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Re: Input on the Renewal of the Behavioral Health Transformation 1115 Waiver

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Introduction

Through our work as a DC-based community organization, Children's Law Center knows the best way to accomplish comprehensive, meaningful changes to our health care systems must be through partnership. We, therefore, thank you for the opportunity to submit survey responses on the direction and the goals of the 1115 waiver renewal application. The intent of our letter today is to expand on our survey responses and provide a more in-depth analysis with the aim of supporting the Department of Health Care Finance (DHCF) as it moves forward with this important work.

Specifically, our letter will discuss population considerations for the 1115 waiver as informed by our clients. Additionally, we have identified four areas we would like to highlight for DHCF's consideration: (1) continuous coverage legislation; (2) behavioral health services to address current gaps in crisis response; (3) home modification and remediation services; and (4) coding for care coordination and health related social needs.

Population Considerations

The waiver provides an opportunity to ensure the District is serving populations that are in the most need for health-related social need services. In the survey, we identified the below populations as recommended populations of focus for the waiver renewal. We have given specific focus to populations that are represented in Children's Law Center's client communities: children who are in foster care, students with special education needs, kids who have health problems that can't be solved by medicine alone, and caregivers who need legal support to create family stability for a child. In 2022 we reached 4,237 children and families in DC through

individual assistance. Additionally, we work in partnership with numerous community organizations, hospitals, and other non-profits to understand the needs of the populations they serve. As seen throughout this letter, there is significant overlap between the populations identified below - for example, a pregnant and postpartum person may also be incarcerated, or child welfare-involved youth may also encounter the criminal legal system.[1] We view the waiver as an opportunity to address a wide array of supports for these high-need populations, who are often the most marginalized groups with the worst health outcomes in the District.

1. **Pregnant and Postpartum People**

   We recommend ensuring the inclusion of pregnant and postpartum people in the 1115 waiver renewal. DC has some of the worst perinatal health outcomes that are deeply impacted by both the person's race and their zip code. We also know from our clients' own experiences that pregnant and parenting youth face significant barriers to accessing services and supports during their pregnancy and postpartum period. DHCF has been deeply involved in recent efforts to begin to improve outcomes for pregnant and postpartum people including the Maternal Health Advisory Group and the Perinatal Mental Health Task Force. Both these groups have identified areas where pregnant and postpartum people's health, both mental and physical, would benefit from specific attention to their social needs. For example, reducing stress caused by poverty, improving transportation, and increased housing supports for a perinatal population has been shown to prevent or improve perinatal health outcomes.[2] The 1115 waiver provides an opportunity to build on the work already happening in DC to improve outcomes for pregnant and postpartum people.

2. **Individuals and Families Experiencing Homelessness or at Risk of Homelessness**

   We strongly believe that DHCF should include housing supports for residents in the individual and family systems. Each year Children's Law Center's attorneys work with hundreds of children and families whose lack of stable, healthy, and affordable housing impacts their health and well-being. Housing insecurity and poor housing conditions not only have direct negative impacts on a family's physical and mental health, but they also make it more difficult for families to attend doctor's appointments and maintain their nutrition, medication routines, and medical equipment.[3] The 1115 waiver renewal provides a valuable opportunity for DC to help these at-risk families and children meet their basic need for safe and stable housing, improving their immediate and long-term health outcomes and decreasing costs to DC's healthcare system over time.

3. **Justice-involved Adolescents and Young Adults**

   Children's Law Center serves clients that have experiences with both the child welfare system and criminal legal system, often referred to as a "cross-over youth." Between 2022-2023, over 10 percent of CLC's clients were considered cross-over youth. Our clients were involved in both the juvenile and adult criminal legal system. Most of these

clients experience some type of issue with receiving health services due to their involvement in the legal system. Our clients are particularly vulnerable to unstable housing/shelter due to their involvement in both systems. We see the 1115 waiver as an opportunity to make their time in - and transition out of - the criminal legal system more supportive and successful. We have a duty to ensure their health and social needs are met.

