May 31, 2025

The Honorable Mehmet Oz, M.D.
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850

*Submitted electronically via Medicaid.gov*

**RE: Georgia Section 1115 Demonstration Waiver Extension Request**

On behalf of Families USA, thank you for the opportunity to comment on the Georgia Section 1115 Demonstration Waiver Extension request pertaining to the proposed revisions and extension to the *Georgia Pathways to Coverage (Georgia Pathways)* program.

Families USA is the longtime national, non-partisan voice for health care consumers, dedicated to achieving high-quality, affordable health care and improved health for all by working closely with organizations on the ground in Georgia and across the nation. Families USA greatly appreciates the opportunity to comment on Georgia Pathways, as the program will significantly impact the lives of the nearly 7,400 individuals currently enrolled in Georgia Pathways and the nearly 250,000 uninsured Georgia residents aged 19-64 with incomes up to 100% of the federal poverty line (FPL) who need access to affordable health insurance options.[1]

**Families USA strongly urges CMS to reject the Georgia Pathways demonstration waiver extension and all future attempts from states to adopt work reporting or so called "community engagement" requirements for Medicaid eligible populations.** While we applaud Georgia's efforts to soften their approach—changing monthly reporting to annual, adding retrospective eligibility and removing premiums—the fundamental nature of the Georgia Pathways programs remains unchanged: people are denied access to Medicaid if they cannot prove they are engaged in work or other qualifying activities for 80 hours per month.

Families USA strongly opposes all work reporting requirement programs, including programs disguised as "community engagement" or as a "pathway" to coverage. No matter what you call them, these programs are unnecessary bureaucratic barriers to care and coverage, given that ***92% of Medicaid enrollees across the country are already working or would meet an exemption because they are in school, ill or disabled, or caregiving***.[2] These programs all create an immense administrative hurdle that makes it more difficult for eligible people—including working people, and especially rural Americans, people with disabilities, and veterans—to enroll in or maintain Medicaid coverage, and leave many working families uninsured, living sicker, dying younger, and one emergency from financial ruin.[3] Furthermore, and fundamentally, work reporting requirements do not promote Medicaid's primary objective—that is, to "furnish medical assistance."[4]

As we outline in our comments, Georgia Pathways will only serve to further threaten the financial security of Georgians, directly undermining the will of the people who just voted in the 2024 national election for greater economic stability. Moreover, by continuing to push its demonstration waiver forward, the Georgia Department of Community Health (DCH) ignores the overwhelming majority of commenters during the state's waiver development process who stated strong opposition, pointing out, as we do in our comments, that the program will fail to improve employment while driving economic instability for families, putting hospitals and the health system at risk, and causing Georgia to incur significant administrative costs—not to mention costs to the federal government that must finance at least 50% of the program's administrative expenses, totaling millions of dollars in wasteful spending.

Finally, DCH ignores numerous commenters who rightly point out that instead of putting in place a burdensome and punitive work reporting requirement limited to those under 100% FPL, the state could instead fully expand Medicaid under the Affordable Care Act. Doing so would cover millions more uninsured Georgians at a great benefit not only to the people gaining access to health care, but to the state's health care system as a whole. While we very strongly agree with commenters that Georgia should expand its Medicaid program to all adults up to 138% FPL and note the decade of research confirming the many benefits of Medicaid expansion, we focus our comments below on the work reporting aspects of the Georgia Pathways program.

**Families USA strongly urges CMS to stand with families and consumers who want to protect access to Medicaid and reject this harmful and economically destructive proposed demonstration waiver, with our rationale laid out in three main arguments**

- **I. Georgia Pathways does not meet the statutory objectives of the Medicaid program.**
- **II. Georgia Pathways threatens the health and financial stability of working families.**
- **III. Georgia Pathways adds strain to the health care system and wasteful expenses to state and federal governments.**

Each of these arguments is detailed below.

## I. Georgia Pathways does not meet the statutory objectives of the Medicaid program.

Under Section 1115 of the Social Security Act, the Secretary of Health and Human Services may approve "any experimental, pilot, or demonstration project" so long as such project "is likely to assist in promoting the objectives" of Medicaid, that is, to "furnish medical assistance."[5] A fundamental question, therefore, as CMS determines whether to extend the Georgia Pathways waiver is whether the program meets this threshold statutory requirement.

