

HHS Approves Section 1115 Waiver in Arkansas – Harming Medicaid Enrollees Who Need Reproductive Health Services

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With the recent [approval](#) of Trump’s Department of Health & Human Service (HHS), Arkansas state officials will soon implement a burdensome work requirement program that will disproportionately harm low-income individuals ability to access reproductive health services through Medicaid.¹ The approval of “Arkansas Works” Section 1115 Medicaid waiver program will dramatically worsen access to care. The waiver scheme 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 low-income individuals, particularly women, seeking reproductive health care. Here is why:

Medicaid is a vital source of coverage for reproductive health care.

- In Arkansas, Medicaid covers [67 percent](#) of births.
- [Twenty two percent](#) of women in Arkansas between the ages of 15 and 49 receive their health coverage through Medicaid, underscoring the importance of this program for women of reproductive age who are struggling to make ends meet.
- Women who gained coverage through [Medicaid expansion](#) in Arkansas have been able to get the care they need to stay healthy prior to a pregnancy. Preconception care addresses health conditions and risk factors that help or

- harm a healthy pregnancy. Medicaid provides screening and treatment for sexually transmitted infections, counseling and treatment for smoking, alcohol, and substance use, and treatment for chronic diseases, such as diabetes and heart disease.
- Medicaid is also an important source of contraceptives in Arkansas. In 2014, [204,850 women in Arkansas](#) were in need of publicly supported family planning services and supplies. Thirty seven percent of these were women of color, and 44 percent were women with incomes of 137 percent FPL or less. In 2010, [Medicaid covered 85 percent](#) of publicly funded family planning services and supplies in Arkansas. Nationally, publicly funded family planning – [75% of which is covered by Medicaid](#) – is cost effective, saving [more than \\$7.00](#) for every dollar spent.

Work requirements could harm caretakers, including women.

- Arkansas families who enrolled in Medicaid already work. [Seventy three percent](#) of nonelderly adults enrolled in Medicaid in Arkansas live in families with a worker. The vast majority of those who are not working are individuals living with a disability, or are retired, in school, or are caretakers. Women of color and low-income women [disproportionately provide care](#) to their families, as they cannot afford paid care.
- Even women who are already working the number of hours to meet the work requirements in Arkansas will face additional stress and anxiety of having to deal with new red tape and bureaucratic forms to demonstrate compliance with this work requirement. Others who qualify for an exemption will also face the same anxiety and stress of proving that they are exempt. If they fail to do so, they will lose the health care that helps them stay healthy and take care of their families.
- Imposing a work requirement will harm women with chronic conditions. For instance, individuals who experience reproductive health cancers, such as ovarian cancer, would not be exempt from this requirement unless they were determined to be medically frail or met another exemption; exemptions they may have to renew frequently. Forcing these women to work to get the care they need when they should focus on treatment and recovery will be harmful to their health.

Arkansas's waiver will decrease access to reproductive health services for women and others who need them, by locking them out of coverage.

- The Arkansas waiver puts up red tape and bureaucratic hurdles to health coverage that will disrupt women's access to care. Under the waiver, individuals will be disenrolled from the Medicaid program for the remainder of the coverage year if they do not meet the work requirement.
- Consistent coverage is important for any service or treatment a person needs. Disruptions in coverage could delay or cut off access to family planning services and supplies. For example, a woman or transgender man subjected to these provisions may not be able to receive a prescription for hormonal

- contraception or may not be able to receive contraceptive counseling from their providers because of the disruption in coverage these provisions will create. Continued use of contraception is necessary to help individuals plan their pregnancies, particularly for individuals living with chronic conditions, as well as treat other conditions such as endometriosis, acne, and anemia.
- The waiver shortens retroactive coverage from 3 months to one month. Retroactive coverage allows individuals to apply for Medicaid *after* an accident or serious illness that requires urgent treatment, ensuring that individuals can receive the treatment they need prior to enrollment. The shortened period of retroactive coverage means that women and their families who struggle to make ends meet may face additional financial constraints and worries if they have debt from medical care they required before they enrolled in Medicaid.

Premiums may deter women from obtaining the reproductive care they need and diminish their economic well-being.

- Premiums and lock out periods can create a financially [coercive environment](#) where Medicaid enrollees may choose long-acting reversible contraceptives or sterilization out of fear that they will have coverage for a limited amount of time or to avoid the cost of a premium. This is deeply troubling for women of color and women living with disabilities as these communities have disproportionately experienced sterilization abuse at the hands of providers and governmental institutions.
- Premiums will continue to exacerbate the economic insecurity that women of color in Arkansas face due to race and gender gaps in wages and the high rates of poverty that these women and their families experience. Among women in Arkansas who have full-time, year-round employment, [Black women are paid 66 cents and Latinas are paid 54 cents](#) for every dollar paid to white, non-Hispanic men. Nearly [36 percent of family households](#) headed by women in Arkansas have incomes below the poverty level. Because premiums reduce enrollment in Medicaid, Arkansas's waiver will take away the benefits of health and educational and economic mobility that Medicaid provides to families, particularly for women of color.

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 Medicaid Waiver & Its Impact on Health Equity](#)

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.