4. **Child Welfare Involved Children and Youth, including Transition Age Youth (those aging or recently aged out of the child welfare system)**

Each year, Children's Law Center attorneys serve as *guardians-ad-litem* for several hundred children in foster care and protective supervision – over half of all children in the care and custody of the Child and Family Services Agency (CFSA). We acutely understand the specific needs of this population, especially their need for behavioral health services that are both timely and appropriate.[4] Many older youths who remain in care until age 21 experience significant issues achieving stable housing and continued access to crucial services that support their physical and mental health. Fortunately, CFSA has made significant progress in keeping families together and reducing the number of children in care. However, this population is often overlooked given its smaller size. We strongly encourage DHCF to take a step forward and ensure child welfare-involved children and youth are included in the 1115 waiver to ensure their needs are met.

5. **Children with a Chronic Illness or Complex Physical Health Needs that are Exacerbated by their Physical Environment**

Through our Medical-Legal Partnership (MLP), Children's Law Center sees the great impact that the conditions in a child's physical environment can have on their current and long-term health – especially if they have a chronic illness or complex medical needs.[5] For many of our clients, unhealthy housing conditions like pervasive mold and pest infestations contribute to or exacerbate an illness or medical condition making it difficult for their family and doctors to successfully manage treatment. We hope the 1115 waiver can improve outcomes for our clients and other children in DC whose housing conditions are adversely affecting their health by covering home remediation, modifications, and equipment. (These may be flagged in ICD-10 codes as Z5889: Other problems related to physical environment; Z5910: Inadequate housing, unspecified.) There are limited technical and financial assistance options for residents in DC, especially tenants, who cannot afford to address these conditions themselves and leveraging the waiver process could open more possibilities to protect their health and well-being at home.[6]

6. **People at High Health Risk During Weather-Related Emergencies**

Unhealthy housing conditions can also occur when residents cannot maintain healthy temperatures or clean air in their home. This is especially concerning for vulnerable populations like older adults, infants and young children, pregnant people, and people

with chronic medical conditions whose health is at higher risk during extreme temperatures or poor air quality. The District currently implements extreme weather plans to protect the health and safety of residents when temperatures fall below 32 degrees or rise above 95 degrees.[7] The 1115 waiver could expand the protections available to DC residents during such emergencies. For example, CMS approved Oregon's 1115 application to provide "clinically indicated devices to maintain healthy temperatures and clean air during climate emergencies" for "individuals with a high-risk clinical need who reside in a region that is experiencing extreme weather events that place the health and safety of residents in jeopardy as declared by the federal [or state] government."[8]

Additional Considerations

There are four additional items that deserve consideration by DHCF when building out the 1115 waiver.

A. Continuous Coverage

The Council has had the final vote on B25-0419, the Childhood Continuous Coverage Amendment Act of 2023 on January 9, 2023. With the Mayor's signature, it will require any child enrolled in Medicaid, the Children's Health Insurance Program (CHIP), or the Immigrant Children's Program (ICP) ages zero to five years old to remain enrolled in Medicaid without any redetermination process. During the hearing on the bill in October 2023, Director Byrd noted the **only viable path to continuous coverage is through an 1115 demonstration waiver** rather than through a Medicaid state plan amendment. Given the bill's movement, we encourage DHCF to ensure inclusion of continuous coverage in the 1115 waiver. There are clear benefits to continuous coverage, and we believe now is the time to act.[9] There are several states to look to that have advanced multi-year continuous eligibility for children including Oregon and Washington (states where it has been implemented) and New Mexico, California, Colorado, Minnesota, Illinois, Ohio, and North Carolina (states where it is in development).

B. Behavioral Health

Because a significant amount of the behavioral health transformation (or "carve-in") is still in progress, we have not yet achieved an integrated health care experience that facilities coordinated treatment of behavioral and physical health needs. We do, however, recognize some key gaps that persist for our client community which include:

1. Crisis response;
2. Transition of care planning and implementation for individuals being discharged from emergency, inpatient hospital, and residential stays; and
3. Coordination of physical and behavioral health services.

