

## The Results Are In: Medicaid Work Requirements Don't Work

For legal and political reasons, the Trump administration has characterized using Medicaid waivers to impose work reporting requirements on Medicaid beneficiaries as experimental.<sup>1</sup> This is a dubious claim, and many observers saw these so-called experimental projects for what they were: an attempt to get people off Medicaid.<sup>2</sup>

The legal authority that the Trump administration is relying on to “waive” Medicaid law comes from Section 1115 of the Social Security Act, for what that section calls “experimental, pilot, or demonstration project[s].” For a similar combination of legal and political reasons, states seeking to implement these work reporting requirements for their Medicaid programs have also sometimes framed them as experimental. States have to describe and then test “demonstration hypotheses” when proposing and conducting Medicaid Section 1115 demonstrations. States proposing work reporting requirements have hypothesized gains in self-sufficiency, increased employment, and improved health.

### Medicaid Work Requirements Do Not Support Employment

In a [study](#) published in *The New England Journal of Medicine (NEJM)* in June 2019, researchers from Harvard T.H. Chan School of Public Health surveyed Medicaid beneficiaries in Arkansas before and after the state implemented its work reporting requirement. The researchers found that Arkansas’ work reporting requirement resulted in “no significant changes in employment,” but did result in Medicaid coverage losses and an increase in the percentage of uninsured people in the state.<sup>3</sup> The study attributes the work reporting requirement

**We now have a significant body of evidence that these programs fail on their own terms. Work reporting requirements don't promote work, don't improve health outcomes, and, as predicted, result in coverage losses for Medicaid beneficiaries.**

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policy's failure to increase employment to the fact that "nearly everyone who was targeted by the policy already met the requirements, so there was little margin for the program to increase community engagement." Indeed, the study reports that over 95% of beneficiaries subject to the work reporting requirement were participating in qualifying activities or should have been exempt. But these beneficiaries still lost coverage, not because they weren't working, but, as the study indicates, because they were "unaware of the policy or were confused about how to report their status to the state."

The study emphasizes the true mechanism by which beneficiaries lost coverage: the burden of reporting. Most beneficiaries lost coverage not because they were required to work, but because they had to navigate a confusing system for *reporting* their work. Kevin De Liban of Legal Aid of Arkansas, which represented plaintiffs in the lawsuit challenging Arkansas' work reporting requirements, noted that "for every one person who is not working or doesn't meet an exemption, the state is cutting off two people who do."<sup>4</sup> He attributes part of the coverage losses in Arkansas to the state's system for reporting beneficiaries' work, which was notoriously hard for beneficiaries to navigate.

While the state of Arkansas continues to defend its program in court as a test of the hypothesis that "Work and Community Engagement requirements promote personal responsibility and work," its actions demonstrate its lack of good faith. More than a year after beginning implementation of the waiver, the Centers for Medicare & Medicaid Services (CMS) and the state have never finalized an evaluation design to test this hypothesis. In accordance with [federal regulations](#), Arkansas submitted a [draft evaluation design](#) to CMS in August 2018 (more than two months after implementation of the waiver) and received feedback from CMS in November 2018, but CMS never approved a final evaluation design.

The fact that Arkansas and CMS never finalized a process for testing the state's hypothesis and evaluating this waiver shows that the experimental nature of this project was never taken seriously by state and federal officials. But the recent *NEJM* study, the U.S. District Court case, and the experiences of thousands of beneficiaries in the state put this waiver to the test. We now have convincing evidence that Medicaid work reporting requirements do not increase employment.

## Providing people with Medicaid coverage rather than taking it away is the best way to facilitate increased, sustained employment.

