

# REVENUE CYCLE STRATEGIST

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• **medicaid payments** •

## Medicaid Waivers: Work Requirements Are Not the Only Changes Coming

By Marie Hinds

*Sometimes, the lesser-known changes create the largest impact.*

Medicaid work requirements and section 1115 Medicaid demonstration waivers are gaining a lot of attention lately. Understandably, work requirements are new and bring unfamiliar territory for healthcare providers and Medicaid recipients. However, there are additional changes written within a waiver that could create a sizable impact on hospitals and recipients alike.

Section 1115 of the Social Security Act is a waiver that provides an opportunity for states to implement experimental changes associated with Medicaid that do not fall into regulations defined by federal law. The waivers are submitted by the respective state, and the Secretary of Health and Human Services makes the final decision. Although waivers have been around for a long time, the utilization has shifted. For example, states requested the implementation of work requirements in the past, but were denied by the Obama administration. However, we are now seeing a much different approach from the Trump administration. Some states use waivers for long-term care initiatives, substance abuse programs, and delivery system reform. Many of the recent and controversial waivers specifically affect the Medicaid enrollment process.

## Work Requirements

States can submit an 1115 waiver to require recipients to gain employment—or an equivalent—to receive Medicaid benefits. A recent study from the Kaiser Family Foundation states 60 percent of the Medicaid adult population is currently working full or part-time (Musumeci, M., Garfield, R., and Rudowitz, R., *Medicaid and Work Requirements: New Guidance, State Waiver Details, and Key Issues*, Kaiser Family Foundation, Jan. 16, 2018). After removing the adults who are not working due to an exemption such as caregiving, attending school, or illness/disability, it is estimated 7 percent of the Medicaid population could be required to meet the work condition for eligibility.

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Each state is different as to what constitutes a work requirement. For example, in Maine, community service or participating in job search activities counts. Kentucky, Indiana, and Arkansas recently received approvals to implement work requirements. Arizona, Kansas, Maine, New Hampshire, Utah, and Wisconsin have waivers pending. Work requirements provide unknown changes and impacts to current processes, but these may not be as big as some assume. However, providers and recipients should consider other, seemingly less significant changes that will intensify the overall impact of an 1115 waiver.

## Retroactive Medicaid

Some states are considering removing retroactive Medicaid through an 1115 waiver, which allows recipients to bill Medicaid for physician and hospital services incurred 90 days prior to the application date. Eliminating retroactive Medicaid is gaining popularity as a means to decrease state spending by reducing the number of claims for past medical bills.

Currently Arizona, Maine, and New Mexico have pending 1115 waivers to remove retroactive Medicaid eligibility. Those in favor say it allows recipients to be proactive on their health insurance needs. Others say some recipients may not realize they qualify for Medicaid until a hospitalization or their coverage unknowingly lapses, which could impact the hospital's payment—or lack of—and potentially push the patient further into debt. A report from the Commonwealth Fund states, "Actuarial analysis of Medicaid payments have shown that about 5 percent of Medicaid payments occur during the retrospective eligibility period" (*The Financial Impact of the American Health Care Act's Medicaid Provisions on Safety-Net Hospitals*, The Commonwealth Fund, June 28, 2017). The estimation could fluctuate based on state policies, hospital volumes, and Medicaid payer mix, but it shows that removing retroactive Medicaid could have a sizable impact.

## Lockout Penalties

Lockout penalties is another lesser-known concept that could create substantial change. In certain states, if applicants do not comply with specific processes, such as work requirements, payment of premiums, redeterminations, or submitting updated documentation, they could be locked out of receiving Medicaid benefits for three to nine months. Recent 1115 waiver approvals for Kentucky, Indiana, and Arkansas also

include lockout penalties for noncompliance. A handful of states, including Kansas, Maine, New Mexico, Utah, and Wisconsin, also have pending waivers with lockout penalties.

Similar to waiving retroactive Medicaid, proponents feel it will motivate recipients to take charge and be proactive with their health insurance. Others argue that Medicaid applications, rules, regulations, and policies are complex enough, and these modifications could deter individuals from applying. Because each state differs on how long or whom they will lock out, the true impact is hard to estimate.

Given the complexity and length of Medicaid waivers, it can be cumbersome to understand the details. The typical pending section 1115 waiver is 60 to 150 pages, with states varying on length. For example, Alabama's waiver is 64 pages, but Kansas submitted a 500-page waiver. Work requirement, retroactive Medicaid, and lockout penalties are only a few examples. Other requirements, such as adding copayments, deductibles, and health savings accounts and limiting how long someone can receive Medicaid, could be woven within a single state waiver. For example, Kentucky's new waiver includes work requirements, lockout penalties, premium payments, removing retroactive Medicaid, and healthy behavior incentives, among other changes.

The impact in one state will be different from another. Medicaid recipients, Medicaid eligibility vendors, and health-care providers need to understand the details of these pending and approved waivers. Sometimes, the lesser-known changes create the largest impact. This is just the beginning. •

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