One solution to address these gaps is to use the 1115 waiver renewal to create a Certified Community Behavioral Health Clinic (CCBHC). This has been done by other states

through the 1115 waiver, such as Minnesota, but may also be done through DC's State Plan authority.[10] As a model for care delivery, CCBHCs ensure access to integrated, evidence-based substance use disorder and mental health services and receive flexible funding to support the real costs of expanding services to fully meet the need for care in communities. According to the National Council, where implemented, CCBHCs have dramatically increased access to mental health and substance use disorder treatment, expanded states' capacity to address the overdose crisis and established innovative partnerships with law enforcement, schools and hospitals to improve care, reduce recidivism and prevent hospital readmissions. The inclusion of CCBHCs in the District's behavioral health system is essential to create a more sustainable, accessible, and coordinated service network. This model aligns well with ongoing work between DHCF and DBH and the work of the current 1115 waiver.

C. Housing Supports and Services

DC has a housing crisis. Over 82,000 District residents, 12% of the population, are currently experiencing housing insecurity – meaning they do not have stable or adequate living arrangements due to unaffordable housing costs and/or substandard or overcrowded living conditions – with a disproportionate impact on Black and Hispanic residents.[11] The 1115 waiver is an opportunity for DC to mitigate the many health risks associated with housing insecurity through housing supports such as rental and utility assistance, moving costs, pre-tenancy navigation services, and tenancy sustaining services for vulnerable populations, which CMS has already approved in a number of other states' waivers.[12]

Additionally, Children's Law Center wants to highlight how DC could use its 1115 waiver to address substandard physical and environmental conditions in a home that pose a significant barrier to the health and well-being of its occupant(s).[13] **Children's Law Center strongly recommends that DHCF include home repair and remediation services** in its housing support HRSNs and include people whose housing conditions are adversely affecting their health as a population eligible to receive those and other Medicaid housing supports. We recommend that DHCF review the target populations and housing services approved in the 1115 waivers for North Carolina, Oregon, Massachusetts, and Arizona, all of which included home accessibility modifications, repair and remediation services, or medically necessary devices to maintain a healthy living environment.[14]

Children's Law Center recognizes that home modification and remediation services pose questions of implementation, particularly how a home would be assessed for these services, who would do the assessment, and how it could be billed. We recommend looking to the example of North Carolina's Healthy Opportunities Pilots, which includes a detailed description of the state's plan for implementing "Inspection for Housing Safety and Quality," "Home Remediation Services," and "Healthy Home Goods" as covered

housing services in its fee schedule.[15] Another route that the Children's Law Center and our partners believe could be explored is the use of Community Health Workers (CHWs) who could be reimbursed for conducting healthy home assessments.[16]

D. Assessing and Coding Health Related Social Needs (HRSNs) and Ensuring Care Coordination

We encourage DHCF to look at Oregon's 1115 Waiver, which emphasized "providing **care coordination and HRSN care management**" and suggest that this be an underlying goal of DC's proposed 1115 Waiver. The need for care coordination in DC is a theme echoed throughout many conversations about how to improve outcomes for residents. We see the 1115 waiver as an opportunity to begin to address this gap in coverage to ensure that care coordination is an explicitly covered service and providers can be reimbursed for this important work. Care coordination reduces stress by increasing connection to supports and resources. It would also increase communication and allow providers to share information more seamlessly. There are already examples of programs utilizing care coordination in the District, like DC HealthySteps, but unfortunately these programs cannot draw down any reimbursement for this work. Care coordination can help address HRSNs by connecting the patient with resources and supports like housing or food. Therefore, we also strongly support the **integration of HRSNs into Medicaid services and eligibility.**

In order to identify the need for the expanded services, a health provider will inevitably have to add a protocol to their patient care.[17] We suggest that this be done through the expanded use of Z-Codes that relate to social environment and conditions (Z550- Z659) in the ICD-10.[18] At the very least, this can be used as the mode of documentation for HRSN services, with the potential to expand the use to adjust payments to providers. It is essential that providers be compensated for the time and attention given to the screening and documenting of the HSRN, whether the information collected results in HRSN services or not.[19]

Conclusion

Thank you for the opportunity to expand on the survey. We appreciate your time and consideration of this letter and welcome any questions DHCF may have.