### Work Reporting Requirements Drive Down Medicaid Coverage for Both Employed and Unemployed People

Decades of policy research and experience show that reporting and documentation requirements drive down health insurance enrollment.<sup>5</sup> This is as true for work documentation requirements as for any other documentation requirement. Most adults enrolled in Medicaid are already working, but they can still lose coverage due to the challenges associated with reporting their work.<sup>6</sup> This is precisely what happened in Arkansas in the second half of 2018, when almost 20,000 beneficiaries lost coverage in the first four months of the work requirement not because they weren't working, but because they did not complete new paperwork requirements.<sup>7</sup> The drastic coverage losses only stopped when the federal court stepped in. New Hampshire was headed for a similar outcome until the state delayed implementation of its program.<sup>8</sup>

The way work reporting requirements pose a barrier to coverage is not only a policy issue but also a legal issue. Work reporting requirement waivers in [Arkansas](#), [Kentucky](#), and, most recently, [New Hampshire](#) have been challenged in U.S. District Court and subsequently blocked on the grounds that they do not promote the objective of Medicaid, which is “the provision of medical coverage to the needy”<sup>9</sup>

and that the Trump administration failed to consider these waivers' impact on coverage in its approvals.<sup>10</sup> For states still considering Section 1115 work reporting requirements, the court's decision and states' experiences make it clear that implementing these waivers causes many working and nonworking people to lose their health insurance.

### Medicaid Coverage of Working-Age People Supports Employment

When it comes to supporting employment for all Medicaid beneficiaries, a work reporting requirement has the opposite effect. There is strong evidence that Medicaid coverage, in itself, supports employment.<sup>11</sup> In surveying beneficiaries of its Medicaid expansion, Ohio reported that three-quarters of beneficiaries who were looking for work said Medicaid made it easier for them to do so.<sup>12</sup> For those who were currently working, more than half said that Medicaid made it easier to keep their jobs.<sup>13</sup> Providing people with Medicaid coverage rather than taking it away is the best way to facilitate increased, sustained employment.

A 2018 [study](#) published in the *American Journal of Public Health (AJPH)* found that “coverage through Medicaid expansion by itself acts as a work incentive program for people with disabilities, without imposition of work reporting requirements.” In states

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that do not offer Medicaid coverage for low-income working people, low-income adults with disabilities can still get Medicaid in some cases. But they have to prove that they are unable to work before they are determined eligible for Medicaid on the basis of disability. In Medicaid expansion states, low-income adults qualify for Medicaid regardless of disability status, which allows beneficiaries with disabilities to work to the extent they are able without risking losing coverage. Medicaid beneficiaries with disabilities who are subject to work reporting requirements face a similar burden to prove that they are exempt from the work reporting requirement due to their disability before they can get coverage.

The notion that Medicaid expansion reduces employment is also discredited by examining national employment levels. The Affordable Care Act Medicaid expansion covered over 12.5 million newly eligible working-age adults as of 2017. Any program that size that had an impact on employment would surely be reflected in unemployment numbers—indeed Medicaid expansion enrolls more than two times as many people as the number of unemployed Americans, which is currently 6.1 million. If a significant new disincentive to employment came into effect for more than 12 million people beginning

in early 2014, there is simply no way that disincentive would not drive increased unemployment in some way. And there is no evidence for increased unemployment since 2014, either in the unemployment rate<sup>14</sup> or the prime working-age labor force participation rate, which began increasing from its post-recession lows just as Medicaid expansion coverage was growing at its strongest.<sup>15</sup>

The evidence is that Medicaid coverage for low-income people supports employment. If state officials were serious about promoting self-sufficiency and employment, they would expand Medicaid instead of creating unnecessary barriers to coverage.

### **Medicaid Work Requirements Are Legally and Administratively Burdensome for States**

Arkansas isn't the only state in which officials are reckoning with major coverage losses as a result of their decision to implement a work reporting requirement. In states like Kentucky, New Hampshire, and Indiana, the potential for coverage losses — in addition to being devastating for beneficiaries — has resulted in legal and administrative burdens that make implementing work reporting requirements nearly impossible.

