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Medicaid and Work Requirements: New Guidance, State Waiver Details and Key Issues

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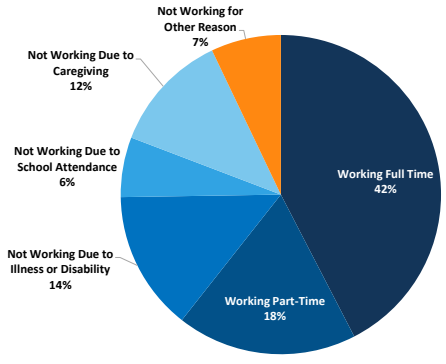
On January 11, 2018, the Centers for Medicare and Medicaid Services (CMS) issued a State Medicaid Director Letter providing new guidance for Section 1115 waiver proposals that would impose work requirements (referred to as community engagement) in Medicaid as a condition of eligibility. The guidance describes the potential scope of requirements that could be approved and presents the case for how these policies promote the objectives of the Medicaid program. This action reverses previous Democratic and Republican Administrations, which had not approved such waiver requests on the basis that such provisions would not further the program's purposes of promoting health coverage and access. The guidance asserts that such provisions would promote program objectives by helping states "in their efforts to improve Medicaid enrollee health and well-being through incentivizing work and community engagement." The guidance invites proposals that are "designed to promote better mental, physical, and emotional health. . . [or] separately. . . help individuals and families rise out of poverty and attain independence."

CMS has approved a work requirement waiver in Kentucky, and nine other states have submitted proposals to CMS. As of mid-January 2018, eight states (AR, AZ, IN, KS, ME, NH, UT, and WI) have pending waiver requests at CMS that would require work as a condition of eligibility for expansion adults and/or traditional populations (Mississippi has also submitted a waiver proposal to CMS, but it has not yet been certified as complete.) Medicaid work requirement proposals generally would require beneficiaries to verify their participation in approved activities, such as employment, job search, or job training programs, for a certain number of hours per week in order to receive health coverage. The proposals typically would exempt certain populations, but little detail is available about how the policies would be administered and how the exemptions would be obtained. See Table 1 for a summary of the covered populations, common exemptions, qualifying work activities and required hours for each state waiver.

Most nonelderly Medicaid adults already are working or face significant barriers to work, leaving a very small share of adults to whom these policies are directed. Six in ten Medicaid adults are already working (Figure 1). Among those who are not working, most report illness or

Figure 1

Work Status and Reason for Not Working Among Non-SSI, Nonelderly Medicaid Adults, 2016



Total = 24.6 million

Notes: "Not Working for Other Reason" includes retired, could not find work, or other reason. Working Full-Time is based on total number of hours worked per week (at least 35 hours). Full-time workers may be simultaneously working more than one-job.
Source: Kaiser Family Foundation analysis of March 2017 Current Population Survey.

disability, caregiving responsibilities, or going to school as reasons for not working. Many of these reasons would likely qualify as exemptions from work requirement policies. This would leave 7% of the population to whom work requirement policies could be directed, including those who report they are not working because they are looking for work and unable to find a job.

It is not clear whether tying eligibility to work promotes health. While there is some research showing that increased income or employment is associated with improved health outcomes and mortality, it is difficult to determine the direction of causation—whether income and work lead to better health, or whether better health facilitates income and work. In addition, research has found some deleterious health effects of work, particularly for people in shift work positions or those with high job insecurity, and evaluations of existing work requirements in other programs find weak evidence for an effect on health and well-being. There is some evidence of positive effects in programs targeted to people eligible for Medicaid on the basis of a disability, but work is voluntary under those programs, and Medicaid provides a full range of supportive services to enable individuals to continue coverage as income increases.

Working at minimum wage could make some people financially ineligible for Medicaid in states with low eligibility levels for adults. Many people working full-time are still eligible for Medicaid, especially in Medicaid expansion states, because they are working low-wage jobs. For example, an individual working full-time (40 hours/week) for the full year (52 weeks) at the federal minimum wage ($7.25/hour) would earn an annual salary of just over $15,000 a year, or about 125% of poverty, below the 138% FPL maximum targeted by the Medicaid expansion. However, in Kansas and Mississippi (both non-expansion states with low eligibility levels for parents), meeting Medicaid work requirements through 20 hours of work per week at minimum wage could lead to loss of Medicaid eligibility. In addition, these jobs are unlikely to have health benefits. In 2017, less than a third of workers who worked at or below their state's minimum wage had an offer of health coverage through their employer, according to a Kaiser Family Foundation analysis.

Work requirements have implications for all populations covered under these demonstrations. Those who are already working still must successfully document and verify their compliance. Those who qualify for an exemption also must successfully document and verify their exempt status, as often as monthly. States would need to pay for the staff and systems to track work verification and exemptions.

Because of complex documentation and administrative processes, some eligible individuals could lose coverage. There is a real risk of eligible people losing coverage due to their inability to navigate these processes, miscommunication, or other breakdowns in the administrative process. People with disabilities may have challenges navigating the system to obtain an exemption for which they qualify and end up losing coverage. Years of eligibility and enrollment experience with both Medicaid and the Children's Health Insurance Program (CHIP) shows that complex enrollment rules and documentation result in barriers to coverage, while enrollment simplification and streamlining helps promote coverage.