In partnership,

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[1] California has specifically focused on incarcerated individuals and has included postpartum and pregnant people in their waiver. *See* KKF, Medicaid Waiver Tracker: Approved and Pending Section 1115 Waivers by State, *available at*: https://www.kff.org/medicaid/issue-brief/medicaid-waiver-tracker-approved-and-pending-section-1115-waivers-by-state/.

[2] The lack of secure, quality housing during pregnancy is associated with adverse health outcomes, including an increased risk of maternal hypertension, anemia, and hemorrhaging, and preterm birth and low birth weight. Additionally, housing instability during the prenatal period has been linked to higher health care utilization and average costs for care during pregnancy and the postpartum period. *See* DiTosto JD, Holder K, Soyemi E, Beestrum M, Yee LM. Housing instability and adverse perinatal outcomes: a systematic review. Am J Obstet Gynecol MFM. 2021 Nov;3(6):100477. doi: 10.1016/j.ajogmf.2021.100477. Epub 2021 Sep 2. PMID: 34481998; PMCID: PMC9057001; Leifheit KM, Schwartz GL, Pollack CE, Edin KJ, Black MM, Jennings JM, Althoff KN. Severe Housing Insecurity during Pregnancy: Association with Adverse Birth and Infant Outcomes. Int J Environ Res Public Health. 2020 Nov 21;17(22):8659. doi: 10.3390/ijerph17228659. PMID: 33233450; PMCID: PMC7700461. *See also* Gennetian, Duncan, et. al., NBER Working Paper No. w30379*, Unconditional Cash and Family Investments in Infants: Evidence from a Large-Scale Cash Transfer Experiment in the U.S.,* (August 2022), *available at:* https://ssrn.com/abstract=4203053*;* Magnuson, Yoo, et. al.*, Can a Poverty Reduction Intervention Reduce Family Stress Among Families with Infants? An Experimental Analysis,* (May 6, 2022), *available at:* https://ssrn.com/abstract=4188131*;* Martha's Table, Strong Families, Strong Futures, *available at:* https://marthastable.org/sfsf/; The Bridge Project, (2021), *available at*: https://bridgeproject.org/our-work/. *See also* Bloch JR, Cordivano S, Gardner M, Barkin J. Beyond bus fare: deconstructing prenatal care travel among low-income urban mothers through a mix methods GIS study. Contemp Nurse. 2018 Jun;54(3):233-245. doi: 10.1080/10376178.2018.1492349. Epub 2018 Jul 3. PMID: 29969975; PMCID: PMC6310900.

[3] For example, rent burden (paying over 30% of household income toward rent) and eviction are "significantly associated with higher mortality risk" likely due to renters prioritizing housing costs over spending on health-related needs, including preventive care. Graetz et. al., *The Impacts of Rent Burden and Eviction on Mortality in the United States, 2000-2019*, Social Science & Medicine 340 (2024).. *See also,* Weitzman et. al., Housing and Child Health, 43 Current Problems in Pediatric and Adolescent Health Care 187 (September 2013) (how the physical, chemical, and biological aspects of a child's home impact their health and development); The Surgeon General's Call to Action to Promote Healthy Homes, Office of the Surgeon General (2009), available at: https://www.ncbi.nlm.nih.gov/books/NBK44199/ (illustrating the "clear and compelling" connection between the structural and physical aspects, indoor air quality, and water quality in homes the illnesses, injuries, and overall health of residents).

[4] According to the American Academy of Pediatrics, behavioral health is the largest unmet health need for children and youth in foster care nationally. *See* American Academy of Pediatrics, *Mental and Behavioral Health Needs of Children in Foster Care,* (2021), *available at*: https://www.aap.org/en/patient-care/foster-care/mental-and-behavioral-health-needs-of-children-in-foster-care/*; see also* Children's Law Center, Testimony before DC Council Committee on Health and Committee on Facilities and Family Services, (December 6, 2023), *available at*: https://childrenslawcenter.org/resources/testimony-behavioral-health-for-children-and-youth-in-foster-care/.

