

Arkansas's Section 1115 Medicaid Waiver & Its Impact on Health Equity

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The Trump administration's Department of Health & Human Services recently [approved](#) a damaging Section 1115 waiver project called "Arkansas Works."¹ The approval for Arkansas officials to implement a waiver project that will worsen access to care. The approved waiver also allows Arkansas to continue to ignore numerous critical and long-standing Medicaid protections for eligible Arkansans.

The now approved project doubles down on existing provisions that discourage enrollment, like premiums, and then adds even more red tape, including conditioning health coverage on fulfilling a work requirement. All told, hundreds of thousands of Arkansans with low incomes and few resources will be hurt by the changes in this Sec. 1115 waiver, and tens of thousands may lose coverage.

Under the law, HHS is only allowed to approve Sec. 1115 demonstration programs that are experimental and likely to promote the objective of Medicaid — which is to help *furnish* health services to enrollees.² HHS's approval raises a number of legal questions involving not only the purported demonstration quality of the project but also whether the harm that the project will cause — reducing access to coverage and care for low-income Arkansans — reflects Medicaid's objectives.

For more specific information on the approved proposal, see NHeLP's [HHS Approves Harmful 1115 Waivers in Arkansas – Including Work Requirements and Lockouts](#).

This proposal will have a significant detrimental impact on people of color, women, and people with disabilities. Here's why:

Medicaid is an important source of health coverage for people of color, who represent [38% of non-elderly Medicaid enrollees](#) (24 percent African American, 9 percent Hispanic, and 5 percent Other³) in Arkansas.

- People of color face significant disparities in [access to and utilization of care](#). Nonelderly Asians, Hispanics, Blacks, and American Indians and Alaska Natives face increased barriers to accessing care compared to Whites and have lower utilization of care.
- People of color face barriers to and discrimination in employment that will make it difficult to comply with work requirements. Unemployment is [higher](#) for African Americans, American Indians and Alaska Natives, and Hispanics than Whites.
- Work requirements, coverage lock-outs, and premiums will mean more people of color will be uninsured. Shortening the period of retroactive coverage will mean

people of color will have higher medical costs for care received before they accessed Medicaid.

Medicaid is an important source of health coverage for women – Almost [40 million women](#) rely on Medicaid, and make up the majority of Medicaid enrollees. Medicaid is a critical program for reproductive-aged [women of color](#) in particular; 31% of black women and 27% of Latina women aged 15-44 receive Medicaid coverage.

- [Seventeen percent of women in Arkansas between the ages of 19-64](#) are on Medicaid. [Twenty-two percent of women in Arkansas between the ages of 15 and 49](#) receive their coverage through Medicaid.
- In Arkansas, Medicaid covers [67% of births](#).
- In 2014, [204,850 women in Arkansas](#) were in need of publicly supported contraceptive services and supplies. Thirty-seven percent of these were women of color, and 44% were women with incomes of 137% FPL or less. Publicly funded family planning – 71% of which is covered by Medicaid – is cost effective, saving over \$7.00 for every dollar spent.
- The shortened period of retroactive coverage (one month as opposed to three months) will mean more women will be forced to pay medical bills before they enrolled in Medicaid. Some women are not able to apply for Medicaid immediately due to hospitalization, disability, or other circumstances. Women and families in Arkansas could avoid unexpected financial burdens and medical debt if there was a longer period of retroactive coverage.
- In Arkansas, the [preterm birth rate](#) for Black women is 50% higher than it is for all other women. Black women experience higher rates of certain chronic conditions such as diabetes, hypertension, and sexually transmitted infections, which can result in poor birth outcomes if these conditions remain unidentified or unmanaged before women become pregnant. Work requirements, premiums, and other harmful provisions in Arkansas's waiver will prevent women, particularly Black women, from getting the health care they need before pregnancy.

Medicaid is an important source of health coverage for people with disabilities. In Arkansas, [approximately 159,400 individuals with disabilities are on Medicaid](#).

- Many individuals on Medicaid expansion in Arkansas have disabilities and chronic conditions but may not meet Medicaid's strict definition of disability.⁴ For example, an evaluation of Ohio's Medicaid expansion identified 21% of newly eligible enrollees (who are not eligible for Medicaid on the basis of a disability) with claims histories that correspond to a serious disability. These individuals could be subject to work requirements and could lose their Medicaid coverage for noncompliance even if their disability or chronic condition impairs their ability to work and meet the requirements.

- The shortening of the retroactive coverage period to one month instead of three will mean more people with disabilities will be forced to pay medical bills before they are enrolled in Medicaid. For example, if an individual has medical bills from treatment of a chronic condition before enrolling in Medicaid, retroactive coverage would traditionally cover these expenses for the three months prior to the application date. Arkansas's change means a person newly diagnosed with a disability and eligible for Medicaid will be responsible for the full cost of their health care and treatment that may have helped them diagnosis and treat their condition.

Medicaid is an important source of health coverage for people with HIV/AIDS.

- Medicaid is the single largest source of health care for people with HIV/AIDS and covers *nearly half* of all people getting regular treatment for HIV, many of whom were covered only because of the ACA's Medicaid expansion.
- States like Arkansas that expanded Medicaid were able to shift more than half of the individuals currently enrolled in the [AIDS Drug Assistance Programs](#) (ADAPs) into the Medicaid expansion, thereby freeing up ADAP funding for improved HIV/AIDS care in the state. Medicaid supports community health clinics and reduces their uncompensated care costs.
- Work requirements, coverage lock-outs and premiums will mean fewer people will get access to HIV treatment. It is not medically sound to take people off of HIV medication for periods of time, which could happen if they lose coverage.

Additional Issue Briefs can be found below:

- [HHS Approves Harmful Section 1115 Waivers in Arkansas – Including Work Requirements with Lockouts](#)
- [HHS Approves Harmful Section 1115 Waiver in Arkansas: Effects on People with Disabilities](#)
- [Arkansas's Section 1115 Waiver – Harming Medicaid Enrollees Who Need Reproductive Health Services](#)

¹ Centers for Medicare and Medicaid Services, Arkansas Works Health Approval Letter and Special Terms and Conditions (Mar. 5, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/ar-works-ca.pdf>.

² See Social Security Act §§ 1115 and 1901.

³ According to the Kaiser Family Foundation, "Other" includes Asians, Native Hawaiians and Pacific Islanders, American Indians, Aleutians, Eskimos and persons of "Two or More Races."

⁴ For examples of individuals who, without access to Medicaid through the catchall adult group, would likely have no access to affordable coverage at all. See NHeLP, *The Faces of Medicaid Expansion: Filing Gaps in Coverage*, <http://www.healthlaw.org/publications/browse-all-publications/faces-of-medicaid-expansion-filing-gaps-in-coverage#.WIPIFFWnHIU>.