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Roadblock: Federal Court Thwarts the Administration's Medicaid Work Requirements

We [wrote recently](#) about how health care advocates have taken their fight to save Medicaid against harmful policies like work requirements to the courts. A federal court decision on Friday showed that the strategy is working.

Judge James E. Boasberg of the United States District Court for the District of Columbia was apparently [working](#) for the weekend, as the decision in *Stewart v. Azar* was released late in the afternoon on June 29th, the last business day before Kentucky was to begin implementing work requirements and other restrictive policies in their Medicaid program. Judge Boasberg [ruled](#) that the Secretary of Health and Human Services (HHS) acted in an “arbitrary and capricious” manner in approving Kentucky’s request to waive certain Medicaid rules and implement work requirements and other restrictive policies.

Based on the requirements of the [Administrative Procedure Act](#), Judge Boasberg struck down Kentucky HEALTH, a Medicaid waiver program that would have required some recipients to document work hours to keep their health care. Kentucky HEALTH also would have imposed premiums on Kentucky Medicaid enrollees, allowed the state to lock enrollees out of coverage, limited non-emergency medical transportation benefits, limited retroactive eligibility, and imposed penalties for non-emergency use of the emergency room. Further complicating the matter, Governor Matt Bevin issued an [executive order](#) earlier this year directing the state to terminate their Medicaid expansion program should a court invalidate the Kentucky HEALTH program. However, the Governor’s order states that this is to occur no later than six months after all appeals have been exhausted, which, in the [words](#) of Judge Boasberg, “is not typically a lightning process.” So for now, the effect of the executive order is minimal.

The court’s decision on Friday blocks any of the waiver changes from being implemented now. The opinion grants full relief to the sixteen Medicaid enrollees who [brought the suit](#). In this case, full relief equates to a reversal of the entire waiver program and a remand back to HHS. As we’ve [written](#) about before, work requirements in social service programs have not been proven to increase employment; rather they cause people to lose their benefits. Indeed, they are largely irrelevant because [most Medicaid enrollees already work](#).

Friday’s court decision rests on how the Secretary interpreted the objectives of the Medicaid program in approving Kentucky HEALTH. In January 2018, HHS issued a [national announcement](#), declaring its (unsupported) belief that work requirements would lead to better health outcomes for Medicaid recipients. While that may be a laudable goal, HHS is not free to make up a new purpose for the program; it is constrained by the purpose that Congress identified when it wrote the law. In

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discerning this purpose, the court read the law to say that Medicaid’s most important objective is to “[furnish medical assistance](#)” by paying for medical treatment for low-income individuals. The court reasoned that Kentucky HEALTH likely did not meet this goal because the program did not help pay for “medical services for the needy.” Nor did Kentucky attempt to conceal this fact. By the state’s own estimates, 95,000 people would lose their Medicaid coverage as a result of Kentucky HEALTH. Kentucky’s work requirements were thus doomed when the court determined that the Trump Administration “entirely failed to consider” how this coverage loss could possibly be reconciled with the purpose of Medicaid.

Such a reconciliation is difficult. The court made it clear that making people healthier is inherently different from paying for health care services. And when it comes to whether the work requirements were likely to help “furnish medical assistance” or not, the court had plenty of evidence to rely on. Because of the diligent efforts of patients, enrollees, providers, and advocates of all sorts, there was a significant body of public comments on which the court relied. “The vast majority of those comments voiced concerns that Kentucky HEALTH would ‘significantly reduce low-income people’s participation in health coverage programs.’” One thing was clear from the court’s decision—the judge had read the public comment submissions and taken them seriously. This work made up a key part of the decision.

The court’s decision is an important affirmation that Medicaid is a program intended to provide health insurance coverage to those who really need it. But advocates’ court battles are not over yet. The Administration will almost certainly appeal this decision to the United States Court of Appeals for the District of Columbia, which is one step below the Supreme Court. And in the meantime, HHS will have another chance to review the application on remand. You can be certain that the next time HHS reviews the Kentucky application, it will try harder to make the connection between the purpose of Medicaid and the tenets of the application. It won’t be easy, given how much the Administration has invested in its position that work makes for better health. Similarly, offering goals of cost containment and promoting self-sufficiency are outside of Medicaid’s purpose. The court notably commented that it also “has doubts on whether [promoting self-sufficiency] is proper.” Nonetheless, it is certain that another bite at the apple is coming from the federal government.

And the next battle is likely to occur somewhere other than Kentucky. Friday’s court decision was limited to the program requirements in Kentucky. But similar programs have been approved or are pending approval elsewhere. [Arkansas, Indiana, and New Hampshire](#) have already received approval to implement Medicaid work requirements, and a growing number of states have [submitted](#) plans that have not yet been approved. There are many battles to come before the last word is had on work requirements in Medicaid, but there is one ray of light on an otherwise dark horizon. At least for now, though, Kentucky cannot move forward in implementing Kentucky HEALTH, preserving coverage for at least 95,000 people.

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