION ACTION FUND, https://perma.cc/F9WJ-W8BF.

are no longer receiving much of the federal assistance offered during the COVID-19 pandemic that provided states with temporary budget surpluses. States may not be able to replace federal Title X money for longer when they have fewer resources. Consequently, states must adopt a different approach to protecting access to reproductive healthcare. Family planning SPAs allow states to harness federal dollars for family planning that are not encumbered by a gag rule. Investing in a new family planning SPA or SPA implementation is therefore a fiscally prudent and sustainable response to a Trump Administration's attacks on Title X.

Further, if federal Title X funding is cut and states cannot sustainably replace those dollars, clinics will be forced to close. This will create reproductive care deserts where people are unable to reasonably travel to a clinic where they can receive no or low-cost family planning services. Family planning SPAs are a solution to reproductive care deserts. SPA enrollees can receive services at any Medicaid-enrolled provider. Considering that two-thirds of primary care physicians nationwide accept new Medicaid patients, SPAs drastically increase access points for family planning services and ensure that the closure of a Title X clinic does not mean a patient is left without any place to go for care.[29]

CONCLUSION

In the face of anticipated attacks on Medicaid and the Title X family planning program, Medicaid family planning SPAs can protect people's access to essential care at no cost. Further, SPAs provide a sustainable stream of federal dollars for states to use to fund these services. At a time when state leaders are working to respond to greater need for services with fewer state dollars, SPAs offer a solution. State leaders should take this opportunity to expand coverage and services under their existing family planning SPAs or apply for a new, comprehensive family planning SPA.

[29] Julia Paradise, *Data Note: A Large Majority of Physicians Participate in Medicaid*, KFF, May 10, 2017.