In New Hampshire, work reporting requirements began on June 1, 2019, with disenrollment initially set to begin in August 2019. However, on July 8, the New Hampshire Department of Health and Human Services submitted a [letter](#) to the governor and state Legislature citing authority under New Hampshire Senate Bill 290 to delay implementation of work reporting requirements by 120 days. The letter reports that, despite “extensive efforts” to notify beneficiaries of the work reporting requirement, the state has no compliance information for nearly 17,000 beneficiaries who are subject to the requirement. As a result, the state opted to delay implementation of the work reporting requirement until October 1, 2019, and planned to continue its outreach efforts and update its eligibility system.

This delay — now reinforced by a federal court decision vacating the Trump administration approval of the program — serves as further evidence that there is no good way to implement a work reporting requirement. Despite the state’s best efforts to inform beneficiaries of the reporting requirement through public information sessions, advertising on radio and social media, multiple telephone calls and letters to beneficiaries, and door-to-door canvassing, it has failed to obtain compliance information for thousands of beneficiaries who are subject to the work reporting requirement and are therefore at risk of losing coverage if the work reporting requirement was implemented.

While the administrative burden of the work reporting requirement delayed its implementation, the recent ruling from U.S. District Court Judge James E. Boasberg will, pending appeal, prevent implementation altogether. Boasberg previously ruled to invalidate CMS’ approvals of work reporting requirements in Kentucky and Arkansas. Given his previous rulings on Arkansas and Kentucky and the quickness with which he blocked New Hampshire’s approval, it is safe to say that any lawsuit challenging a work reporting requirement in U.S. District Court will result in an invalidation of CMS’ approval. And as long as CMS continues to approve waivers to add work reporting requirements, there is no sign of legal challenges slowing down. Kentucky Gov. Matt Bevin has been trying without success to implement a Medicaid work reporting requirement for his entire four-year term, which is nearly completed.

## Conclusion

CMS has approved work reporting requirements in many other states (Arizona, Michigan, Ohio, Utah, and Wisconsin) that have yet to implement. Still more states (Alabama, Mississippi, Montana, Oklahoma, South Carolina, South Dakota, Tennessee, and Virginia) have waiver applications pending with CMS.<sup>16</sup> But at this point, state officials who continue trying to implement work reporting requirements are wasting their time.

The bottom line is work reporting requirements don’t boost employment. In fact, they reduce it. They result in coverage losses for working people, are an administrative burden to implement, and are illegal. They’re just not worth it.