### *i. Georgia Pathways does not meet Medicaid's primary statutory objective of furnishing medical assistance; the waiver is contrary to Medicaid goals in that it serves to prevent eligible people from gaining or maintaining Medicaid coverage.*

In the first sentence of its application, DCH states its objective in implementing Georgia Pathways is to "encourage self-sufficiency through promotion of employment and employment-related activities."[6] While every state should be concerned with promoting employment activities for their residents, federal Medicaid law does not allow states to condition Medicaid eligibility on employment status.

DCH's extension request assumes that its program is permissible under Medicaid simply because it is an extension of a currently operational program. This is not true. While Georgia was successful in

challenging CMS' December 2021 rescission of its prior approval of Georgia Pathways (and the state was able to move forward with the program as a result), we emphasize that Georgia won its case based on procedural elements required of federal agencies under the Administrative Procedure Act,[i] and not on the merits of whether the Georgia Pathways program meets the primary objective of Medicaid as required under the Social Security Act.[7]

The *Georgia v. Brooks-LaSure* ruling did not determine whether it was permissible under the Social Security Act for Georgia to condition Medicaid on reporting of work status. However, the court made clear, when outlining the statutory background of its decision, that the objective of Medicaid is to furnish medical assistance. The opinion states:

> "Medicaid is designed '[t]o enable states to 'furnish ... medical assistance'—i.e., healthcare services—to certain vulnerable populations and to furnish those populations with rehabilitation and other services to help them 'attain or retain capability for independence or self-care.' States that participate in Medicaid must propose comprehensive plans that meet federal requirements.'… Any project 'which, in the judgment of the Secretary [of the Social Security Administration], is likely to assist in promoting the objectives [of Medicaid]' can be approved…"[8]

Later, in reprimanding CMS for not weighing all relevant factors it needed to weigh to meet Administrative Procedure Act standards, the court found that CMS failed to appropriately consider how Georgia's program would impact coverage (in other words, whether the program would furnish medical assistance). Despite finding for the State of Georgia—again, based on CMS' administrative failings and not on the merits of Georgia's program—the court makes two points clear: (1) furnishing medical assistance is a foundational objective of the Medicaid program as required by the Social Security Act; and (2) it is CMS' role to ensure all 1115 waivers approved by the agency meet those objectives.

The Georgia Pathways program—both the program that was reviewed under *Georgia v. Brooks-LaSure* and the program as modified under the current waiver extension application—stands in direct opposition to Medicaid objectives, as it is designed to deny access to otherwise eligible Georgians who cannot meet paperwork burdens to satisfy a qualifying hours and activities (QHA) requirement of 80 hours per month. In the first year of Georgia Pathways implementation, 27% of applicants who otherwise met all Medicaid requirements (age, income, etc.) were denied Medicaid coverage as the program deemed them ineligible due *solely* to the QHA requirement[9]—either they fell short of the strict requirements due to life circumstances (such as parental caretaking responsibilities) or they were eligible, but could not assemble onerous paperwork to prove their compliance.[10]

In addition, Georgia Pathways is designed to terminate Medicaid coverage for any enrollee who does not maintain paperwork to prove they meet the QHA requirements. DCH does not provide an assessment of how many people will subsequently lose coverage for failure to maintain QHA paperwork, but certainly the number is not zero. Already in the normal course without this added complexity, one in five beneficiaries lose coverage at renewal, many of whom remain eligible but experience challenges meeting administrative or paperwork requirements.[11] With the added hurdle of proving work status or other qualifying activity at annual renewal (in addition to income verification and other paperwork

[i] In *Georgia v. Brooks-LaSure*, the court determined that CMS violated the Administrative Procedures Act because it did not weigh all relevant factors when it rescinded the Georgia Pathways program, resulting in an arbitrary and capricious decision.

requirements), many more will fall off Medicaid despite continued eligibility.

By no means does the previous *Georgia v. Brooks-LaSure* ruling excuse Georgia from having to follow the statutory objectives of Medicaid. As Georgia's initial and ongoing QHA requirements prevent eligible people from accessing Medicaid coverage, the demonstration program is disqualifying.

