

1115 Medicaid Waivers:

From Care Delivery Innovations to Work Requirements

After months of debate, the Medicaid program emerged from efforts to repeal and replace the Affordable Care Act (ACA) without major legislative changes. Now, however, the Trump administration is encouraging states to apply for waivers that place new conditions on Medicaid eligibility as well as additional costs on beneficiaries in the form of premiums and copayments at the point of service.

To better understand the continuing controversy over Medicaid, let's take a look at the waiver program's objectives and how states have used waivers in the past. Are recently proposed state waivers consistent with Medicaid's underlying mission? And are federal and state authorities appropriately evaluating them for their impact on Medicaid populations?

What is a Medicaid Section 1115 waiver?

Medicaid grants states autonomy in how they run their programs. Under a provision of the Social Security Act, [Section 1115](#), the U.S. Secretary of Health and Human Services (HHS) can waive federal guidelines on Medicaid to allow states to pilot and evaluate innovative approaches to serving beneficiaries. Most waivers are granted for a limited period and can be withdrawn once they expire.

States seek 1115 waivers to test the effects of changes both in coverage and in how care is delivered to patients. The Centers for Medicare and Medicaid Services (CMS), a government agency, reviews each waiver application to ensure not only that it furthers the core objective of Medicaid — to meet the health needs of low-income and vulnerable populations — but also that the proposed demonstration does not require the federal government to spend more on the state's Medicaid program than it otherwise would.

However, a [recent General Accountability Office \(GAO\) review](#) found that, because of significant limitations, evaluations of 1115 demonstrations often do not provide enough information for policymakers to understand the waivers' full impact.¹ The GAO recommended that CMS establish procedures to ensure that all states submit final evaluation reports at the end of each demonstration cycle, issue criteria for when it will allow limited evaluations of demonstrations, and establish a policy for publicly releasing findings from federal evaluations.

How have 1115 waivers been used in the past?

States have been granted waivers throughout the 53-year history of Medicaid. Most waivers were small in scope until the 1990s, when states started to use them for a [wide range of purposes](#), including to: expand eligibility, simplify the enrollment and renewal process, reform care delivery, implement managed care, provide long-term services and supports, and alter benefits and cost-sharing.

Some states have used 1115 waivers to change the way care is delivered to Medicaid patients, like encouraging investments in social interventions. Oregon, for example, used its waiver to [establish Coordinated Care Organizations](#) — partnerships between managed care plans and community providers to manage medical, behavioral health, and oral health services for a group of Medicaid beneficiaries.

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With the ACA's enactment, a new category of low-income adults became eligible for Medicaid. After the Supreme Court ruled in 2012 that this eligibility expansion was optional for states, eight states applied for 1115 demonstration waivers from the Obama administration to test different approaches to expanding eligibility, including the introduction of premiums and copayments that exceeded federal guidelines. One of those states, [Arkansas](#), has used Medicaid funds to purchase private health insurance for marketplace enrollees.

How are 1115 waivers changing?

With encouragement from the Trump administration, many states are applying for waivers to make employment, volunteer work, or the performance of some other service a requirement for Medicaid eligibility. The administration has also encouraged waivers to impose premiums and increases in cost-sharing.

States can take [different approaches to work or service requirements](#). Some might require them only for the Medicaid-expansion population (working-age adults with incomes up to 138 percent of the federal poverty level), while other states might also require employment of the traditional Medicaid population.

As of early April 2018, three states — Kentucky, Indiana, and Arkansas — have received approval for work- or service-requirement waivers. [Seven others have pending waivers](#) for new applications, amendments to existing waivers, or requests for renewals or extensions.

In [Kentucky — the first state to have its work-requirement waiver approved](#) — affected beneficiaries must complete 80 hours per month of community-engagement activities, such as employment, education, job skills training, or community service. Documentation of meeting this requirement is required to remain eligible for coverage. Exemptions are granted to pregnant women, people considered [medically frail, older adults](#), and full-time students. Indiana and Arkansas have received approval for similar waivers.

Shortly after Kentucky's waiver was approved, attorneys representing 15 Medicaid beneficiaries sued the HHS secretary in federal court (*Stewart v. Azar*), arguing that the objective of promoting work is not consistent with Medicaid's core purpose of "providing medical assistance (to people) whose income and resources are insufficient to meet the cost of necessary medical services."² The lawsuit's outcome will affect whether some of the state demonstrations will be able to proceed.

What's the bottom line?

The 1115 demonstration waiver program is intended to fulfill the primary purpose of Medicaid: to provide health care protection to poor and disabled Americans. The new waivers seeking to impose work or service requirements, as well as others that would impose lifetime coverage limits or premiums, should be fully and carefully evaluated to determine whether they meet this goal. In addition to state and federal evaluations, independent assessments of state demonstrations will be important to informing policymakers and the public about the waivers' full impact.

NOTES

- 1 The GAO study was based on state-led evaluations of demonstrations in eight states and a multistate federal evaluation of demonstrations conducted by CMS.
- 2 National Health Law Program, "Kentuckians Sue Trump Over Radical Changes to Medicaid," Jan. 24, 2018, <http://www.healthlaw.org/news/press-releases/698-kentuckians-sue-trump-over-radical-changes-to-medicaid>; S. Rosenbaum, "Experimenting on the Health of the Poor: Inside *Stewart v. Azar*," *Health Affairs Blog*, Feb. 5, 2018, <https://www.healthaffairs.org/doi/10.1377/hblog20180204.524941/full/>; S. Rosenbaum, "How Kentucky's 1115 Medicaid Work Demonstration Undermines the Program," *To the Point*, Commonwealth Fund, Jan. 30, 2018, <http://www.commonwealthfund.org/publications/blog/2018/jan/kentucky-medicaid-work-requirements>.