

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

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Earlier today, HHS approved the “Kentucky HEALTH” section 1115 waiver.¹ 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 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 [20% of non-elderly Medicaid enrollees](#) (11% African American and 9% Hispanic) in Kentucky.

- 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, waiting periods, and premiums will mean more people of color will be uninsured. Elimination of retroactive coverage will

¹ 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>.

mean people of color will have higher medical costs for care received before they became Medicaid eligible.

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.

- [18% of women](#) in Kentucky are on Medicaid. [Twenty-two percent of women in Kentucky between the ages of 15 and 49](#) receive their coverage through Medicaid.
- In Kentucky, Medicaid covers [46% of births](#).
- In 2014, [284,530 women in Kentucky](#) were in need of publicly supported contraceptive services and supplies. Over 20% 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 elimination of retroactive coverage 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. Many women and families in Kentucky have avoided unexpected financial burdens and medical debt because of retroactive coverage.
- In Kentucky, the [preterm birth rate](#) for Black women is 24% 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 are remain unidentified or unmanaged before women become pregnant. Premiums, work requirements, and other harmful provisions in Kentucky's waiver will prevent women, particularly Black women, from getting the health care they need prior to pregnancy.

Medicaid is an important source of health coverage for people with disabilities. In Kentucky, over 231,000 individuals with disabilities are on Medicaid.

- Many individuals on Medicaid expansion in Kentucky have disabilities and chronic conditions but may not meet Medicaid's strict definition of disability.² For

² This proposal would harm many individuals with disabilities. As but one example, a person with epilepsy whose job earnings exceed the low threshold for her state's disability category (roughly \$9,000 per year in most states). Or someone who suffered a brain injury in a car crash but is still in the lengthy process of obtaining a formal disability determination from the Social Security Administration (SSA) (See box). Or a coal miner with lung disease who retired after decades of manual labor only to lose his health and pension benefits when his employer filed 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 they cannot work due to their disability or chronic condition.

- The elimination of retroactive coverage will mean more people with disabilities will be forced to pay medical bills before they enrolled in Medicaid. For example, if an individual has a stroke or is in a car accident before enrolling in Medicaid, retroactive coverage would traditionally cover these expenses for the three months prior to the application date. Kentucky'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 been the cause of their disability.

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 due to the ACA's Medicaid expansion.
- States like Kentucky that expanded Medicaid were able to shift over half of the individuals currently enrolled in the 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, waiting periods, and premiums will mean fewer people will get access to timely 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. Waiting periods undermine the need to have access to treatment as soon as an individual receives a diagnosis of HIV or AIDS.

bankruptcy. Or a person with bipolar disorder who may not meet the strict requirements for an Medicaid disability determination, but needs medications to function effectively and hold down a job. These are all 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: Filling Gaps in Coverage*, <http://www.healthlaw.org/publications/browse-all-publications/faces-of-medicaid-expansion-filling-gaps-in-coverage#.WIPIFFWnHIU>.