### *ii. Full Medicaid expansion described in the Social Security Act is the proper baseline against which to measure Section 1115 demonstration projects, including Georgia Pathways.*

The state's position in *Georgia v. Brooks-LaSure* was that because Georgia Pathways offers Medicaid to populations that otherwise would not have access to such coverage, then this is enough to show their program is "furnishing" medical assistance, and, therefore, meeting Medicaid program objectives.[12] DCH makes the same argument in their current waiver application—"*Much of this population does not qualify for traditional Medicaid under Georgia's current State Plan…this Demonstration provides a pathway to eligibility...*"[13]—but this logic is flawed and based on a fundamental misunderstanding of statutory requirements.

Under the Affordable Care Act, Congress required states to extend coverage to adults with incomes below 138% of the federal poverty line ("Medicaid expansion").[14] While the Supreme Court later found Congress' proposed enforcement mechanism (withholding all federal Medicaid payments from a state refusing to expand Medicaid) was impermissibly coercive and unconstitutional, the remedy was not to remove the Medicaid expansion coverage requirement from the law, but to remove the coercive "stick."[15] Without federal enforcement mechanisms in place, Georgia and nine other states have not elected to expand their Medicaid programs.[16] However, the Social Security Act (as amended by the Affordable Care Act) still *requires* Medicaid expansion.

Courts have found that the objective of Medicaid under the statute is to furnish medical assistance to *all* eligible people, including those in the Medicaid expansion. This means that, when evaluating Section 1115 Demonstration Waivers, CMS must use full Medicaid expansion as the baseline against which to measure state proposals impacting expansion-eligible populations. As explained by the court in *Stewart v. Azar* (a 2019 case examining a proposed Section 1115 Medicaid work reporting requirement waiver in Kentucky), if this were not the baseline, then really *any* Medicaid waiver would be permissible:

> "The Secretary could then always approve those waivers, no matter how few people remain on Medicaid thereafter because any waiver would be coverage promoting compared to a world in which the state offers no coverage at all…Could a state decide it did not wish to cover pregnant women? The blind? All but 100 people currently on its Medicaid rolls? … The statute requires the Secretary to evaluate whether the project will promote the objectives of the [Social Security] Act. Against what baseline is he supposed to evaluate the project? The structure of the waiver provision assumes the implementation of the Act. It confirms that the relevant baseline is whether the waiver will still promote the objectives of the Act as compared to compliance with the statute's requirements."[17]

Here, the court does not make a distinction in work reporting requirement programs stood up by states that have expanded Medicaid compared to non-expansion states. Nor should there be a distinction: in all scenarios, work reporting requirements mean fewer people than the Social Security Act contemplates will receive coverage. Despite Georgia's best attempt, there's just no way to paint a work reporting

requirement picture that meets the statutory objective to furnish medical assistance.

## II. Georgia Pathways threatens the health and financial stability of working families.

Even if DCH could make the argument that Georgia Pathways promotes any Medicaid objective, it cannot make the argument that this proposed program will achieve the stated goal of encouraging "self-sufficiency through promotion of employment and employment-related activities."[18] As described above, Georgia Pathways will deny eligibility and subsequently terminate Medicaid coverage for anyone who cannot meet paperwork burdens to prove their work hours or engagement in other qualifying activities. This leaves Georgians without access to Medicaid and the health care services they need to stay healthy and working. In addition to excluding people from coverage, work reporting requirements fail to improve employment, place onerous and unfair paperwork burdens on enrollees, and drive economic insecurity for working families.

### *i. Work reporting requirements fail to improve employment or increase access to private health insurance coverage.*

No evidence shows that work reporting requirements result in higher employment rates.[19] In fact, multiple government and independent analyses definitively conclude that these programs do *not* result in sustainable employment gains.[20] For example, an evaluation of Arkansas' work reporting requirement program found no evidence that low-income adults had increased their employment activities either in the first year or in the longer term.[21] Requirements to report on work activities could not change the realities of Arkansas' regional labor market, where factors beyond individual control—few job opportunities beyond low-wage retail and fast food, a shrinking labor market, lack of public transportation and employers that offer unpredictable work schedules—made it difficult for people to work more hours or for better pay.[22]