[5] Living in housing with substandard conditions is a consistent and strong predictor of emotional and behavioral problems in children and exposure to certain conditions, especially mold and pests, is closely associated with increased asthma prevalence and severity in children. Levine Coley et. al., *Poor Quality Housing Is Tied to Children's Emotional and Behavioral Problems*, MacArthur Foundation: How Housing Matter (September 2013), https://housingmatters.urban.org/sites/default/files/wp-content/uploads/2014/09/How-Housing-Matters-Policy-Research-Brief-Poor-Quality-Housing-Is-Tied-to-Childrens-Emotional-and-Behavioral-Problems.pdf; Ganesh et. al., *The Relationship between Housing and Asthma Among School-Age Children*, Urban Institute (October 2017), https://www.urban.org/sites/default/files/publication/93881/the-relationshi-between-housing-and-asthma_2.pdf.

[6] 1115 waivers for North Carolina (specifically see the Healthy Opportunities Pilots), Arizona, Massachusetts, and Oregon, all of which included home accessibility modifications and remediation services and/or medically necessary devices to maintain healthy temperatures and clean air.

[7] *See District of Columbia FY24 Winter Plan*, DC Interagency Council on Homelessness, *available at*: https://ich.dc.gov/sites/default/files/dc/sites/ich/page_content/attachments/Winter%20Plan%20FY24%20_Full%20Council%20Approved%20_Finalized%202023%2010%2031%20_CLEAN.pdf; *2023 District of Columbia Heat Emergency Plan*, Government of the District of Columbia, *available at*:

https://hsema.dc.gov/sites/default/files/dc/sites/hsema/publication/attachments/District%20Heat%20Emergency%20Plan_2023%20FINAL%20%281%29.pdf.

[8] Department of Health & Human Services Center for Medicare & Medicaid Services letter to Dana Hittle Oregon Health Authority, September 28, 2022, p. 3, *available at*: https://www.oregon.gov/oha/HSD/Medicaid-Policy/Documents/2022-2027-1115-Demonstration-Approval.pdf. While the provisions approved by CMS are narrower than the climate services Oregon initially sought approval for, they are still worth considering in DC for the protection they could provide to at-risk individuals during declared weather emergencies. Nick Budnick, *The State's Climate Benefit for Low-Income Oregonians is Shrinking*, The Lund Report (December 7, 2023*), available at*: https://oregoncapitalchronicle.com/2023/12/07/the-states-climate-benefit-for-low-income-oregonians-is-shrinking/#:~:text=OHA%20initially%20proposed%20introducing%20climate,however%2C%20the%20Centers%20for%20Medicare.

[9] Committee on Health Report on B25-0419, the Childhood Continuous Coverage Amendment Act of 2023, *available at*: https://lims.dccouncil.gov/downloads/LIMS/53581/Committee_Report/B25-0419-Committee_Report1.pdf?Id=182014.

[10] Minnesota Department of Human Services, Certified Community Behavioral Health Clinics, *available at*: https://mn.gov/dhs/partners-and-providers/policies-procedures/behavioral-health/ccbhc/.

[11] Claudia D. Solari, Lydia Lo, Alavi Rashid, and Lynden Bond, *Housing Insecurity in the District of Columbia*, Urban Institute (November 2023), https://www.urban.org/sites/default/files/2023-11/Housing%20Insecurity%20in%20the%20District%20of%20Columbia_0.pdf.

[12] As of December 21, 2023, CMS has approved provisions that provide housing supports for target populations in the 1115 waiver for 17 states (AZ, AR, CA, FL, HI, IL, MD, MA, NJ, NM, NC, OR, RI, UT, VT, VA, WA). *Medicaid Waiver Tracker: Approved and Pending Section 1115 Waivers by State*, KFF, https://www.kff.org/medicaid/issue-brief/medicaid-waiver-tracker-approved-and-pending-section-1115-waivers-by-state/.