## Endnotes

- <sup>1</sup> For example, on January 11, 2018, Brian Neale of the Centers for Medicare & Medicaid Services (CMS) issued a letter to state Medicaid directors outlining CMS' support for states' "efforts to test incentives that make participation in work or other community engagement a requirement for continued Medicaid eligibility or coverage." The letter is available online at <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf>.
- <sup>2</sup> Eliot Fishman, "The Tide Is Turning against Medicaid Work Requirement Waivers," Families USA (Blog), November 20, 2018, <https://familiesusa.org/blog/2018/11/tide-turning-against-medicaid-work-requirement-waivers>.
- <sup>3</sup> Benjamin D. Sommers, Anna L. Goldman, Robert J. Blendon, E. John Orav, and Arnold M. Epstein, "Medicaid Work Requirements — Results from the First Year in Arkansas," *The New England Journal of Medicine* Special Report, June 19, 2019, <https://www.nejm.org/doi/full/10.1056/NEJMSr1901772>.
- <sup>4</sup> Kevin De Liban, "Consistent Health Coverage Is Needed," Legal Aid of Arkansas (Blog), February 22, 2019, <https://arlegalaid.org/news-events/newsroom.html/article/2019/02/22/consistent-health-coverage-is-needed>.
- <sup>5</sup> Margot Sanger-Katz, "Hate Paperwork? Medicaid Recipients Will Be Drowning in It," *New York Times*, January 28, 2018, <https://www.nytimes.com/2018/01/18/upshot/medicaid-enrollment-obstacles-kentucky-work-requirement.html>.
- <sup>6</sup> Rachel Garfield, Robin Rudowitz, Kendal Orgera, and Anthony Damico, "Understanding the Intersection of Medicaid and Work: What Does the Data Say?" (Issue Brief), Kaiser Family Foundation, August 8, 2019, [https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work-what-does-the-data-say/?utm\\_campaign=KFF-2019-Medicaid&utm\\_source=hs\\_email&utm\\_medium=email&utm\\_content=75510065&hsenc=p2ANqtz-wM-oLeoWXJmNYAW3XULxApzw50EZ0v2wajOP2nqZA3IHU1LNAN7evD5bpUvuii-T-huOPNbmJ7cWTUqt29JUo4STY4Ww&hsmi=75510065](https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work-what-does-the-data-say/?utm_campaign=KFF-2019-Medicaid&utm_source=hs_email&utm_medium=email&utm_content=75510065&hsenc=p2ANqtz-wM-oLeoWXJmNYAW3XULxApzw50EZ0v2wajOP2nqZA3IHU1LNAN7evD5bpUvuii-T-huOPNbmJ7cWTUqt29JUo4STY4Ww&hsmi=75510065).
- <sup>7</sup> Arkansas Department of Human Services, "Arkansas Works Program," February 2019, [https://humanservices.arkansas.gov/images/uploads/190315\\_February\\_AWReport.pdf](https://humanservices.arkansas.gov/images/uploads/190315_February_AWReport.pdf).
- <sup>8</sup> Jeffrey A. Meyers, New Hampshire Department of Health and Human Services, to Gov. Christopher T. Sununu, Donna M. Soucy, and Steve Shurtleff, July 8, 2019, <https://www.dhhs.nh.gov/medicaid/granite/documents/ga-ce-findings.pdf>.
- <sup>9</sup> *Gresham v. Azar*, Civil Action No. 18-1900 (JEB) (D.D.C. 2019), available online at [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2018cv1900-58](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv1900-58).
- <sup>10</sup> *Gresham v. Azar; Stewart v. Azar*, Civil Action No. 18-152 (JEB) (D.D.C. 2018), available online at [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2018cv0152-132](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv0152-132); *Philbrick v. Azar, Civil Action No. 19-773 (JEB) (D.D.C. 2019)*, available online at [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2019cv0773-47](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2019cv0773-47).
- <sup>11</sup> Jessica Gehr and Suzanne Wikle, "The Evidence Builds: Access to Medicaid Helps People Work," Center for Law and Social Policy (CLASP), updated December 2017, <https://www.clasp.org/sites/default/files/publications/2017/04/The-Evidence-Builds-Access-to-Medicaid-Helps-People-Work.pdf>.
- <sup>12</sup> Ohio Department of Medicaid, "2018 Ohio Medicaid Group VIII Assessment: A Follow-Up to the 2016 Ohio Medicaid Group VIII Assessment," August 2018, <https://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Final-Report.pdf>.
- <sup>13</sup> Loren Anthes, "The Return on Investment of Medicaid Expansion: Supporting Work and Health in Rural Ohio," *Say Ahhh!* (Blog), Center for Children & Families (CCF) of the Georgetown University Health Policy Institute, January 10, 2017, <https://ccf.georgetown.edu/2017/01/10/the-return-on-investment-of-medicaid-expansion-supporting-work-and-health-in-rural-ohio/>.
- <sup>14</sup> "Labor Force Statistics from the Current Population Survey," Bureau of Labor Statistics, data extracted on August 16, 2019, <https://data.bls.gov/timeseries/LNS14000000>.
- <sup>15</sup> "Civilian Labor Force Participation Rate: 25 to 54 years", FRED Economic Data provided by St Louis Fed, data extracted on August 16, 2019, <https://fred.stlouisfed.org/series/LNS11300060>.
- <sup>16</sup> "1115 Waiver Element: Work Requirements," Families USA, <https://familiesusa.org/1115-waiver-element-work-requirements>.

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