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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

**HOUSE COMMITTEE ON THE JUDICIARY**

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**HOUSE COMMITTEE ON OVERSIGHT  
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SUBCOMMITTEE ON ECONOMIC AND CONSUMER  
POLICY

SUBCOMMITTEE ON THE ENVIRONMENT

November 30, 2021

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

Dear Administrator Brooks-LaSure,

I write to you in the midst of a national reproductive health crisis and on the heels of targeted state-level actions in Missouri to further restrict access to health care for thousands of our most vulnerable community members. As you are well aware, patients in Texas and Arkansas who rely on Medicaid have been unable to access basic reproductive and primary health care at Planned Parenthood because of baseless and unrelenting political efforts by Republicans to defund Planned Parenthood.<sup>1-2</sup> An emergency rule filed by the state of Missouri last month, aimed at revoking Medicaid eligibility for Planned Parenthood, has justifiably caused widespread concern among residents that Missouri will be next. As a nurse and former Medicaid beneficiary, I refuse to be silent in the face of targeted attempts by lawmakers opposed to reproductive health care to rip away critical services from those most in need. For this reason, **I strongly urge the Biden Administration to both fully enforce the freedom of choice provisions that are vital to the Medicaid program and ensure that none of the actions taken by the state of Missouri interfere with patients' right to health care as established by section 1902(a) of the Social Security Act.**

Last month, Missouri's Republican state leadership published two new rules requiring inspectors to report rule violations by abortion clinics to Medicaid auditors within the Department of Social Services. These new rules are attempting to apply conditions and scrutiny against Planned Parenthood that no other qualified Medicaid provider in Missouri will have to face.<sup>3</sup> It is yet another desperate attempt by state leaders to punish people with low-incomes — disproportionately people of color, women, and people living in rural Missouri — for accessing birth control, life-saving cancer screenings, and other preventive health care at Planned Parenthood.

Barring Medicaid patients from obtaining care at Planned Parenthood health centers violates the free choice of provider provision under federal Medicaid law, a law that explicitly states that every Medicaid beneficiary has the right to receive medical care “from any institution, agency, community pharmacy, or

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<sup>1</sup> Najmabadi, S. Judge rejects bid by Planned Parenthood to stay in Medicaid, affecting health service for thousands of low-income Texans [Internet]. Austin, TX: The Texas Tribune; 2021 March 10 [Cited 2021 November 15]. Available from: <https://www.texastribune.org/2021/03/10/planned-parenthood-medicaid-texas/>

<sup>2</sup> Kennedy, M. Federal appeals court says Arkansas can block Medicaid payments to Planned Parenthood [Internet]. Washington, DC: NPR; 2017 August 16 [Cited 2021 November 15]. Available from: <https://www.npr.org/sections/thetwo-way/2017/08/16/543974021/federal-appeals-court-says-arkansas-can-block-medicaid-payments-to-planned-paren>

<sup>3</sup> Kellogg, S. Planned Parenthood asks for federal help as new Medicaid rules take effect in Missouri [Internet]. St. Louis, MO: STLPR; 2021 October 13 [Cited 2021 November 15]. Available from: <https://news.stlpublicradio.org/government-politics-issues/2021-10-13/new-medicaid-rules-in-missouri-take-effect-but-planned-parenthood-is-asking-for-federal-intervention>

person, qualified to perform the service or services required...who undertakes to provide...such services.”<sup>4</sup> This provision, also known as the “any willing provider” provision, is an added protection for patients to ensure that they are able to see providers they know and trust, and it is a key pillar of the Medicaid program. Furthermore, federal law requires that provider standards be related to the fitness of the provider to provide covered Medicaid services.<sup>4</sup>

In 2020, Planned Parenthood of the St. Louis Region and Southwest Missouri served more than 6,600 Missourians,<sup>5</sup> who in many cases, had nowhere else to turn for basic sexual and reproductive health care. This matter is becoming more urgent by the day. Just a few weeks ago, the state began processing applications from those eligible for health care coverage under the state’s newly expanded Medicaid program made possible through the Affordable Care Act. Now that 275,000 more Missourians are eligible for Medicaid, blocking access to Planned Parenthood could break our already fragile safety net system. The pandemic has only compounded the state’s dueling public health crises that continue to harm low-income Missourians and worsen health disparities like maternal mortality rates, which are four times higher among Black Missourians.<sup>5</sup>

It has become increasingly clear that lawmakers opposed to reproductive health care in Missouri are tempting the boundaries of Medicaid law. This is the second time this year they have tried to block patients from accessing Planned Parenthood—the sole abortion provider in the state, and as a result of these targeted attacks Medicaid patients are being blocked from accessing essential family planning and preventive care services. Earlier this year, legislators tried to ban coverage of some forms of birth control through the program.<sup>6</sup> Medicaid law requires coverage of birth control and family planning under the program,<sup>7</sup> and Medicaid beneficiaries are guaranteed access to their chosen family planning method free from coercion.<sup>8</sup>

Additionally, for more than seven months Medicaid patients in Texas have been unable to access health care at Planned Parenthood health centers.<sup>1</sup> The harm of this reduced access to family planning and other preventive health services is only compounded by the state’s recently enacted six-week abortion ban. Arkansans have been living this reality for three and a half years.<sup>2</sup> As a Member of Congress and fellow policymaker, I urge you to carry out your duties and enforce Medicaid’s free choice of provider requirement before any more people suffer.

