



211 7th Avenue North, Suite 100, Nashville, TN 37219
Phone: (615)255-0331 Fax: (615)255-0354
e-mail: info@tnjustice.org website: www.tnjustice.org

Trump Administration's New Policy Allowing States to Deny Medicaid to Unemployed Workers Will Harm Tennessee Families

By Christopher E. Coleman
January 26, 2018

• Executive Summary •

On January 11, 2018, the Trump Administration announced a new policy that will allow states to deny Medicaid coverage to unemployed workers. This announcement represents a radical change to Medicaid, the nation's largest health insurance program. Past administrations of both parties have consistently rejected state attempts to deny Medicaid coverage to unemployed workers. They determined that such a policy would undermine Medicaid's core goal of providing health coverage to people who cannot afford to pay for the medical care they need. The Trump Administration portrays its reversal of this longstanding policy as a way to improve the health of Medicaid beneficiaries, but the more likely result will be an increase in bureaucracy and red tape and a reduction in access to health care for people who need it most. If Tennessee seeks to implement this misguided policy, parents living at or below the poverty level will be hit the hardest, and their children will suffer as a result.

Most adults on Medicaid already work. The majority of those who do not work have health conditions that prevent them from working, are caring for children or a sick family member, or are in school. Denying these people Medicaid coverage would penalize those in most need of the support Medicaid provides. For that small minority of Medicaid beneficiaries who are able to work and wanting for jobs, the new policy will make their ability to reenter the workforce even more difficult. Moreover, many Medicaid beneficiaries who work or who would qualify for an exemption will nevertheless lose coverage because they have difficulty obtaining documentation of their work hours or proving that they qualify for an exemption—not because they are ineligible for the program.

Since Tennessee has not accepted federal funds to close the Medicaid coverage gap for low-income childless adults, nearly all of the adult Medicaid enrollees under 65 without disabilities are parents of minor children. The new federal guidance does nothing to ensure that Medicaid coverage is protected for these parents, merely noting that states "may wish to consider" exempting them from the new requirements. Some states have already submitted proposals that would allow them to deny Medicaid to all unemployed parents. Proposed legislation in Tennessee would only exempt parents until their children turn six years old. Taking away coverage from parents harms children as well, both by increasing the likelihood that children will be uninsured and by undermining the financial security of the entire family.

The Trump Administration’s New Policy

The purpose of the Medicaid program is to provide health coverage to certain low-income people—including families with dependent children, pregnant women, and people with disabilities—so they can get the medical care they need.¹ Under the Medicaid Act, states are not allowed to deny Medicaid to individuals who otherwise meet eligibility requirements solely because they are unemployed. However, Section 1115 of the Social Security Act provides states with the flexibility to use federal Medicaid funds in ways that are not otherwise allowed under the federal rules, as long as the Secretary of Health and Human Services (HHS) determines that the initiative is an “experimental, pilot, or demonstration project” that “is likely to assist in promoting the objectives of” Medicaid in the state.

In the past, HHS under both Democratic and Republican administrations have consistently rejected Section 1115 waiver requests from states seeking to deny Medicaid benefits to unemployed workers, because it determined that such proposals were inconsistent with the objectives of Medicaid. In 2016, for example, HHS denied waiver requests from Arkansas and Arizona seeking to impose work requirements on Medicaid beneficiaries because “they could undermine access to care and do not support the objectives of the program.”² In 2015, HHS stated flatly that denying Medicaid to unemployed workers “is not permitted under the Medicaid program.”³

On January 11, 2018, the Centers for Medicare and Medicaid Services (CMS), which is housed within HHS, issued new guidance reversing this longstanding federal policy. The new CMS guidance invites states to seek waivers under Section 1115. The guidance would allow them to deny Medicaid benefits to adults under 65 who do not meet so-called “work requirements” because they are unemployed and who are not engaged in “community engagement activities,” such as skills training, job search activities, or volunteer work. The new policy would only apply to individuals “who are eligible [for Medicaid] on a basis other than disability,” but the guidance recognizes that some people may have disabilities but still not meet the federal standards for Supplemental Security Income (SSI) that would make them automatically eligible for Medicaid. The guidance suggests, but does not require, that states exempt such people, along with other categories of people, such as pregnant women and primary caregivers of dependents.

