

Medicaid Work Requirements: Mitigating Harm and Documenting Losses

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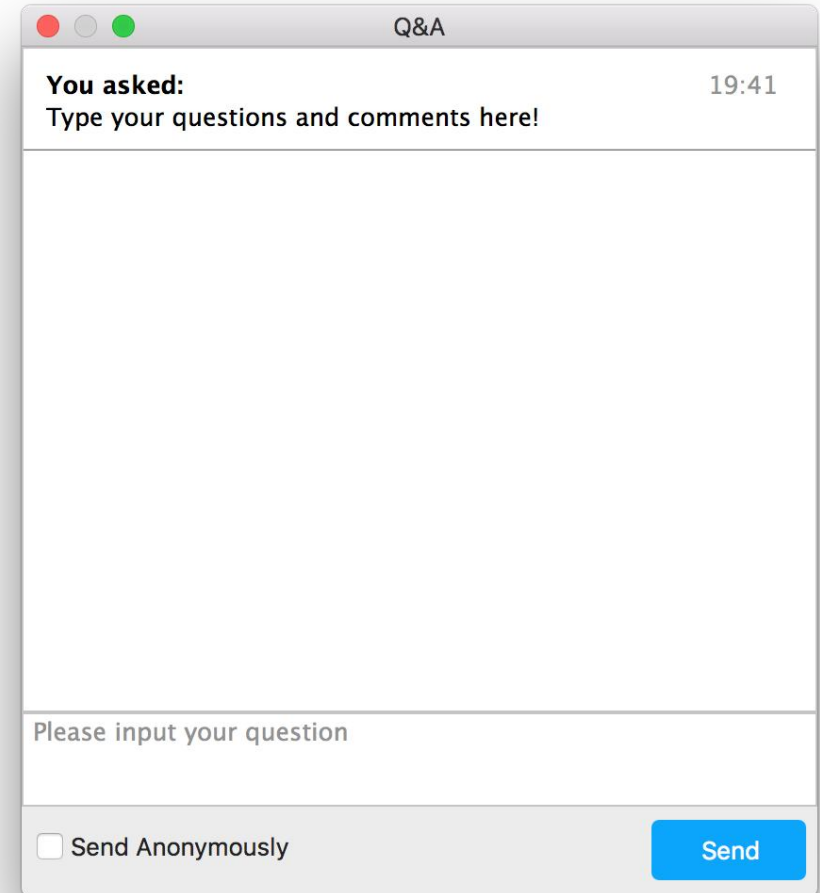


Housekeeping

- All attendees are in listen-only mode
- Webinar is being recorded
- Slides were sent out in advance to those registered
 - Slides will also be available with the recording and sent in follow-up email
- Webinar is being closed captioned

Housekeeping – Q&A and Chat

- Please use the Q&A box for all **questions** to the panelists
 - Click on the Q&A icon at the bottom of the screen
 - We encourage questions!
- We will answers questions at the end
- If you have a **technical issue**, please use the chat function or send a direct chat message to Amo



A screenshot of a Q&A interface window. The window title is "Q&A". It features a header area with the text "You asked:" and a timestamp "19:41". Below this is a large text input area with the placeholder text "Type your questions and comments here!". At the bottom of the window, there is a smaller text input area with the placeholder text "Please input your question". To the left of this input area is a checkbox labeled "Send Anonymously". To the right is a blue "Send" button.

Audio Settings ^



Chat



Raise Hand



Q&A

About the National Health Law Program

- National non-profit legal and policy advocacy group committed to improving health care access, equity, and quality for underserved individuals and families
- Offices in DC, LA, and NC
- State & Local Partners in all 50 states, DC, and PR
- www.healthlaw.org
- All work guided by an [Equity Stance](#), addressing structural barriers to health and pursuing collective liberation
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The new Medicaid work requirements

Structure

- Applicable to adults enrolled in Medicaid expansion, and likely also partial expansions
- Nationwide and non-waivable
- At least 80 hours of qualifying activities per month or satisfactory monthly income
- Must show compliance with prior month at application, with state option lookback up to 3 prior months
- Various exemptions
- Implementation deadline no later than 1/1/2027; Secretary may grant “good faith” waiver to delay up to 12/31/2028

Verifying Compliance

- Redetermination at least every 6 months for at least one month, subject to state verification
- State must use “reliable information available” to verify compliance/exemption without requiring the individual to submit additional information

Verifying Compliance and Outreach

- Additional info required? Individual receives notice of noncompliance + 30 days to show compliance or WRs inapplicable before determined ineligible
- Minimal outreach requirements
 - 3+ months before implementation, must send notice to applicable individuals enrolled under Medicaid expansion (or partial expansion waiver) on forthcoming work requirements + how to comply

What is the expected impact of work requirements?

