

MEDICAID WORK REQUIREMENTS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Medicaid is a federal-state program that pays health care costs for low-income people. Federal law and regulations establish the basic requirements for the program. Until 2018, the federal government did not allow states to require people to work in order to qualify for Medicaid coverage or benefits. However, the Centers for Medicare and Medicaid Services (CMS) issued new policy guidance on the topic in January 2018. CMS said it would support state efforts for work and other “community engagement” requirements for nondisabled, nonpregnant adults of working age — essentially, the Medicaid expansion population. CMS subsequently approved several state requests for what are known as “Section 1115 waivers,” which allow states to try out and evaluate alternative approaches to providing Medicaid benefits. The states took slightly different approaches with their waivers, but their programs also had many similarities. In general, the states required people to work or participate in other “community engagement” activities (such as education, job-training programs, or volunteer work) for 80 to 100 hours per month; exempted certain groups of people from the requirements, such as medically frail individuals or full-time students; and limited either eligibility or access to certain benefits for people who failed to meet the requirements.

Several legal challenges were filed to the work requirements, and most states were unable to put them into effect while the challenges were pending. The U.S. Supreme Court was scheduled to hear an appeal of lower court rulings against the work requirements in 2021. However, the Biden administration reversed course on work requirements and rescinded approvals that had been granted under the Trump administration. In 2021, CMS determined that work requirements were contrary to the primary objective of the Medicaid program — providing health coverage to low-income people. The state of Georgia has since challenged the CMS reversal in court, and a U.S. District Court ruled in the state's favor in August 2022.

Status of Montana Requirements

The 2019 Legislature passed HB 658, which contained community engagement requirements. In August 2019, the Department of Public Health and Human Services submitted a waiver application to put the requirements into effect. CMS did not act on

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that portion of a revised waiver application when it authorized the end of 12-month continuous eligibility for the expansion population in late 2021. Thus work requirements will not go into effect for Montana's Medicaid expansion enrollees.

Legislative Services Division Materials:

- [Medicaid Expansion Waiver: CMS Action](#), January 2022
- [Summary of Appeals Court Ruling](#), May 2020
- [Status of HB 658 Implementation](#), January 2020
- [Work Requirements and Other Federal Changes](#), March 2018

Other Materials:

Montana's Waiver Application

- Montana Section 1115 Waiver Application Materials: Department of Public Health and Human Services
 - [HELP Extension Amendment Application](#), submitted to CMS on September 3, 2021
 - [CMS Approval Letter](#), Dec. 21, 2021
 - [Section 1115 Demonstration Application and Extension](#), July 23, 2019
 - DPHHS PowerPoint: [Medicaid Expansion Waiver](#), July 30, 2019

Centers for Medicare and Medicaid Services

- [Waiver 11-W-00298/1](#), New Hampshire Health Protection Program Premium Assistance, May 7, 2018
- [Waiver No. 11-W-00287/6](#), Arkansas Works, March 5, 2018
- [CMS Waiver No. 11-W-00296/5](#), Healthy Indiana Plan (HIP), Feb. 1, 2018
- [CMS Waiver No. 11-W-00306/4 and 21-W-0067/4](#), KY HEALTH Section 1115 Demonstration, Jan. 12, 2018

Other Sources

- Azar v. Gresham: Legal Challenge to Arkansas and New Hampshire Work Requirements
 - [Petition for a Writ of Certiorari to the United States Supreme Court](#), July 2020
 - [Motion to Vacate, Remand, and Remove from the Argument Calendar](#), February 2021
 - [Letter of Petitioners](#): Update on Administrative Proceedings, June 11, 2021
 - [Suggestion of Mootness and Motion to Vacate and Remand](#), April 2022 (Granted)
- Kaiser Family Foundation
 - [An Overview of Work Requirements: What Happened Under the Trump and Biden Administrations?](#), May 3, 2022
 - [3 Key Questions About the Arkansas Work and Reporting Requirements Case](#), March 6, 2020
 - [Explaining *Stewart v. Azar*: Implications of the Court's Decision on Kentucky's Medicaid Waiver](#), July 2, 2018
 - [Approved Section 1115 Medicaid Waivers as of August 29, 2018](#)
 - [Pending Section 1115 Medicaid Waivers as of August 29, 2018](#)
- [State Proposals for Medicaid Work and Community Engagement Requirements](#), National Academy for State Health Policy

