

## **Medicaid and People with Mental Health Disabilities**

What you need to know about Medicaid and why it is important to save it

Over ten million people with disabilities are enrolled in Medicaid, making it the largest provider of health care to people with disabilities,<sup>1</sup> including people with mental health disabilities, in the United States.<sup>2</sup> Without Medicaid, many people with disabilities would lose the services and supports they need to live independently in their own homes and communities, and enjoy the same opportunities in life that everyone else has.<sup>3</sup>

Despite its overwhelming popularity,<sup>4</sup> Medicaid is under attack. The House of Representatives has passed a bill that would require people to work to keep their Medicaid coverage. Medicaid work requirements will mean millions of people will lose health care. Doing this will not increase employment, but will hurt people with disabilities.

Medicaid was created to provide healthcare to lower-income people, including families and people with disabilities, to help them “attain or retain independence and self-care.”<sup>5</sup> Making people work to keep their Medicaid does not remotely align with this purpose.

### **What is Medicaid?**

Medicaid is a federal-state partnership to provide healthcare to lower-income people, seniors, families with dependent children, and people with disabilities.<sup>6</sup> Every state has a Medicaid plan which is approved by the federal Centers for Medicare and Medicaid Services (CMS).<sup>7</sup> As a program created to meet the needs of low-income people, Medicaid often fills in the gaps left by other insurance programs.<sup>8</sup> At least in theory, Medicaid prohibits

arbitrary limitations on care, requiring services to be “sufficient in amount, duration, and scope.”<sup>9</sup> All children enrolled in Medicaid are entitled to the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit, which requires states to provide all “medically necessary services to correct and ameliorate health conditions.”<sup>10</sup>

After the Affordable Care Act’s (ACA) Medicaid expansion in all but nine states, Medicaid covers most adults with incomes up to 138% of the Federal Poverty Level.<sup>11</sup> The ACA expanded mental health services and substance use disorder services to an estimated 62 million people.<sup>12</sup> Medicaid includes two general categories of benefits: mandatory and optional.<sup>13</sup> Mandatory benefits, are those that states must provide to Medicaid beneficiaries. Mandatory benefits guarantee a minimum level of coverage, including inpatient hospital services, physician services, laboratory and x-ray services, and—notably for people with disabilities—long-term services and supports (LTSS).<sup>14</sup>

States can also provide any number of optional services for which they can receive federal matching funds. These optional services, including home and community-based services (HCBS), are critical for people with disabilities.<sup>15</sup> HCBS prevent unnecessary and harmful institutionalization and allow people with disabilities to live independently in their own homes and communities. For people with mental health conditions, HCBS include housing support services, supported employment, Assertive Community Treatment (ACT), mobile crisis services, peer support services, and “wraparound” services for children and their families.<sup>16</sup> Medicaid HCBS help states provide people with disabilities services in “the most integrated setting,” as required by the landmark Supreme Court decision in *Olmstead v. L.C. (Lois Curtis)*.<sup>17</sup>

## **Work Requirements are Antithetical to Medicaid’s Objectives**

The House of Representatives recently passed a bill to raise the nation’s “debt ceiling” that would, among other things, condition Medicaid benefits on whether an individual works.<sup>18</sup> What the bill calls a “community engagement

requirement” is actually a work requirement that would require Medicaid beneficiaries aged 19 to 56, subject only to a few exemptions,<sup>19</sup> to work 80 hours per month and comply with burdensome reporting requirements.<sup>20</sup>

Conditioning the receipt of Medicaid on working is wrong. This change would kick millions of people,<sup>21</sup> including many people with mental health disabilities, off Medicaid. The vast majority of Medicaid enrollees who can work are already working.<sup>22</sup> Work requirements will not lead to more people working. It will, however, lead to significantly worse health outcomes across the board.