These challenges are not unique, as low-income workers across the country experience similar tough employment conditions.[23] While Georgia has seen economic growth in recent years, lower-wage jobs in the state have seen stagnant or negative growth since 2010.[24] Research shows lower-paid workers have struggled in Georgia's post-pandemic recovery and continue to have limited leverage in the job market.[25] Add to this that families face extraordinary costs of going to work: in Georgia, 13.0% of median family income goes to childcare costs (six percentage points higher than what the U.S. Department of Health and Human Services considers as "affordable").[26]

There is no evidence that the current Georgia Pathways program has resulted in higher employment in Georgia, and there is no reason to conclude the proposed extension of the program will fare better at producing jobs or combatting difficult labor market forces for low-income participants. Furthermore, Georgia Pathways does not alter the availability of private health insurance for low-income residents. DCH explains that one reason the state is proposing to continue Georgia Pathways demonstration is that the state hopes the program's work requirement will serve "as a means to improve [] financial circumstances, leading to employer sponsored insurance or marketplace coverage."[27] However, DCH incorrectly assumes that low-income populations have sufficient access to these insurance markets.

- In Georgia, 16.1% of residents aged 19 to 64 are uninsured, much higher than the national average of 10.9%—health insurance is unaffordable and unavailable to these residents.[28]
- Medicaid-eligible individuals are more likely to have jobs where health insurance is rarely offered to employees, such as jobs offered by small businesses or in the agricultural and service

industries.[29] In Georgia, only 41% of private-sector employers offer health insurance to employees.[30]

- Obtaining insurance through the Federally-Facilitated Marketplace is often out of reach. Workers in Georgia are not guaranteed livable pay standards as the state has not set a minimum wage above the federal minimum,[31] and the low-wages offered by many Georgia employers do not give workers enough income to purchase health insurance on their own.[32] By definition, the income levels of those who qualify for Georgia Pathways mean that an individual, at 100% of the federal poverty line, is working but making less than $15,650 per year.[33]

In its application, DCH acknowledges these constraints: "The State…recognizes that particularly, many of its low-income working-class citizens lack access to or cannot afford health coverage…low-income individuals are faced with limited options for healthcare coverage and often remain uninsured."[34]

Despite recognizing the challenges its residents may face in obtaining coverage, Georgia Pathways does not address the wider constraints of the health insurance market, where access to private insurance is unrealistic for low-income residents. Meanwhile, the program, as designed, will first deny coverage and then suspend and terminate coverage for failure to report qualifying hours and activities. While DCH argues their punitive policies will spur employment opportunities, in fact, the opposite is true: barring otherwise eligible people from the Medicaid program only makes it *more* difficult for working-poor adults to maintain employment:

- Research shows that Medicaid enrollees are *already* motivated to work to make ends meet (e.g., to pay utilities or buy food), and work reporting paperwork does nothing to provide an additional incentive.[35]
- Having access to Medicaid is in and of itself a job enhancer. When uninsured people obtain Medicaid, they report that the positive impact Medicaid has on their health helps them to do a better job at work and enables them to look for better-paying positions; in turn, better employment leads to health improvement.[36]
- People with disabilities are also more likely to be employed if they have Medicaid, showing the impact access to health care services has on working ability.[37]

In short, because it serves as a barrier to keep people from Medicaid, Georgia Pathways does little but guarantee most working-poor adults will remain on the rolls of the state's uninsured, with consequences for the health and working ability of its lowest-income residents.

### *ii. Work reporting requirements place unfair paperwork burdens on working Medicaid enrollees.*

We note and we applaud DCH for proposing to reduce reporting burdens on Georgia Pathways enrollees by changing the qualifying hours and activities (QHA) reporting from monthly to annual. As the program's Interim Evaluation Report concluded, "(a)llowing beneficiaries to report an annualized number of QHA hours (instead of 80 hours per month) would accommodate month-to-month fluctuations in QHAs such as seasonal work or academic calendar-based educational opportunities… as well as reduce the risk that beneficiaries may become disenrolled and experience a gap in coverage."[38] We concur with this reasoning and support efforts to reduce frequent reporting burdens.

