REPRODUCTIVE RIGHTS & HEALTH

THE STEALTH ATTACK ON WOMEN'S HEALTH: MEDICAID WORK REQUIREMENTS WOULD REDUCE ACCESS TO CARE FOR WOMEN WITHOUT INCREASING EMPLOYMENT

Recently, some Members of Congress and states have proposed changing the structure of Medicaid by establishing work requirements for Medicaid enrollees. Work requirements are based on and perpetuate the myth that individuals enrolled in Medicaid coverage are unemployed and unmotivated to work. Many of the arguments underlying work requirements are designed to stoke racial resentment about entitlement programs, particularly playing upon harmful stereotypes of women of color. In reality, most individuals qualified for Medicaid are working if they are able, which means work requirements would not actually increase employment among Medicaid enrollees. Instead, work requirements would endanger individuals' health and economic security in many cases, with a particularly harsh impact on women.

WORK REQUIREMENTS ARE A RADICAL CHANGE TO THE MEDICAID PROGRAM

Work requirements are unprecedented in Medicaid.

At its core, Medicaid exists to provide health coverage to low-income people who cannot otherwise afford it, which helps these individuals attain or retain the capacity for independence and self-care.[1] A work requirement goes against these objectives – it would allow a state to define what it means for an individual to be working, and then to deny Medicaid coverage to certain adults that do not meet that definition. The specifics of the requirement can vary depending on the proposal, but typically include a limited set of work activities undertaken for a specific period of time.

The idea of a work requirement is unprecedented in Medicaid. The Medicaid statute does not condition receipt of Medicaid benefits on any qualifications beyond those in the statute that serve to show an individual is someone who is in need of assistance obtaining health care coverage and services. Indeed, the Department of Health and Human Services has rejected recent attempts by states to add work requirements through the Medicaid state waiver process[2] because they were determined to be inconsistent with the purpose of the Medicaid statute.[3]

Despite this, Trump Administration officials have indicated an interest in receiving work requirement proposals from states,[4] and Medicaid work requirements were also proposed legislatively in the Affordable Care Act repeal bill (the American Health Care Act).[5]

Work requirements would be burdensome for states to administer.

Medicaid work requirements would be burdensome on states. To administer a work requirement, states have to track enrollees' work status as well as exemptions from the work requirement. Each time an individual's status changed in regards to the work requirement, the state would need to enroll or disenroll that person. State experiences monitoring work requirements in the Temporary Assistance for Needy Families (TANF) program show that it is an expensive undertaking which results in staff spending more time tracking requirements than working directly with enrollees.[6] Medicaid programs should not follow the same route as TANF when the result – increased burden with negative results – is known.

WORK REQUIREMENTS ARE BASED ON A FALSE PREMISE AND DO NOT RESPECT THE REALITIES OF INDIVIDUALS' LIVES

Most nonelderly, adult Medicaid enrollees already work.

The idea that Medicaid enrollees need an incentive to work – Medicaid coverage – or should be punished if they don't

work – through loss of coverage – is based on the false narrative that Medicaid enrollees do not work and are taking advantage of the program's benefits. This is a distortion of reality predicated on over-invoked racialized stereotypes of beneficiaries that ignores the lived experiences of all low-income people across racial lines. In fact, most Medicaid enrollees who can work, do work. The Kaiser Family Foundation found that:[7]

- Nearly 8 in 10 nonelderly adults enrolled in Medicaid in 2015[8] live in working families
- Six in 10 nonelderly Medicaid adults are working themselves
- Most working Medicaid enrollees work full-time for the entire year
- Most of the nonelderly Medicaid enrollees who were not working reported significant barriers to employment. The main reasons reported for not working were:
    - Illness or disability, 35%
    - Taking care of home or family, 28%
    - In school, 18%
    - Looking for work, 8%
    - Retired, 8%

These statistics show the truth about families that rely on Medicaid coverage: most have at least one working adult in the family. Furthermore, non-working adults are not working for reasons that most people readily understand as often not compatible with work, like fulfilling family caregiving responsibilities, pursuing an education, or an illness or disability.

The work requirements in current proposals do not understand this reality.

Most work requirements proposed so far have included exemptions for certain populations of people, but these exemptions are often limited and do not reflect the reality of people's lives. For example, the Affordable Care Act repeal bill included work requirements that had some exemptions, but still would have applied to:

- Married mothers caring for infants and toddlers, including as soon as 60 days after the birth of a child;
- Single mothers caring for children as young as 6;
- Young adults 20 and older attending college;
- Individuals caring for an aging parent or spouse in need of care; and,
- Individuals who have disabling health conditions that make it difficult or impossible to work, but have not qualified for Medicaid as disabled individuals under the Supplement Security Income (SSI) program.

These are all situations where imposing a work requirement is impossible or could pose significant hardship, forcing an individual to make tough choices, such as whether to care for a family member or have health insurance.