These harms are not theoretical. In 2018, Arkansas imposed a work requirement for individuals in its Medicaid program, with the goal of boosting employment. The plan cost \$26.1 million to implement and kicked 18,000 people off their Medicaid coverage over the next six months.<sup>23</sup> Individuals who lost their Medicaid did not get jobs with health care benefits; as such, they incurred more medical debt and experienced poorer health outcomes. In fact, these individuals were not more likely to work at all: Arkansas’ Medicaid experiment had no effect on employment rates in the state.<sup>24</sup>

People with disabilities can and do want to work. Many are not working because of attitudinal barriers among employers, the need for reasonable accommodations that have not been provided, or the need for supported employment services that are scarcely available.<sup>25</sup> Moreover, some people with disabilities who work still need Medicaid. They may work part-time, seasonally, or fewer than the required number of hours per week as an accommodation, making them ineligible for private insurance.

Imposing work requirements makes it *harder* for people with disabilities to work. Some people with disabilities need services like supported employment and personal care attendants—services that Medicaid could cover. Work requirements do not make these services more available and instead may eliminate access to the services that enable many people to

work. In short, work requirements do nothing to incentivize work and act to push people out of the Medicaid benefits they need to work.

Work requirements on Medicaid will strip people with disabilities of their health care. Long-term gaps in coverage will devastate the health of millions. Even those who are disenrolled and later receive new coverage will suffer; short-term gaps in coverage, including in needed mental health services, lead to significantly worse health outcomes. Evidence shows that people who lose their Medicaid will forgo necessary medications and other care because the cost is prohibitive.<sup>26</sup>

Medicaid helps millions of people access health care they could not otherwise afford. Medicaid allows states to provide people with disabilities needed services and supports in the community, in fulfillment of the promise made in *Olmstead v. L.C. (Lois Curtis)*. Receiving life-saving—health care through Medicaid should not depend on whether you have a job.

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1. *People with Disabilities*, MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION (2023), <https://www.macpac.gov/subtopic/people-with-disabilities/>.
  2. *Medicaid*, THE ARC, <https://thearc.org/policy-advocacy/medicaid/> (last visited Apr. 24, 2023).
  3. Americans with Disabilities Act, 42 U.S.C. § 12101.
  4. *Standing Up for Medicaid Letter*, CARING ACROSS GENERATIONS (Apr. 13, 2023), <https://caringacross.org/wp-content/uploads/2023/04/Caring-Across-Generations-Medicaid-Polling.pdf>.
  5. 42 U.S.C. § 1396-1.
  6. *Medicare and Medicaid Act (1965)*, NATIONAL ARCHIVES (2022), <https://www.archives.gov/milestone-documents/medicare-and-medicaid-act>.
  7. 42 C.F.R. § 431.10.
  8. Wayne Turner, Catherine McKee, Amy Chen, Abbi Coursolle, Jasmine Young, & Hector Hernandez-Delgado, *What Makes Medicaid, Medicaid? - Services*, NATIONAL HEALTH LAW PROGRAM (2023).
  9. 42 C.F.R. § 440.230.
  10. *Early and Periodic Screening, Diagnostic, and Treatment*, MEDICAID.GOV, <https://www.medicare.gov/medicaid/benefits/early-and-periodic-screening-diagnostic-and-treatment/index.html> (last visited Apr. 24, 2023).
  11. *Status of State Medicaid Expansion Decisions: Interactive Map*, KAISER FAMILY FOUNDATION (Mar. 27, 2023), [https://www.kff.org/medicaid/issue-brief/status-of-state-medicare-expansion-decisions-interactive-map/#:~:text=The%20Affordable%20Care%20Act's%20\(ACA,FMAP\)%20for%20their%20expansion%20populations](https://www.kff.org/medicaid/issue-brief/status-of-state-medicare-expansion-decisions-interactive-map/#:~:text=The%20Affordable%20Care%20Act's%20(ACA,FMAP)%20for%20their%20expansion%20populations).

