



STATEMENT ON MEDICAID WORK REQUIREMENTS

Last week, the Centers for Medicare and Medicaid Services (CMS) released new Medicaid guidance allowing states to impose work requirements as a condition of Medicaid eligibility. This guidance was followed by federal approval of a Section 1115 research and demonstration waiver requested by Kentucky to institute work requirements for Medicaid beneficiaries. The Bazelon Center condemns this Administration’s approval and promotion of Medicaid work requirements.

It is critical to encourage Medicaid beneficiaries to work and to support them as necessary in those efforts. And we agree that employment services have been highly successful in helping people with disabilities secure and maintain jobs.¹ Taking away health care from beneficiaries who are not working, however, is antithetical to the purpose of the Medicaid program, will result in the loss of needed health services, and will make it harder for those beneficiaries to get and keep jobs.

CMS does not have the authority to allow states to condition Medicaid benefits on work—particularly without ensuring that work opportunities are available to beneficiaries who stand to lose their health care. Moreover, imposing work requirements completely perverts the purpose of employment services and makes it harder, rather than easier, for people to work. People with disabilities, as the guidance acknowledges, can and want to work. But some people with disabilities require services to work, such as supported employment and personal care attendants—services that they receive through the Medicaid program. Work requirements do nothing to make these services more available and instead may *eliminate* access to the services that enable many people to work.

While CMS prohibits states from applying work requirements to certain beneficiaries with disabilities, many other beneficiaries with disabilities may lose Medicaid coverage because work

¹ For example, “supported employment” is an evidence-based practice that helps people with mental illness work in jobs that pay competitive wages in integrated settings in the community, with clear success rates, increasing employment of people with psychiatric disabilities by 20-60%. BAZELON CENTER FOR MENTAL HEALTH LAW, GETTING TO WORK: PROMOTING EMPLOYMENT OF PEOPLE WITH MENTAL ILLNESS (Sept. 2014) <http://www.bazelon.org/wp-content/uploads/2017/01/Getting-to-Work.pdf>.

or training opportunities are unavailable, or because they cannot obtain the services they need to work. And while CMS acknowledges that states must comply with federal civil rights laws related to people with disabilities by providing reasonable accommodations to ensure equal opportunity, widespread non-compliance with these obligations in other programs has resulted in thousands of people with disabilities losing benefits due to work requirements.²

CMS should rescind this guidance and approval and use more effective strategies to increase employment, such as promoting the expansion of Medicaid-funded employment services. While only 1 in 10 people with serious mental illness have full-time employment,³ a mere 2% of people receiving services from state mental health agencies get supported employment services. If CMS is concerned about people not working, encouraging states to expand coverage of supported employment and other needed services would address a serious and real problem without eliminating access to needed health care.

² Mathematica, Ladonna Pavetti, Michelle Derr, and Emily Sama Martin, *Assisting TANF Recipients Living With Disabilities to Obtain and Maintain Employment: Conducting In-Depth Assessments* (Feb. 2008) (“Studies consistently show that TANF recipients who are sanctioned because they have not complied with work requirements report higher rates of disability than those who are not sanctioned.”) https://www.acf.hhs.gov/sites/default/files/opre/conducting_in_depth.pdf. See also UNITED STATES GENERAL ACCOUNTING OFFICE, *WELFARE REFORM: MORE COORDINATED FEDERAL EFFORT COULD HELP STATES AND LOCALITIES MOVE TANF RECIPIENTS WITH IMPAIRMENTS TOWARDS EMPLOYMENT* (Oct. 2001) <https://www.gao.gov/new.items/d0237.pdf>.

³ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, OFFICE OF DISABILITY, AGING AND LONG-TERM CARE POLICY, *FEDERAL FINANCING OF SUPPORTED EMPLOYMENT AND CUSTOMIZED EMPLOYMENT FOR PEOPLE WITH MENTAL ILLNESS: FINAL REPORT* vii (Feb. 2011) <http://aspe.hhs.gov/daltcp/reports/2011/supempFR.pdf>. In contrast, 64% of Medicaid families work full-time, and an additional 14% work part-time. Rachel Garfield et al, Kaiser Family Foundation, *Understanding the Intersection of Medicaid and Work* (Dec. 7, 2017) <https://www.kff.org/report-section/understanding-the-intersection-of-medicaid-and-work-appendix/>.