CBS projected **5.3 Million** increase in uninsured population

Projected Medicaid funding cut: **\$325 Billion (Federal only)**

Projected reduction in Medicaid expansion enrollment: **30%**

By far the harshest work requirement to date

- Largest age range (19-64)
- Must comply prior to enrollment, with up to 3 month lookback
- Possibly no grace period for noncompliance
- Not eligible for Marketplace tax credits

Implementation Considerations

Limiting the harm (and admin costs)

- Maximize alternative eligibility pathways
- Shorter lookback (only 1 month)
- Minimum redetermination
 - Verification every 6 months
 - Only require 1 month of compliance
- Least burdensome verification methods
 - Accept self-attestation where possible
 - Reasonable duration for exemptions (particularly medical/disability)
- Maximize *ex parte* verifications
- Maximize exemptions

Overarching Considerations

- Decades of research show that exemptions consistently fail
- Processes notoriously confusing, riddled with paperwork and red tape
- Poor outreach and notices, with frequent errors
- Disproportionate sanctions for Black people and people with physical and mental health conditions
- Privacy: use of applicant and enrollee data related to exemption eligibility and claims (disability status/type, pregnancy, etc.)

Exemptions: “Deemed compliant”

- **Monthly income above \$580 (Fed min. wage x 80)**
- 6 month average monthly income above \$580
- Under 19 or Medicare eligible for part of month
- Was inmate of public institution in prior 3 months

Exemptions: “Specified excluded individual”

- **Medically frail or special medical needs**
- Parent or caregiver of dependent child under 14
- Parent or caregiver of a disabled individual
- In compliance with TANF requirements
- In a household that receives SNAP and is not exempt from work requirement
- American Indian or IHS eligible
- Pregnant or entitle to postpartum services
- Inmate in public institution

Other Exemptions

Unemployment/Disaster

County-level, where there is:

- Emergency or disaster declared by the President; or
- Unemployment rate above lesser of 8% or 1.5 times the national average (requires state request)

Optional Temporary Hardship

- Receiving inpatient services
- Individual had to travel outside community for extended period to receive medical services not available locally (Note: such individual should be exempt by medical frailty)

More on Medical Frailty and Special Medical Needs

- Blind or SSI/SSDI disability
- Has substance use disorder (SUD)
- Has a “disabling mental disorder”
- Serious or complex medical condition
- Disability that significantly impairs ≥ 1 Activity of Daily Living

Maximizing Medically Frail

- Categories are vague, and some may be further clarified by the Secretary. State discretion unclear.
- Reduce burden of claiming exemption, such as through self-attestation
- Longer duration exemptions where applicable
- Explore using claims data (T-MSIS or MCOs) to identify
- Develop application questions that flag potential exemptions (while protecting privacy)

Data shortfalls

- Systems with limited data or that cannot interlink
- Single streamlined application (currently) questions insufficient
- How will states process applications coming from federal Marketplace?
- Will available data be current/accurate enough to process applications and renewals?

Eligibility systems change is slow, detail-oriented and requires early intervention!

Limitations of employment databases

- Data matching through employment databases may be the most impactful way to avoid reporting for the largest share of the expansion population, but it is not a cure-all
 - Not comprehensive
 - Expect gig workers, seasonal workers, and independent contractors to be especially affected
 - Prone to error
 - Known issues for SNAP, TANF, and SSI enrollees
 - Not always timely
 - Expensive!
- Getting familiar with your state's Medicaid eligibility verification plan sooner rather than later can be helpful

Current data infrastructure shortcomings

We may not know the scale of coverage loss if states do not set up systems for tracking and evaluation.

- Terminations split as procedural denials or ineligibility – may not accurately describe work requirement red tape
- Gaps in tracking of incomplete applications
- No requirements to report on outcomes for people disenrolled/not enrolled due to work requirements
- No measurement tracking employment outcomes for beneficiaries (and people who lose coverage)

Ask questions now so contracting and system design can incorporate reporting capacity.

Notice advocacy

- Medicaid notices are official agency communications to applicants and enrollees regarding eligibility, benefits, etc.
 - Work requirements: notices of OBBBA's changes, individual eligibility determinations, noncompliance, sanctions, etc.
 - Public benefits notices often do not meet federal requirements (42 C.F.R. § 435.917), are not sent, contain incorrect info, are unclear, and/or are incomplete.

Notice advocacy (ctd.)

- Collaborating with your State Medicaid agency
 - Request meeting with key officials and seek collaboration to ensure compliance with federal law
 - Audit existing notice templates, offer to draft new notices/updates
 - Request regular meetings with Medicaid agency IT system folks
- Document specific notice issues and the impacts. Consider collecting testimonials documenting notice deficiencies.

Community outreach

- Need to inform public:
 - Upcoming eligibility changes (what are the work requirements)?
 - Exemption application processes, troubleshooting (administratively, interpersonally)
 - Ensure accessibility (disability, LEP) know your rights materials
 - Nondiscrimination rights
- Template fact sheets
 - Budget for plain language, top spoken non-English languages in state
- Outreach partnerships

Wrapping up

Working together

- Build coalitions and relationships with a variety of stakeholders to get different perspectives on how to mitigate the harms and improve outreach
- Leverage the Medicaid Advisory Committees/Beneficiary Advisory Councils (MAC/BAC) to develop recommendations to the state and to obtain necessary information ([NHeLP's MAC Best Practices](#))
- Consider role for Managed Care Organizations (MCOs), but be aware of limitations. Data, outreach and assistance should be ok.
- Different stages of implementation advocacy will pull on different strengths of the advocacy community and state officials

Resources on OBBBA Medicaid Cuts

NHeLP OBBBA damage mitigation resource hub:

<https://healthlaw.org/prepare/>

NHeLP Medicaid defense resource hub (pre-enactment):

<https://healthlaw.org/medicaid-defense/>

Join our newsletter for action alerts and new resources:

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Questions?



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