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# Trump administration opens door to let states impose Medicaid work requirements

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By [Amy Goldstein](#) January 11 at 10:32 AM

The Trump administration issued guidance to states early Thursday that will allow them to compel people to work or prepare for jobs in order to receive Medicaid for the first time in the half-century history of this pillar of the nation's social safety net.

The letter to state Medicaid directors opens the door for states to cut off Medicaid benefits to Americans unless they have a job, are in school, are a caregiver, volunteer or participate in other approved forms of “community engagement” — an idea that some states had broached over the past several years but that the Obama administration had consistently rebuffed.

The new policy comes as 10 states are already lined up, waiting for federal permission to impose work requirements on able-bodied adults in the program. Three other states are contemplating them. Health officials could approve the first waiver — probably for Kentucky — as soon as Friday, according to two people with knowledge of the process.

The guidance represents a fundamental and much-disputed recalibration of the compact between the government and poor Americans for whom Medicaid coverage provides a crucial pathway to health care.

The idea of conditioning government benefits on “work activities” was cemented into welfare more than two decades ago, when a system of unlimited cash assistance was replaced by the Temporary Assistance for Needy Families with its work requirements and time limits. The link between government help and work later was extended to anti-hunger efforts through the Supplemental Nutrition Assistance Program, as food stamps are now called.

But most health policy experts, including a few noted conservatives, have regarded the government insurance enabling millions of people to afford medical care as a right that should not hinge on individuals’ compliance with other rules.

The Trump administration has signaled from the outset that it wanted to set a more conservative tone for Medicaid, a 1960s-era program that was part of Lyndon Johnson’s anti-poverty Great Society. On the day in March when she was sworn in as administrator of the Centers for Medicare and Medicaid Services, Seema Verma dispatched a letter to governors encouraging “innovations that build on the human dignity that comes with training, employment and independence.”

While some conservatives pressed her agency to quickly issue guidelines, lawyers within the Health and Human Services and Justice departments jockeyed for time to construct a legal justification that they hope can withstand court challenges.

The legal issue is that states must obtain federal permission to depart from Medicaid’s usual rules, using a process known as “1115 waivers” for the section of the law under which the program exists. To qualify for a waiver, a state must provide a convincing justification that its experiment would “further the objectives” of Medicaid.

Unlike the 1996 rewrite of welfare law, which explicitly mentions work as a goal, Medicaid’s law

objectives. To get around this, the 10-page letter argues that working promotes good health and repeatedly asserts that the change fits within the program's objectives. The guidance cites research that it says demonstrates people who work tend to have higher incomes associated with longer life spans, while those who are unemployed are more prone to depression, "poorer general health," and even death.

"[A] growing body of evidence suggests that targeting certain health determinants, including productive work and community engagement, may improve health outcomes" the letter says.

"While high-quality health care is important for an individual's health and well-being, there are many other determinants of health."

The critics are prepared to pounce on that rationale.

"This is going to go to court the minute the first approval comes out," predicted Matt Salo, executive director of the National Association of Medicaid Directors, whose members reflect a spectrum of views about requiring work.

Once CMS gives one state permission, "we would be looking very, very closely to the legal options," said Leonardo Cuello, health policy director at the National Health Law Program. "It's not a good idea, and it's illegal."

Cuello said the argument that work promotes health is "totally contorted . . . It's a little like saying that rain causes clouds. It's more that people [with Medicaid] get care, which helps them be healthy and makes them able to work."

Mary Beth Musucemi, associate director of the Kaiser Family Foundation's Program on Medicaid and the Uninsured, said the new approach "will penalize individuals by having them lose health coverage, rather than incentivize them, as a voluntary program with adequately funded supportive services necessary to overcome barriers would."

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Calling the new policy “unconscionable and illegal,” Eliot Fishman, senior health policy director at the liberal consumer health lobby Families USA, said in a statement: “Today’s announcement isn’t about work. It is about taking away health insurance from low-income people.”

In a CMS call with reporters Thursday morning, Verma countered, “This policy is about helping people achieve the American Dream.” She quoted from a speech President Lyndon Johnson gave a half-century ago, when he said that Medicaid’s aim “is not only to relieve the symptoms of poverty but cure it.”

Verma also said that any drop in Medicaid rolls as a result of work requirements would stem from people no longer needing it. “We see people moving off of Medicaid as a good outcome,” she said.

The most recent federal figures show that Medicaid enrolls more than 68 million low-income Americans, including children, pregnant women, people with disabilities and the elderly. Under the Affordable Care Act, the program has expanded in more than 30 states to cover residents with somewhat higher incomes.

In states that now choose to link Medicaid to work, the requirement would apply only to able-bodied adults as defined by each state.

Sixty percent of Medicaid’s non-elderly adults already work, according to a recent analysis of census data by the Kaiser Family Foundation. Of those without a job, more than a third are ill or disabled, 30 percent are caring for young children, and 15 percent are in school, the analysis shows.

The CMS guidance gives states a great deal of flexibility to define their own exceptions to a work requirement, as well as what counts toward work. “Each state is different,” the letter says, and such activities “include, but are not limited to, community service, caregiving, education, job training, and substance use disorder treatment.”

The guidance specifies only that pregnant women and “medically frail” people be exempt —

though frailty is not defined — and that people with opioid addiction be either exempted or allowed to count time in drug treatment toward work activities. It also suggests that states take into account the local availability of jobs in creating requirements. People receiving TANF cash assistance or SNAP food benefits who meet those programs’ work requirements will be considered in compliance with Medicaid’s rules.

While states should help people on Medicaid meet their requirements — for instance, by helping them find child care, transportation or job-training — they may not use any Medicaid funds to do so, the letter says.

In the states that adopt such requirements, critics say, the effect will spread far beyond the healthy adults who do not already comply. Those who have a job, are in school or care for young children will need to document to their state’s Medicaid agency that they are in compliance — or risk losing their benefits.

Under Kentucky’s waiver application, for instance, people on Medicaid would be required to report income changes within 10 days, noted Cara Stewart of the Kentucky Equal Justice Center. For low-wage workers, such as waitresses with fluctuating wages, “it boggles my mind,” Stewart said.

Before she became the CMS administrator, Verma was a health-care consultant who specialized in helping states redesign their Medicaid programs. She was an architect of Kentucky’s waiver application once a Democratic governor who had eagerly embraced the ACA was succeeded by Matt Bevin, a Republican who campaigned on a pledge to reverse the program expansion there.

Verma also had a major role in designing an unorthodox approach to Medicaid in Indiana, which had asked the Obama administration to approve a work requirement. In the end, that state included in its Medicaid expansion only an encouragement of voluntary efforts by beneficiaries to train for work or find jobs. Indiana rewrote its waiver request last summer, this time asking for federal

Verma has recused herself from ruling on those two states' requests but has imported the ideas behind them into the new federal policy.

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