The Biden Administration has made it clear they are committed to protecting and expanding access to sexual and reproductive health care, as well as ensuring that Medicaid patients are able to use their health coverage without discriminatory barriers that undermine the program and health care access. Recently, the Gender Policy Counsel affirmed in its first-ever National Strategy on Gender Equity and Equality that this administration will “strengthen people’s ability to receive the high-quality, comprehensive care they need from the reproductive health care provider of their choice.” In its Executive Order on Strengthening Medicaid and the Affordable Care Act, the Biden-Harris Administration unequivocally committed to protecting and strengthening the Medicaid program and ensuring that high-quality health care is

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<sup>4</sup> Social Security Act, 1902(a)(23).

<sup>5</sup> Missouri’s Pregnancy-Associated Mortality Review board publishes annual maternal mortality report [Internet]. Jefferson City, MO: The Missouri Times; 2021 July 1 [Cited 2021 November 15]. Available from: <https://themissouritimes.com/missouris-pregnancy-associated-mortality-review-board-publishes-annual-maternal-mortality-report/>

<sup>6</sup> Suntrup, J. Fight over birth control looms as Missouri lawmakers prepare for special session [Internet]. St. Louis, MO: St. Louis Post Dispatch; 2021 June 16 [Cited 2021 November 15]. Available from: [https://www.stltoday.com/news/local/govt-and-politics/fight-over-birth-control-looms-as-missouri-lawmakers-prepare-for-special-session/article\\_7073a044-a7b7-5bdb-8910-e50156afd22e.html](https://www.stltoday.com/news/local/govt-and-politics/fight-over-birth-control-looms-as-missouri-lawmakers-prepare-for-special-session/article_7073a044-a7b7-5bdb-8910-e50156afd22e.html)

<sup>7</sup> Mandatory & Optional Medicaid Benefits [Internet]. Baltimore, MD: Centers for Medicare & Medicaid Services; [Cited 2021 November 15]. <https://www.medicaid.gov/medicaid/benefits/mandatory-optional-medicaid-benefits/index.html>

<sup>8</sup> Centers for Medicare and Medicaid Services. Medicaid Family Planning Services and Supplies. 2016 June 16. [Cited 2021 November 29] <https://www.medicaid.gov/federal-policy-guidance/downloads/sho16008.pdf>

accessible and affordable for every American.<sup>9</sup> I implore the Administration to work with its administrators, agency leads, and Congress to ensure these rights are guaranteed and protected for everyone.

In 2016, the Obama Administration issued guidance to state Medicaid directors reiterating that states must protect Medicaid patients' rights to receive services from any qualified provider willing to furnish such services, and further affirming that no state can "target a provider or set of providers for reasons unrelated to their fitness to perform covered services."<sup>10</sup> While the 2016 guidance was necessary, it's important to note that the attacks that prompted the need for guidance had happened for months before any federal intervention. Moreover, shortly after the CMS guidance was issued, the Trump Administration took control of the executive branch and ultimately rescinded guidance reaffirming the rights of Medicaid beneficiaries and Medicaid's free choice of provider provisions.

The health and livelihoods of millions depends on our ability to take swift action. We simply cannot afford to just be reactive — if we are to win, we must be proactive in our pursuit to protect health care access for everyone. We must exhaust every tool at our disposal to prevent any lawmaker opposed to reproductive health care from infringing on our fundamental rights.

As the Congresswoman for Missouri's First District, a Black woman who has utilized Medicaid and also faced systemic barriers in accessing health care, and a nurse who has worked on the frontlines of patient care, **I urge the administration to denounce all actions that prevent Medicaid patients from accessing care at Planned Parenthood and any other abortion-providing health centers.** The law is clear that every patient on Medicaid has the freedom to choose a qualified and willing provider. It is our duty as policymakers to ensure equity is at the heart of all policies and as such we must act with the urgency this crisis demands by taking immediate action. I firmly believe that the people — all of the people — must win and that principle applies to the accessibility of high quality, comprehensive, and affordable health care for every person in America.

Given the urgent nature of this request, I respectfully request a response by January 10, 2022. Thank you.

Sincerely,



CORI BUSH  
Member of Congress

Cc:

The Honorable Xavier Becerra, Secretary of the Department of Health and Human Services

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<sup>9</sup> Executive Order on Strengthening Medicaid and the Affordable Care Act [Internet]. Washington, DC: The White House; 2021 January 28 [Cited 2021 November 15]. Available from:

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/executive-order-on-strengthening-medicare-and-the-affordable-care-act/>

<sup>10</sup> Wachino, V. Department of Health & Human Services, Centers for Medicare & Medicaid Services. Clarifying "Free Choice of Provider" Requirement in Conjunction with State Authority to Take Action Against Medicaid Providers [Internet]. Baltimore, MD; 2016 April 19 [Cited 2021 November 15]. Available from: <https://www.medicare.gov/federal-policy-guidance/downloads/smd16005.pdf>