**However, while DCH is proposing less *frequent* reporting, it is not proposing less *onerous* reporting**. DCH is not proposing major changes to their reporting system, despite the Interim Evaluation Report urging them to do so. Under Georgia Pathways, initial and annual reporting requires the individual to submit detailed QHA documentation into Georgia's system. DCH does not determine eligibility through

data matching with existing data sources, nor does it use an easily accessible portal that streamlines QHA reporting.

DCH's waiver renewal application glosses over what burden QHA reporting might be to the individual, but the program's enrollment track record speaks for itself. Despite DCH projections that 25,000 individuals would enroll in the program's first year, only about 4,300 people successfully navigated the red tape and paperwork necessary to become enrolled.[39] The state's cumbersome enrollment process and steep paperwork burdens—completing a lengthy online or paper application along with compiling documents to verify QHAs—prevented *half* of individuals who showed initial interest in applying to the program from submitting a complete application.[40]

While DCH does not evaluate who has been left behind because of QHA requirements and onerous paperwork, invariably, as these programs do, Georgia Pathways leaves the *most vulnerable* populations exposed—those populations for whom reporting work is challenging given their life circumstances. Proving hours worked can be especially difficult for people with multiple jobs, with inconsistent work hours, without internet or computer access, and/or with limited English proficiency.[41] Documenting legitimate reasons for being without a job (including mental health conditions and other disabilities) is also a challenge, where individuals are unable to obtain medical records, physician testimony, and other required documentations.[42]

### *iii. Work reporting requirements drive economic instability for Georgia families.*

In Georgia, 30% of residents have medical debt in collections.[43] Medicaid is an important way to assure Georgians do not face the steep economic consequences of necessary medical care. With Medicaid, families have reduced exposure to medical debt, are better able to put food on the table and are less likely to be evicted from their homes.[44]

Implementing a demonstration waiver that is expected to bar thousands of eligible Georgians from the Medicaid program only further threatens the financial security of Georgia's most vulnerable residents. These threats are not hypothetical given the experience of impacted residents in other states: Arkansans who erroneously lost coverage because of the state's work requirement program had increased medical debt (averaging over $2,200) and the program roughly doubled the portion of adults who reported having serious problems paying their medical bills, while increasing the portion that delayed needed care because of cost.[45] People who are barred from Medicaid as a result of Georgia Pathways face the same exposure to medical debt, and DCH's proposal does nothing to mitigate these concerns.

## III. Georgia Pathways adds strain to the health care system and wasteful expenses to state and federal governments.

In addition to threatening the health and financial stability of working families, work reporting requirements put hospitals and the health system at risk and lead to millions of dollars in wasteful administrative spending—both by states and the federal government.

### *i. Work reporting requirements put hospitals and the health care system at risk.*

As it stands as a barrier to Medicaid coverage, Georgia Pathways will greatly impact hospitals in Georgia that depend on Medicaid to keep them financially viable. Today, ***34% of Georgia's rural hospitals are at risk of closure*** and the state has seen 11 rural hospitals close since 2010.[46] Hospital closures put

everyone's health at risk—even those who have Medicare or private insurance—as more than 50 counties in Georgia do not have *any* hospital beds and recent hospital closures have greatly reduced access to behavioral health and cancer treatment in the state.[47] What's more, hospital closures translate to a loss of employment: over 2,000 Georgians lost their jobs when just one hospital (Wellstar Atlanta Medical Center) closed in 2022.[48]

Vulnerable hospitals in the state need support from DCH to remain open and serving the wider community. However, programs like Georgia Pathways put hospitals at *greater* risk by driving up uncompensated care.[49] Medicaid is an integral part of addressing this problem: Medicaid provides health coverage for low-income patients and, thus, reduces uncompensated care, lowering the need or demand for hospital charity care and debt expenses for uninsured people.[50] Further, when people lose Medicaid (such as those pushed off Medicaid by work reporting requirements), they are forced to seek care in expensive settings like emergency rooms, further straining hospital workers who are overburdened and understaffed.[51]

### *ii. Work reporting requirements are expensive—for both states like Georgia to implement as well as for the federal government which would face new and considerable administrative costs.*

