



## Medicaid Work Requirements – Not a Healthy Choice

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On March 6, House Republicans introduced the [American Health Care Act](#) (AHCA) to eliminate the current financing structure of Medicaid. On March 20, as part of a “Manager’s Amendment” before the bill is voted on by the full House, Republicans proposed additional amendments including an optional work requirement. This issue brief discusses the problems with adding a work requirement to Medicaid. A companion issue brief, [Medicaid Work Requirements – Legally Suspect](#) – addresses the legality of work requirements under Medicaid.

The optional work requirement would apply to enrollees who are not pregnant or do not have disabilities or are elderly. The bill provides exceptions for:

- individuals under age 19;
- individuals who are the sole parent or caretaker of a child under 6 or a child with disabilities;
- pregnant women (including through the month in which the 60-day post-partum ends); and
- individuals under age 20 who are married or heads of household who maintain satisfactory attendance in school or participate in employment-related education.

The Medicaid work requirement would be the same as the work requirement used in [TANF](#) (Temporary Assistance to Needy Families) with states determining the amount of work. States would receive an increase of 5% in their FMAP for activities related to implementing a work requirement.

The purpose of Medicaid is to provide medical assistance to those who cannot afford the costs of medically necessary services and to furnish “rehabilitation and other services to help [such individuals] attain or retain capability for independence or self-

care.”<sup>1</sup> Medicaid has traditionally dealt with work through initiatives that make it *easier* for people with disabilities to pursue work and still receive Medicaid.<sup>2</sup>

Since its inception, an individual must meet only four requirements (regarding citizenship, residency, income, and population group) to obtain Medicaid coverage. These requirements relate to citizenship, state residency, income and population group. The Medicaid Act has not included a general requirement for an individual to be working or seeking work as a condition of qualifying for Medicaid coverage of medically necessary health care.

### Work Requirements Run Counter to the Purpose of Medicaid

Work requirements applied to health coverage get it exactly backwards. They block access to medically necessary services that individuals need to be able to work. At their core, work requirements are not consistent with Medicaid’s objectives.<sup>3</sup> Medicaid’s 50-year history and the full statutory language state the purpose of Medicaid is to *furnish medical assistance, rehabilitation, and other services* that will help individuals attain and retain independence and self-care. In other words, the statute treats independence and self-care as the desirable **results** of its primary goal of extending medical, rehabilitative, and related services; it does not establish these outcomes as goals in and of themselves. A mandatory work requirement is not a service provided to Medicaid beneficiaries; rather, it is an additional and counterproductive condition on eligibility.

States have attempted to add work requirements to Medicaid through waivers authorized under § 1115 of the Social Security Act. But the U.S. Department of Health and Human Services has **never** approved a work requirement for a Medicaid applicant or enrollee.

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<sup>1</sup> 42 U.S.C. § 1396-1.

<sup>2</sup> See, e.g., 42 U.S.C. §§ 1396a(a)(10)(A)(ii)(XV); 1396a(a)(10)(A)(ii)(XVI); 1396a(r)(2); 1396d(v)(1)(D); 42 U.S.C. § 1396a (note). See also CMS, *Medicaid Employment Opportunities*, <https://www.medicaid.gov/medicaid/ltss/employment/index.html>.

<sup>3</sup> By contrast, as far back as the 1970s, states obtained section 1115 waivers to test work requirements for the AFDC population (which, in contrast to Medicaid, does have work promotion as a purpose of the program). These waivers required states to conduct “rigorous evaluations of the impact,” typically requiring the random assignment of one group to a program operating under traditional rules and another to the more restrictive waiver rules. United States Department of Health and Human Services, *State Welfare Waivers: An Overview*, <http://aspe.hhs.gov/hsp/isp/waiver2/waivers.htm>.