WORK REQUIREMENTS WILL HARM – NOT HELP – INDIVIDUALS

A Medicaid work requirement won't help people find long-term employment or escape poverty.

Other social safety net programs have implemented work requirements over the last 20 years, but these work requirements have yet to demonstrate success at moving impoverished individuals out of poverty. In fact many families were worse off after work requirements were implemented. There is no reason to think Medicaid work requirements would achieve success where others have not.

TANF program work requirements are often used as a model for adding work requirements to Medicaid.[9] Yet, research on the impact of work requirements in TANF found that:

- TANF work requirements made no difference in long-term employment rates. Over five years, employment among cash assistance recipients not subject to a work requirement was the same or higher than among recipients subject to the requirement.[10]
- The large majority of individuals subject to work requirements remained poor, and some became poorer. In particular, the share of families living in deep poverty—below half of the poverty line—increased in states with work requirements.[11]

A Medicaid work requirement would impair individuals' health and ability to work.

Medicaid can help individuals deal with the health problems that are a barrier to employment by providing access to preventive care, treatment for health problems before they become more serious, and assistance managing chronic conditions. After Ohio expanded Medicaid coverage under the Affordable Care Act, its Medicaid Department found that three-quarters of the adults who received coverage who were looking for work reported that Medicaid made it easier to do so, and more than half of those who were working said that Medicaid made it easier for them to keep their jobs.[12]

Denying Medicaid coverage for failure to meet work requirements will have the opposite result, forcing some individuals to choose between risking their own health or family's wellbeing by working or risking their health by going without health insurance and needed medical care. Without insurance coverage, individuals' health will worsen,[13] making it even more difficult for them to find and retain employment.

WOMEN ARE ESPECIALLY LIKELY TO LOSE HEALTH CARE COVERAGE UNDER A MEDICAID WORK REQUIREMENT, THREATENING THEIR HEALTH AND ECONOMIC SECURITY.

Women are more likely to face barriers to employment.

The low-income women who are eligible for Medicaid are more likely than men to face particular barriers to employment. Women are more likely than men to be the sole or primary caregivers of children, to be caregivers for aging parents and other family members, and to work in low-wage jobs that don't accommodate caregiving responsibilities.[15] Medicaid work requirements limit the set of activities that count as work in ways that discount or ignore women's unpaid, caregiving work and disproportionately affect women's ability to remain enrolled in Medicaid. Furthermore, the required number of work hours may be unattainable, even for Medicaid enrollees with regular work, if they are balancing other responsibilities like childcare or if they are engaged in involuntary part-time work.[16]

Women also have slightly higher rates of disability than men.[17] Work requirements will pose particular harm to them; studies of the implementation of TANF work requirements found that TANF recipients who were sanctioned for not meeting work requirements have significantly higher rates of disability than those not sanctioned.

And the very factors that make it more difficult for individuals to meet a work requirement—disabilities, caregiving responsibilities and a lack of child care, lack of transportation, or other limitations—make it more difficult for them to prove why they cannot meet a work requirement.[18] And yet at the same time, low-wage women workers, who are more likely to be balancing part-time work and caregiving responsibilities, could have to deal with eligibility determinations more often, increasing the chances of gaps in coverage and inability to access the care they need.

Losing Medicaid coverage threatens women's health and economic security.

All of these factors leave low-income women at particular risk of losing critical health coverage if work requirements are imposed, which would threaten women's health and lives. Uninsured low-income women are more likely to go without care because of cost, are less likely to have a regular source of care, and utilize preventive services at lower rates than low-income women with health insurance. A growing body of research has demonstrated how important Medicaid coverage is to enrollees' access to care, overall health and mortality rates.[19] Among all sources of coverage, Medicaid disproportionately covers the poorest and sickest population of women.[20]

At the same time, Medicaid has played a critically important role in advancing women's economic security.[21] It keeps women and their families from medical debt and bankruptcy. By providing health coverage to women and their families that is not tied to employment, Medicaid allows women to seek positions that may offer higher wages or better opportunities, and it also has improved the economic security of future generations. Medicaid's coverage of birth control allows women to determine whether and when to start a family, expanding their educational and career opportunities. And Medicaid payments to health care providers directly support women's jobs. Imposing work requirements would jeopardize these gains, putting the financial wellbeing of women and families on the line.

1 42 U.S.C. §1396 et seq.

2 Under this process, states can apply to the Department of Health and Human Services (HHS) to waive requirements in the Medicaid statute (called a "waiver") to allow the state to implement an experimental or demonstration project to help achieve Medicaid's goals. Waivers are often undertaken through Section 1115 of the Social Security Act which allows for waivers of the requirements in 42 U.S.C. § 1396a. 42 U.S.C. § 1315.