Work reporting requirements are extremely costly for states to administer.[52] In its first year of operation, DCH spent $48.5 million on administrative costs to hire staff and design, develop and install the eligibility and enrollment system.[53] With low program uptake, DCH spent an additional $10.7 million on a promotional campaign, bringing total administrative costs to ***over $59.2 million in the first year alone***.[54]

Not only is a $59.2 million price tag hard to justify for a program that has not improved health, employment or access to health insurance, what is even more difficult to justify is the opportunity cost, when one considers what these resources could have supported if deployed differently:

- DCH could have instead extended one year of Medicaid to an additional 15,607 uninsured Georgians (assuming current costs per year for adults on Medicaid in the state).[55]
- Georgia could have instead supported an additional 26,381 families with one year of Supplemental Nutrition Assistance Program (SNAP) benefits.[56] Unlike the proposed demonstration program, SNAP is a highly effective poverty-reduction policy which supports low-wage workers in volatile labor markets to keep them healthy and working.[57]

DCH does not offer an estimated administrative budget for implementing Georgia Pathways going forward, but it does indicate new administrative expenses, including the need for staff to conduct periodic audits among enrollees to ensure compliance with eligibility requirements.[58] In addition, the program's interim evaluation report recommended the state improve the application portal and invest in more outreach and engagement strategies "tailored to likely eligible Georgians to increase the number and proportion of eligible applicants."[59]

As Georgia racks up additional administrative expenses to continue their program, it is hard to justify—to CMS and to taxpayers—the amount of administrative burden that will be paid by the federal government. As CMS is aware, administrative costs incurred by states are usually matched by the federal government at 50%. However, some functions such as upgrades to eligibility/enrollment portals or computer and data systems may be eligible for a 75% to 90% federal match (if certain criteria are met).[60] In a 2019 Government Accountability Office analysis examining work requirement programs across five states, the federal government paid (or would have paid) between 55% and 87% of program administrative costs.[61]

Although DCH has already put in place some of their data systems to implement Georgia Pathways, at least some of what they are proposing going forward could be eligible for a higher match rate. Even assuming the lower (50%) match, that's still millions in administrative costs to the federal government to prop up a program in Georgia that does not increase coverage, improve employment or health and does not meet the basic objectives of the Medicaid statute. At a time when the new Administration is focused on wasteful spending, spending money to get less people covered seems counterproductive.

***The bottom line: Medicaid work reporting and community engagement programs do not work for Georgia or for any state Medicaid program.***

Families USA strongly urges CMS to consider the economic impact and human toll of Georgia's proposed extension to its Section 1115 Demonstration Waiver. At its core, Georgia Pathways does not promote the objectives of Medicaid as the proposed program is set up to keep low-income adults out of Medicaid, with a hefty price tag for state and federal taxpayers, hospitals and low-income health care consumers. Weakening the health care system with work reporting requirements only worsens existing challenges and endangers the financial and physical health of families in Georgia. We respectfully ask CMS to reject Georgia's request to extend the Georgia Pathways program.

For questions or comments regarding the recommendations made in this letter, please reach out to Mary-Beth Malcarney, Senior Advisor on Medicaid Policy, Families USA at: mmalcarney@familiesusa.org.

Thank you for your time and consideration.

Sincerely,

Sophia Tripoli
Senior Director of Health Policy

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[5] 42 U.S.C. § 1396-1(1) (2025), https://www.law.cornell.edu/uscode/text/42/1396-1; 42 U.S.C. § 1315(a) (2025), https://www.law.cornell.edu/uscode/text/42/1315.

[6] "Georgia Section 1115 Demonstration Waiver Extension Request," at page 4.

[7] Georgia v. Brooks-LaSure, No. 2:22-cv-6, 2022 WL 3581859 (S.D. Ga. Aug. 19, 2022).

[8] Georgia v. Brooks-LaSure, No. 2:22-cv-6, 2022 WL 3581859 (S.D. Ga. Aug. 19, 2022).

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[12] Georgia v. Brooks-LaSure, at 35-36.

[13] "Georgia Section 1115 Demonstration Waiver Extension Request," at page 5.

[14] *Affordable Care Act*, 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII).

[15] *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, 585-86 (2012).

[16] "Status of State Medicaid Expansion Decisions," KFF, May 9, 2025, https://www.kff.org/status-of-state-medicaid-expansion-decisions/.

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