

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

By [Candace Gibson](#)

Earlier today, HHS approved the “Kentucky HEALTH” section 1115 waiver.<sup>1</sup> The approved project is effectively a cut that will worsen or eliminate access to Medicaid for low-income individuals. By the state’s own estimates, tens of thousands of Kentuckians living below the poverty level or nearly in poverty will lose Medicaid. It is a step backwards for Kentucky’s Medicaid expansion, which had been held out as a national model.

Under the law, HHS may only approve section 1115 waiver proposals that are valid experiments likely to promote the objective of Medicaid — to help *furnish* health services to low-income individuals. Kentucky’s approved waiver, in contrast, will undoubtedly harm low-income Kentuckians, making it harder to access needed services and stay covered.

For more specific information on the approved proposal, see NHeLP’s [HHS Approves Harmful Section 1115 Waiver Project in Kentucky – Including Work Requirements, Lockouts, and Waiting Periods](#).

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 Kentucky, Medicaid covers [46 percent](#) of births.
- [Twenty-two percent](#) of women 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 struggle to make ends meet.
- Women who gained coverage through [Medicaid expansion](#) in Kentucky 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 Kentucky. In 2014, [284,530 women in Kentucky](#) were in need of publicly supported family planning services and supplies. Over 20 percent of these were women of color, and nearly 45 percent were women with incomes of 137 percent FPL or

less. In 2010, [Medicaid covered 71 percent](#) of publicly funded family planning services and supplies in Kentucky. Nationally, publicly funded family planning – [75% of which is covered by Medicaid](#) – is cost effective, saving [over \\$7.00](#) for every dollar spent.

### **Work requirements could harm caretakers, including women.**

- Kentucky families who enrolled in Medicaid already work. [Seventy-four percent](#) of nonelderly adults enrolled in Medicaid in Kentucky live in working families. 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, or are technically exempt from the work requirements, will face additional stress and anxiety of having to deal with new red tape and bureaucratic forms to demonstrate compliance with this work requirement. 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. Forcing these women to work to get the care they need when they should focus on treatment and recovery could be harmful to their health.

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

- The Kentucky waiver adds red tape and bureaucratic hurdles to health coverage that will disrupt women's access to care. Under the waiver, individuals may now be terminated from the Medicaid program and prohibited from re-enrolling for six months for a variety of reasons, including for failing to file renewal paperwork or making premium payments on time.
- 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. 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 eliminates retroactive coverage. 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. For example, because of retroactive coverage, a Medicaid eligible individual who needs to undergo a hysterectomy due to a life-threatening circumstance would have their hysterectomy covered if the operation occurred up to three months prior to the application date. Without retroactive coverage, an individual would face crushing medical debt for needed medical care.

**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 particularly 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 exacerbate the economic insecurity that women of color in Kentucky 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 Kentucky who have full-time, year-round employment, [Black women are paid 67 cents and Latinas are paid 58 cents](#) for every dollar paid to white, non-Hispanic men. Nearly [36 percent of family households](#) headed by women in Kentucky have incomes below the poverty level. Because premiums will reduce enrollment in Medicaid, Kentucky'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 1115 Waivers in Kentucky – Including Work Requirements, Lockouts, and Waiting Periods\*](#)
- [\*Kentucky's Section 1115 Medicaid Waiver & Its Impact on Health Equity\*](#)
- [\*HHS Approves 1115 Waiver in Kentucky – Harming Medicaid Enrollees Who Need Reproductive Health Services\*](#)
- [\*HHS Approves Harmful Section 1115 Waiver in Kentucky: Effects on People with Disabilities\*](#)

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<sup>1</sup> Centers for Medicare and Medicaid Services, Kentucky Health Approval Letter and Special Terms and Conditions (Jan. 12, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-ca.pdf>.