3 For example, see Arizona's demonstration project, approved in part, with work requirements rejected. Letter from Andrew M. Slavitt, Acting Administrator, Centers for Medicare & Medicaid Services, to Thomas Betlach, Director, Arizona Health Care Cost Containment System (Sept. 30, 2016), *available at* https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/az/Health-Care-Cost-Containment-System/az-hccc-demo-ext-09302016.pdf.

4 Letter from Tom E. Price, Secretary, U.S. Dep't of Health and Human Services, and Seema Verma, Administrator, Centers for Medicare & Medicaid Services, to Governors (Mar. 14, 2017), *available at* https://www.hhs.gov/about/news/2017/03/14/secretary-price-and-cms-administrator-verma-take-first-joint-action.html.

5 The AHCA did not specify the amount of time within which the work had to be accomplished.

6 Liz Schott & Ladonna Pavetti, Ctr. on Budget and Policy Priorities, *Changes in TANF Work Requirements Could Make Them More Effective in Promoting Employment,* at 2 (Feb. 26, 2013), http://www.cbpp.org/research/family-income-support/changes-in-tanf-work-requirements-could-make-them-more-effective-in.

7 Rachel Garfield, Robin Rudowitz, & Anthony Damico, Kaiser Family Found., *Understanding the Intersection of Medicaid and Work* (Feb. 15, 2017), http://kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/#.

8 "Nonelderly Medicaid adults" refers to individuals ages 19-64 who are not eligible for Medicaid because they are receiving Supplemental Security Income (SSI) as individuals with disabilities. It includes parents and childless adults.

9 The TANF work requirements were a model for the Medicaid work requirements proposed in the AHCA. *See* Vann R. Newkirk II, *The Trouble with Medicaid Work Requirements*, The Atlantic (Mar. 23, 2017), https://www.theatlantic.com/politics/archive/2017/03/why-work-requirements-in-medicaid-wont-work/520593/.

10 Ladonna Pavetti, Ctr. on Budget and Policy Priorities, *Work Requirements Don't Cut Poverty, Evidence Shows*, at 3 (June 7, 2016), http://www.cbpp.org/research/poverty-and-inequality/work-requirements-dont-cut-poverty-evidence-shows.

11 Ibid., 9.

12 Edwin Park, Judith Solomon & Hannah Katch, Ctr. on Budget and Policy Priorities, *Updated House ACA Repeal Bill Deepens Damaging Medicaid Cuts for Low-Income Individuals and Families*, at 4 (Mar. 21, 2017), http://www.cbpp.org/research/health/updated-house-aca-repeal-bill-deepens-damaging-medicaid-cuts-for-low-income, citing Ohio Department of Medicaid, "Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly," http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf.

13 Kaiser Family Found., *Key Facts about the Uninsured Population* (Sept. 29, 2016), http://kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/.

14 Rachel Garfield, *supra* note 7.

15 Nat'l Women's Law Ctr., *Underpaid & Overloaded: Women in Low-Wage Jobs* 2 (2014), https://www.nwlc.org/sites/default/files/pdfs/final_nwlc_lowwagereport2014.pdf.

16 Nat'l Women's Law Ctr., *Part-Time Workers Are Paid Less, Have Less Access to Benefits—and Two-Thirds Are Women* (Sept. 2015), https://nwlc.org/resources/part-time-workers-are-paid-less-have-less-access-benefits%E2%80%94and-two-thirds-are-women/.

17 Matthew W. Brault, U.S. Dep't of Commerce, Economics and Statistics Administration, U.S. Census Bureau, *Americans With Disabilities*: *2010*, at 7 (July 2012), *available at* https://www.census.gov/content/dam/Census/library/publications/2012/demo/p70-131.pdf.

18 Edwin Park, *supra* note 12.

19 Benjamin D. Somers et al., *Mortality and Access to Care Among Adults after State Medicaid Expansions*, 367 New Eng. J. Med. 1025 (July 2012); Julia Paradise & Rachel Garfield, *What is Medicaid's Impact on Access to Care, Health Outcomes and Quality of Care? Setting the Record Straight on the Evidence*, Kaiser Commission on Medicaid and the Uninsured (Aug. 2013), *available at* https://kaiserfamilyfoundation.files.wordpress.com/2013/08/8467-what-is-medicaids-impact-on-access-to-care1.pdf.

20 Kaiser Family Found., *Women's Health Insurance Coverage* (Oct. 21, 2016), http://kff.org/womens-health-policy/fact-sheet/womens-health-insurance-coverage-fact-sheet/.

21 *See* generally, Nat'l Women's Law Ctr., Medicaid at 50: Celebrating Medicaid's Contributions to Women's Economic Security (July 2015), *available at* http://nwlc.org/wp-content/uploads/2015/08/final_nwlc_medicaid50th_whitepaper_3.pdf.