Congress's alleged goal runs counter to the facts:

- **Most Medicaid Enrollees Already Work.** According to the Kaiser Family Foundation, [nearly 8 in 10 adults](#) enrolled in Medicaid (including parents and childless adults) live in working families and a majority work themselves. Data from the 2015 National Health Interview Survey illustrate that most healthy Medicaid expansion beneficiaries are working or pursuing economic opportunities.<sup>4</sup>
- **Individuals with chronic and disabling conditions will likely lose Medicaid eligibility.** Many Medicaid enrollees who are not eligible based on a disability category may still have chronic and disabling conditions that preclude them from working. As an example, the National Health Interview Survey found that 48% of adults covered by the Affordable Care Act's Medicaid Expansion are permanently disabled, have serious physical or mental limitations—caused by conditions like cancer, stroke, heart disease, cognitive or mental health disorders, arthritis, pregnancy, or diabetes, or are in fair or poor health.<sup>5</sup> Some individuals may have mental illness or substance use disorders and imposing work requirements could impede effective treatment. Work requirements would bar those who most need health care from obtaining it and force them to seek care in costly emergency departments. And any work requirements would implicate the Americans with Disabilities Act (ADA), which makes it illegal for states to take actions that have a discriminatory impact on people with disabilities.<sup>6</sup>
- **Many individuals face roadblocks to finding work.** As noted by the [Kaiser Family Foundation](#), many individuals have valid reasons for not working. More than one-third of Medicaid enrollees who were not eligible on the basis of disability reported that illness or disability was the primary reason for not working. Another 28% reported that they were taking care of home or family; 18% were in school; 8% were looking for work and another 8% were retired. In the Medicaid Expansion population, only 13% of enrollees are able-bodied and not working, in school, or seeking work. And many of those who are not working are caring for

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<sup>4</sup> Leighton Ku and Erin Brantley, *Myths About the Medicaid Expansion and The 'Able-Bodied'*, Health Affairs Blog (Mar. 6, 2017), available at <http://healthaffairs.org/blog/2017/03/06/myths-about-the-medicaid-expansion-and-the-able-bodied/>.

<sup>5</sup> *Id.*

<sup>6</sup> 42 U.S.C. § 12312; see also Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (“Section 504”) (prohibiting recipients of federal funds from discriminating on the basis of disability).

family members or are not working due to other reasons, like being laid off.<sup>7</sup> Medicaid coverage itself actually supports work as [focus groups](#) and [state studies](#) have shown such that additional work requirements would cause more problems than they solve.

- **Work requirements get it backwards.** Medicaid coverage helps people stay healthy. This allows them to seek work and to work. Medicaid coverage also frees up money that individuals otherwise need to spend on health care, allowing them to shift this spending to other necessities, such as housing, food, and clothing. Low-income families covered by private insurance use approximately 8% of their total annual household spending on health care, compared to low-income families covered by Medicaid, who use roughly 1% of their total annual household spending for health care.<sup>8</sup> For example, Ohio's Medicaid Expansion has made it easier for enrollees to buy food (59%) and pay rent (48%).<sup>9</sup> And this redirected economic activity leads to increases in state income and sales tax revenues.
- **Work requirements are burdensome for states.** States would have to ascertain who is subject to work requirements and then track if the requirements are met. Work requirements would require time-consuming and costly verification procedures, increase levels of churning, and reduce the number of people accessing preventive and other necessary care. None of those outcomes are consistent with the goals of the Medicaid Act or the ACA.
- **Work requirements do not work.** An [extensive review](#) by the Center on Budget and Policy Priorities found that work requirements are generally ineffective. Any employment increases among those subject to work requirements were modest and fade over time.

## Conclusion

Congress should not authorize work requirements in Medicaid as such a proposal runs counter to the goals of the Medicaid Act. The impact on people whom the Medicaid Act

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<sup>7</sup> *Supra* note 6.

<sup>8</sup> Melissa Majerol, Jennifer Tolbert, Kaiser Family Foundation, *Health Care Spending Among Low-Income Households with and without Medicaid* (Feb. 4, 2016), <http://kff.org/medicaid/issue-brief/health-care-spending-among-low-income-households-with-and-without-medicaid/>

<sup>9</sup> Letter to Hon. Kevin McCarthy, House Majority Leader, from Gov. John Kasich (Jan. 18, 2017).

“was enacted to protect” – low-income individuals in need of medically necessary health care – must be considered. Work requirements would be detrimental to their short- and long-term health.<sup>10</sup> Work requirements would stand Medicaid’s purpose on its head by creating barriers to coverage and the pathway to health that the coverage represents.

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<sup>10</sup> *Beno, supra* note 13, at 1070.