[13] For example: (1) poor ventilation, pest infestations, and mold contamination can cause and exacerbate asthma and other respiratory conditions; (2) the inability to maintain comfortable thermal conditions places residents, especially those with pre-existing health problems, at increased vulnerability during extreme temperatures; (3) peeling and chipping paint in housing built before 1978 increases the risk of lead poisoning, especially among children; and (4) exposed heating sources, inadequate lighting, and floors and stairs in disrepair increase the risk of injury.

[14]

State	Approved Services Related to Safe and Healthy Housing
North Carolina	• Repairs or remediation for issues such as mold or pest infestation if repair or remediation provides a cost-effective method of addressing an individual's health condition • Modifications to improve accessibility of housing (e.g., ramps, rails) and safety (e.g., grip bars in bathtubs) when necessary to ensure an individual's health
Oregon	• Medically necessary air conditioners, heaters, humidifiers, air filtration devices, generators, and refrigeration units as needed for medical treatment and prevention • Medically necessary home accessibility modifications and remediation services such as ventilation system repairs/improvements and mold/pest remediation
Massachusetts	• Medically necessary air conditioners, humidifiers, air filtration devices and asthma remediation, and refrigeration units as needed for medical treatment • Medically necessary home modifications and remediation services such as accessibility ramps, handrails, grab bars, repairing or improving ventilation systems, and mold/pest remediation
Arizona	• Medically necessary home accessibility modifications and remediation services

See Department of Health & Human Services Center for Medicare & Medicaid Services letter Jay Ludlam, North Carolina Department of Health and Human Services, July 7, 2023, Attachment G: Table 3, *available at*: https://www.medicaid.gov/sites/default/files/2023-07/nc-medicaid-reform-demo-ca.pdf; Department of Health &

Human Services Center for Medicare & Medicaid Services letter to Dana Hittle Oregon Health Authority, September 28, 2022, p. 39, *available at*: https://www.oregon.gov/oha/HSD/Medicaid-Policy/Documents/2022-2027-1115-Demonstration-Approval.pdf; Department of Health & Human Services Center for Medicare & Medicaid Services letter to Amanda Cassel Kraft, MassHealth, September 28, 2022, p. 118, *available at*: https://www.mass.gov/doc/masshealth-extension-approval/download; *Special Terms and Conditions: Arizona Health Care Cost Containment System Medicaid Section 1115 Waiver Demonstration*, Centers for Medicare & Medicaid Services, *available at*: https://www.azahcccs.gov/Resources/Downloads/Federal/AHCCCS_ExtensionSTCs.pdf.

[15] *NC Medicaid Managed Care: Healthy Opportunities Pilot Fee Schedule and Service Definitions*, NC Department of Health and Human Services and NC HOP (March 2023), p. 1, 6-8, 11-13, *available at*: https://www.ncdhhs.gov/healthy-opportunities-pilot-fee-schedule-and-service-definitions/open.

[16] If CHWs are used here or elsewhere in the waiver, we would like to draw specific attention to the role of a CHW. We recognize the essential role CHWs play in our healthcare system - which could be better leveraged with Medicaid support - but also recognize that the healthcare system can be overly restrictive of these kinds of professionals. The role CHW is effective in delivering culturally competent care because they are a person of the community – because they speak languages other than English, and/or have the same lived experiences of marginalization, illness, disability, or barriers of the patients they serve. This lived experience is the credential, not traditional educational requirements, certification, or even citizenship. Such requirements could, in fact, exclude some CHWs from operating within this system. We ask that when thinking of how to integrate CHWs into the Medicaid system so that they may receive more sustainable funding through reimbursement, you also consider regulatory frameworks that are supportive of the role they are meant to play.

[17] For example, a screening, added questions in a patient history, or other assessment. They will also, presumably, need to document this in the medical record as well as the claim to Medicaid in order to establish eligibility for the HRSN services.

[18] This has already been piloted by some FQHCs in DC, with evidence from the Gravity Project and other efforts.

[19] For example, we note that AZ and MA both use Social Risk Adjustment of MCO Rates as part of their proposed waiver.