Introduced Legislation

2019

[House Bill No. 658](#) (Chapter Number Assigned) -- AN ACT GENERALLY REVISING HEALTH CARE LAWS; EXTENDING THE MEDICAID EXPANSION PROGRAM PERMANENT BY REVISING THE TERMINATION DATE OF THE MONTANA HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT; ESTABLISHING COMMUNITY ENGAGEMENT REQUIREMENTS FOR HELP ACT PARTICIPANTS; REVISING MEDICAID ELIGIBILITY VERIFICATION PROCEDURES; ESTABLISHING A HELP ACT EMPLOYER GRANT PROGRAM; ENACTING A FEE ON HEALTH SERVICE CORPORATIONS; ESTABLISHING A FEE ON HOSPITAL OUTPATIENT REVENUE; REVISING TAXPAYER INTEGRITY FEES; CREATING A SPECIAL REVENUE ACCOUNT; ALLOWING THE GOVERNOR TO AUTHORIZE A SUPPLEMENTAL APPROPRIATION TRANSFER FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REQUIRING THE GOVERNOR TO REPORT TO THE LEGISLATIVE FINANCE COMMITTEE; EXTENDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; REMOVING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 15-30-2618, 15-30-2660, 15-31-511, 15-66-101, 15-66-102, 15-66-103, 15-66-201, 15-66-202, 15-66-203, 15-66-204, 15-66-205, 17-7-301, 17-7-311, 17-7-502, 33-30-102, 39-12-101, 39-12-103, 53-4-1110, 53-6-131, 53-6-133, 53-6-149, 53-6-160, 53-6-1302, 53-6-1303, 53-6-1304, 53-6-1305, 53-6-1306, 53-6-1307, AND 53-6-1311, MCA; REPEALING SECTION 53-6-1316, MCA; AMENDING SECTION 28, CHAPTER 368, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

2017: None

2015

The federal government was not approving work requirements in 2015. However, that year, the Montana Legislature passed Senate Bill No. 405 to expand Medicaid to nonpregnant, nondisabled individuals who are 19 to 64 years of age and who have family incomes of 138% or less of the federal poverty level -- the population generally included in work requirements that passed in later years.

[Senate Bill No. 405](#) (Chapter Number Assigned) -- AN ACT CREATING THE MONTANA HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT TO EXPAND HEALTH CARE COVERAGE TO ADDITIONAL INDIVIDUALS, IMPROVE ACCESS TO HEALTH CARE SERVICES, AND CONTROL HEALTH CARE COSTS; ESTABLISHING A HEALTH CARE COVERAGE PROGRAM TO PROVIDE CERTAIN LOW-INCOME MONTANANS WITH ACCESS TO HEALTH CARE SERVICES USING MEDICAID FUNDS AND AN ARRANGEMENT WITH A THIRD-PARTY ADMINISTRATOR; IMPLEMENTING CERTAIN MEDICAID REFORMS; PROVIDING STATUTORY APPROPRIATIONS FOR COSTS OF PROVIDING HEALTH CARE SERVICES; PROVIDING SUPPORT FOR HEALTH CARE DELIVERY ACROSS MONTANA; PROVIDING WORKFORCE DEVELOPMENT OPPORTUNITIES FOR PROGRAM PARTICIPANTS; ESTABLISHING TIME LIMITS FOR SERVICE OF PROCESS IN MEDICAL MALPRACTICE CLAIMS; ESTABLISHING AN OVERSIGHT COMMITTEE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 17-7-502 AND 27-2-205, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

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