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12. *The Affordable Care Act and Mental Health Services*, BAZELON CENTER FOR MENTAL HEALTH LAW (2017), <https://www.bazelon.org/wp-content/uploads/2017/06/ACA-and-People-with-MH-1-27-17-FINAL-6.docx.pdf>.
  13. Wayne Turner, *What Makes Medicaid, Medicaid?*, NATIONAL HEALTH LAW PROGRAM (2023).
  14. *Id.*
  15. *Id.*
  16. *New Funding is Available for Community-Based Mental Health Systems*, BAZELON CENTER FOR MENTAL HEALTH LAW (2021), <https://www.bazelon.org/wp-content/uploads/2021/04/ARP-HCBS-provisions-1.pdf>.
  17. *The Olmstead Case*, BAZELON CENTER FOR MENTAL HEALTH LAW, <https://www.bazelon.org/the-olmstead-case/> (last visited Apr. 24, 2023).
  18. A Bill to provide for a responsible increase to the debt ceiling, and for other purposes, H.R. \_\_, 118th Cong. § 1 (2023).
  19. *Id.* The work requirement would exclude eight categories of people. The categories include people who are: under 19 or 56 and older, “physically or mentally unfit for employment, as determined by a physician or other medical professional,” pregnant, parents or caretakers of dependent children or incapacitated persons, complying with a different federal work requirement, participating in a drug or alcohol treatment and rehabilitation treatment, or enrolled in an educational program at least half time. The bill includes no language explaining or further elaborating upon what “physically or mentally unfit for employment, as determined by a physician . . .” means.
  20. *Id.*
  21. Madeline Guth, Patrick Drake, Robin Rudowitz, & Maiss Mohamed, *Understanding the Intersection of Medicaid & Work: A Look at What the Data Say*, KAISER FAMILY FOUNDATION (Apr. 24, 2023), [https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-work-a-look-at-what-the-data-say/#:~:text=An%20analysis%20from%20the%20Congressional,very%20small%20increase%20in%20employment.\(a%20national%20Medicaid%20work%20requirement%20will%20result%20in%202.2%20million%20people%20losing%20their%20coverage%20each%20year\).](https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-work-a-look-at-what-the-data-say/#:~:text=An%20analysis%20from%20the%20Congressional,very%20small%20increase%20in%20employment.(a%20national%20Medicaid%20work%20requirement%20will%20result%20in%202.2%20million%20people%20losing%20their%20coverage%20each%20year).)
  22. Ian McDonald, *States Should Consider the High Costs of Work Requirements*, NATIONAL HEALTH LAW PROGRAM (Mar. 24, 2020), <https://healthlaw.org/resource/states-should-consider-high-costs-of-work-requirements/>.
  23. MaryBeth Musemeci, Robin Rudowitz, & Barbara Lyons, *Medicaid Work Requirements in Arkansas: Experience and Perspectives of Enrollees*, KAISER FAMILY FOUNDATION (Dec. 18, 2020), <https://www.kff.org/medicaid/issue-brief/medicaid-work-requirements-in-arkansas-experience-and-perspectives-of-enrollees/>.
  24. Mara Youdelman, *Work Requirements are a Terrible, Horrible, No Good, Very Bad Idea for Medicaid*, NATIONAL HEALTH LAW PROGRAM (Apr. 20, 2023), <https://healthlaw.org/work-requirements-are-a-terrible-horrible-no-good-very-bad-idea-for-medicaid/>.
  25. *Policy Opportunities for Promoting Employment for People with Psychiatric Disabilities*, BAZELON CENTER FOR MENTAL HEALTH LAW AND UNIVERSITY OF MASSACHUSETTS MEDICAL SCHOOL (2016), [https://www.bazelon.org/wp-content/uploads/2020/10/Policy-Opportunities-for-Promoting-Employment\\_UMMS\\_Bazelon\\_2016\\_FINAL.pdf](https://www.bazelon.org/wp-content/uploads/2020/10/Policy-Opportunities-for-Promoting-Employment_UMMS_Bazelon_2016_FINAL.pdf).
  26. Jennifer Wagner & Jessica Schubel, *States’ Experiences Confirm Harmful Effects of Medicaid Work Requirements*, CENTER ON BUDGET AND POLICY PRIORITIES, <https://www.cbpp.org/research/health/states-experiences-confirm-harmful-effects-of-medicaid-work-requirements> Because work requirements that cause gaps in coverage are antithetical to Medicaid’s objectives to help people attain independence and self-care, courts have regularly struck them down. See Ian McDonald, *States Should Consider the High Costs of Work Requirements*, NATIONAL HEALTH LAW PROGRAM (Mar. 24, 2020), <https://healthlaw.org/resource/states-should-consider-high-costs-of-work-requirements/>.