



The Personal Stories of Those Affected by New Hampshire's § 1115 Waiver

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On November 30, 2018, the Department of Health and Human Services (HHS) approved New Hampshire's request to condition Medicaid coverage of medically necessary services needed by low-income adults on work requirements and to waive retroactive coverage. The project is called "Granite Advantage." Because Granite Advantage violates numerous provisions of federal law and will gravely harm tens of thousands of New Hampshire residents, the National Health Law Program (NHeLP) and co-counsel New Hampshire Legal Assistance and National Center for Law and Economic Justice filed a lawsuit challenging the approval on March 20, 2019.¹

New Hampshire is currently implementing the approved waiver. Retroactive coverage ended on January 1, 2019. Individuals must begin completing work activities in June 2019, and could lose their coverage due to noncompliance beginning August 1, 2019.

The class action lawsuit was filed on behalf of four individuals who currently obtain their health care through Medicaid and will suffer serious harms under Granite Advantage. Below are descriptions of how NH Granite Advantage will affect the named plaintiffs:

- Samuel Philbrick is 26 years old and lives in Henniker with his mother and father. Mr. Philbrick currently works as a cashier in a sporting goods store where he makes \$11.33 per hour. His schedule is irregular, and he can work 16 hours one week and 24 the next. Little to no public transportation exists near Mr. Philbrick's home. Mr. Philbrick does not have a driver's license and generally has to rely on his father to drive him places, including his job. Mr. Philbrick used to work at a pizza restaurant that was closer to home and easier to reach, but he was assigned fewer hours and paid less than at the

¹ For more information on the lawsuit, see *Summary of Lawsuit Against HHS Approval of New Hampshire's "Granite Advantage" Waiver*, <https://9kqp4dcaw91s37koz5jx17-wpengine.netdna-ssl.com/wp-content/uploads/2019/03/NH-Waiver-Summary-of-Lawsuit-3.20.19-1.pdf>.

sporting goods store. Mr. Philbrick enrolled in Medicaid in 2018, when he turned 26. Before that, he was insured as a dependent through his mother's insurance. Mr. Philbrick takes prescription medication for chronic insomnia. Without the medication, he would be awake most of the night and would be groggy and cranky throughout the day. It would be hard for him to keep a job. He also sees his primary care physician regularly for an annual checkup and any ongoing needs. It is unlikely that Mr. Philbrick will be able to comply with the work requirement because he does not always receive 100 hours of work each month at his current job and he will have difficulty getting transportation to complete other qualifying activities. He is afraid he will lose his Medicaid coverage and will be unable to afford private insurance.

- Ian Ludders is 40 years old and lives in Unity. Mr. Ludders lives by himself in a small cabin on a land trust. He has chosen to live a subsistence lifestyle that prioritizes living off the land. Mr. Ludders supports himself through seasonal work including working in apple orchards, picking vegetables on farms, and other jobs, such as roofing, small-scale logging, lobster fishing, and tree maintenance work. This work is time-limited and depends on the needs of the various farms or orchards, the season, and the weather. There are often months when Mr. Ludders does not work 100 hours. Time off between jobs is important to Mr. Ludders, because it allows him to focus on subsistence activities such as growing his own food and chopping firewood to heat his cabin during the long winter months. Mr. Ludders also spends time helping his older neighbors, by doing such things as hauling water and cutting and stacking firewood for their homes. Mr. Ludders has received Medicaid coverage since 2015. He regularly sees his primary care provider and has also seen an eye doctor. He appreciates having Medicaid coverage in case he is injured while working, since his work can be dangerous. Mr. Ludders is worried he will not be able to comply with the work requirements. While he believes that helping his neighbors is a form of community service, he anticipates that he will have to stop helping them as much so he can try to find other activities that satisfy the new work requirement. He also expects that he will no longer have time to complete his subsistence activities, like growing his own food and collecting firewood. As a result, his heating and food expenses will likely increase. If his Medicaid coverage is suspended, he will not be able to afford private insurance and worries about how he would pay for preventive care and medical treatment if he were injured while he was uninsured.

- Karin and Joshua VLK are married and live together with three children, ages 5, 7, and 11. They live in Laconia. The youngest child will turn six on July 31, 2019. The entire VLK family is currently enrolled in Medicaid.
 - Mr. VLK enrolled in Medicaid after the couple married in June 2018. Before that he was uninsured for five years. Mr. VLK has his GED and currently works in construction. His current job pays \$17 an hour, but the schedule is irregular. His company told him he could be assigned full time work soon, but there is no guarantee he will be offered full time hours. The number of hours he works depends on the jobs his employer books, and Mr. VLK's hours can be low if his employer is in between jobs or if they are waiting on supplies. Mr. VLK suffers from an abdominal hernia, which hurts more after physical exertion. When it is aggravated, the hernia limits his mobility and prevents him from lifting things. He is counting on Medicaid coverage to pay for surgery to treat the hernia. Mr. VLK is also currently in counseling to treat his severe anxiety, mild depression, and Attention Deficit Hyperactivity Disorder. Medicaid covers those counseling sessions. He also participates in drug counseling that was ordered by a state-court while he is on probation. The court order lasts for approximately six more months, but Mr. VLK plans to continue attending counseling afterwards to maintain his recovery and prevent a downward spiral into depression. Medicaid also covers his prescription for suboxone, which he uses to treat opioid addiction.
 - Mrs. VLK was first enrolled in Medicaid as a child. As an adult, she has been on Medicaid since about 2016. Mrs. VLK is not currently working outside the home. She has her high school diploma and used to work jobs doing home caregiving. She performed tasks like helping people shop for groceries, bathe, and get ready for bed. She stopped working in May of 2018 because her health problems have gotten worse, and she is no longer able to work. Mrs. VLK suffers from nerve damage and a neurological degeneration of the discs of her spine, a progressive disease that runs in her family. She had surgery on her lower back to treat the effects of the disease approximately 10 years ago. Her pain level has been increasing lately as a result of her back problems, and it is currently hard for Mrs. VLK to walk. Basic activities like driving and going to the grocery store also make her very tired. Sometimes she is in so much pain that she cannot swallow food. Mrs. VLK used to volunteer for her church but does not do so anymore because she does not feel well enough. She needs surgery to treat her back condition and is counting on her Medicaid coverage to obtain the surgery. She thinks that if she can get the surgery, she may be able to go back to work after she recovers. Mrs. VLK also suffers from Attention Deficit Hyperactivity Disorder and Obsessive Compulsive Disorder (both of which make it difficult to

- complete paperwork). She also experiences anxiety and depression as a result of her chronic pain. Medicaid covers her counseling sessions for these conditions, as well as her prescriptions which treat her anxiety. Mrs. VLK is also worried about the process of getting documentation of her medical conditions from her doctors to try to prove an exemption once her daughter turns six. She does not want to spend time at her doctor's appointments completing paperwork to apply for an exemption. She would rather spend the time with her doctors talking about her own health concerns.
- Without Medicaid coverage, the VLKs will be unable to pay for necessary medical care, including prescriptions, counseling, Mrs. VLK's back surgery, and Mr. VLK's hernia surgery.

The [class action lawsuit](#) seeks to represent additional individuals who currently obtain their health care through Medicaid and will suffer serious harms under Granite Advantage.