Increased documentation requirements shift Medicaid from a health insurance program for low-income families back to one that operates under welfare rules. Beginning with children when Medicaid coverage was de-linked from receipt of cash-assistance, to expanded coverage under CHIP and most recently to parents and other adults with the ACA, Medicaid has served as a health coverage program with the

purpose of promoting access to care. Under the ACA, states were required to develop new systems to coordinate and streamline enrollment across health care programs. These changes, in conjunction with fewer and less frequent documentation requirements, resulted in advances in coverage and facilitated integration with Marketplace coverage. CMS's work requirement waiver guidance instead explicitly supports alignment of Medicaid with SNAP or TANF welfare reporting and policies.

Administrative challenges and costs of complex waiver provisions, like work requirements, make waiver implementation complicated. Some states have decided to not implement waiver authority that they have received due to administrative costs. For example, Arkansas did not implement its health savings accounts after considering a number of factors, including the administrative expense of the accounts and the size of the monthly contributions members would make. Indiana is seeking to amend its waiver that originally set premiums at 2% of income and wants to change to a tiered structure instead, citing administrative complexity and costs. Kentucky amended its waiver application seeking to move from a tiered hour work requirement (depending on length of program enrollment) to a flat hourly requirement, also citing administrative concerns. Unlike TANF agencies or workforce development agencies, state Medicaid agencies are generally not currently equipped to develop, provide, and administer work support programs.

The CMS guidance is explicit that states will be required to describe strategies to assist beneficiaries in meeting work requirements but may not use federal Medicaid funds for supportive services to help people overcome barriers to work. It is unclear how states will come up with the additional funds needed to address successfully the multiple barriers (childcare, transportation, education, training, etc.) that interfere with the ability to work.

There are questions about the public input process and budget neutrality calculations in work requirement waivers. Public comments are a part of the waiver approval process, but the Kentucky waiver approval and other pending waivers did not allow for public comments that could take into account the recent guidance from CMS. Also, the CMS guidance specifies that states will not be permitted to accrue savings from reductions in enrollment that occur as a result of the waiver; however, a number of pending proposals do point to reductions in enrollment in the budget neutrality calculations.

Robust independent evaluations, including the impact of these demonstrations on people who lose coverage for which they remain eligible, will be an important area to watch. The guidance says that evaluation designs must include a discussion of hypotheses that waivers hope to test, such as work requirements leading to improved health, well-being, and independence. The evaluation design calls for surveys of beneficiaries (both those enrolled and no longer enrolled as a result of the waiver) and acknowledges that evaluations "must be designed to determine. . . the impact of the demonstration on Medicaid beneficiaries and on individuals who experience a lapse in eligibility or coverage for failure to meet the program requirements or because they have gained employer-sponsored insurance."

Table 1: Summary of States' Section 1115 Work Requirement Waivers Submitted to CMS as of January 12, 2018										
	AR	AZ	IN	KS	KY – approved	ME	MS	NH	UT	WI
Covered Populations										
Expansion adults	X	X	X		X			X		
Traditional adults*			X	X (parents 0-38% FPL)	X	X (parents 0-105% FPL)	X (parents 0-27% FPL)		X (parents 60-100% FPL; childless adults 0-100% FPL)	X (childless adults 0-100% FPL)
Common Exemptions										
Age	50+	55+	60+	65+	65+	65+	65+	65+	60+	50+
Disability/ medically frail	X	X	X		X	X	X	X	X	X
Drug treatment	X		X		**	X	X	X	X	X
Students	X	X	X		X		X		X	X
Catastrophic event	X	X			**					
Caregiving	X	X	X	X	X**	X	X	X	X	X
Unemployment compensation	X					X			X	X
Common Work Activities										
Employment	X	X	X	X	X	X	X	X		X
Job Search	X	X	X	X	X	X		X	X	
Job Training	X		X	X	X			X	X	X
Volunteer/ community service	X	X	X	X	X	X	X			
Education	X	X	X	X	X	X		X		
Hours Required	80/month	20/week	Up to 20/week	20-30/week	80/month	20/week	20/week	20-30/week	3 consecutive months of job search/training unless working 30/week	80/month

NOTES: Specific details, such as the criteria to establish disability, type of educational programs permitted, whether caregiving extends beyond dependent children up to age 6, and qualifications for certain work activities, vary by state. States may provide additional exemptions or work activities. *Other groups, such as Transitional Medical Assistance, family planning only, or former foster care youth, may be included in some states. **In KY, drug treatment is a work activity, not an exemption. KY enrollees can seek good cause exemptions if they can verify one of the following in their month of noncompliance: disability, hospitalization, or serious illness of enrollee or immediate family member in the home; birth or death of family member living with enrollee; severe inclement weather including natural disaster; family emergency or other life-changing event such as divorce or domestic violence. In addition, 1 primary caregiver of a dependent minor child or adult with disabilities per household is exempt, and caregiving for a non-dependent relative or another person with a disabling medical condition is a work activity in KY. SOURCE: Kaiser Family Foundation analysis of states' Section 1115 waiver applications posted on Medicaid.gov.