CMS purports to justify allowing states to deny Medicaid to unemployed workers by citing research showing that people with jobs have better health outcomes than people without jobs. This purported justification, however, assumes that work causes people to be healthier, rather than the more likely explanation that people who are healthy are more likely to have jobs than those in poor health. More importantly, none of the studies cited by CMS suggest that denying benefits to unemployed workers is likely to improve health outcomes. In fact, they suggest the exact opposite: forcing people off Medicaid is likely to have significant negative health consequences. One of the studies cited by CMS found that “interventions which simply force claimants off benefits are more likely to harm their health and well being.”⁴

One of the studies cited by CMS found that “interventions which simply force claimants off benefits are more likely to harm their health and well being.”⁴

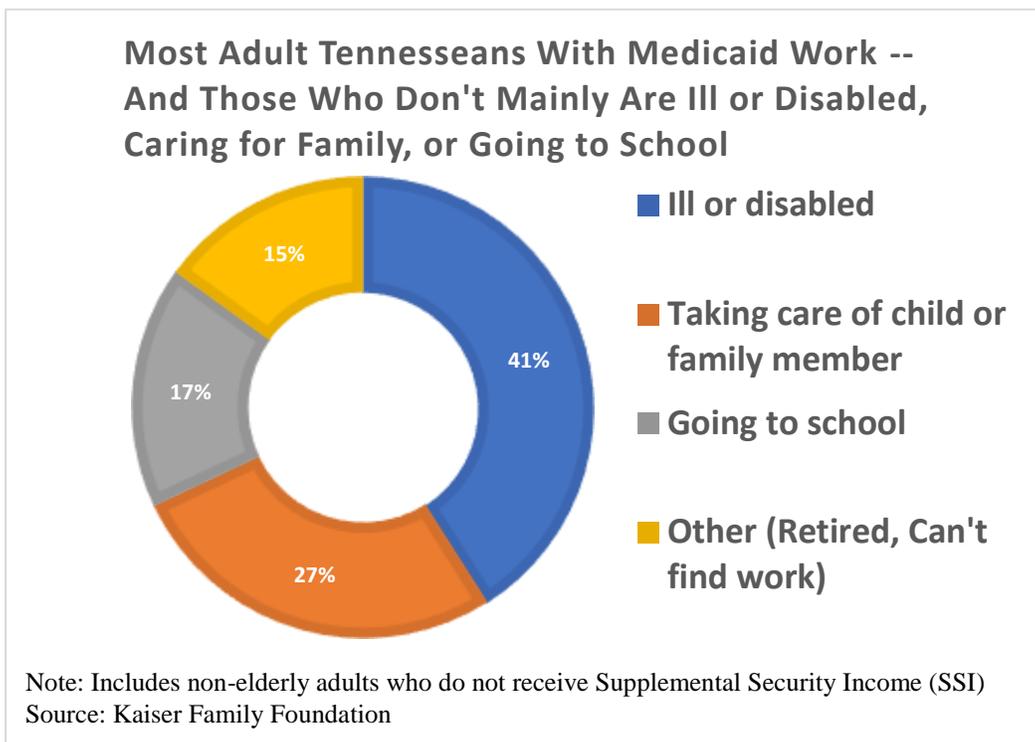
Evidence from past cuts to Tennessee’s Medicaid program, TennCare, bears this out. In 2005, Tennessee cut 170,000 people—almost one in 10 Medicaid beneficiaries—from TennCare. Not

only did the cuts increase the financial strain on families who lost coverage,⁵ many people who were cut started delaying or forgoing visits to the doctor due to cost. They also reported suffering more days in bad health and incapacitated. And they reported more visits to the emergency room.⁶ Losing TennCare coverage also caused delays in breast cancer diagnoses and treatment.⁷ Far from making people healthier, the evidence shows that cutting people off of Medicaid because they are unemployed will harm their health.

Soon after announcing the new policy, CMS approved a waiver allowing Kentucky to deny Medicaid to unemployed workers. Eight other states (AR, AZ, IN, KS, ME, NH, UT, and WI) have submitted similar waiver requests. Tennessee has not submitted a waiver request, but Representative Beth Harwell, Speaker of the Tennessee House of Representatives, has introduced legislation that would require Tennessee to seek a waiver allowing TennCare, as the state Medicaid program is known, to deny Medicaid benefits to unemployed workers without children under six years old.⁸

Most Medicaid Beneficiaries Already Work or Have a Good Reason for Not Working

A recent study by the Kaiser Family Foundation found that almost 80 percent of adults on Medicaid nationally are from families in which at least one adult works, and almost 60 percent are working themselves.⁹ Of those who do not work, about 35 percent are unable to work because of illness or disability.¹⁰ Another 28 percent are taking care of other members of their families in lieu of working outside the home. Of those that remain, 18 percent are students, 8 percent are looking for work but can't find it, and 8 percent are retired.¹¹ In Tennessee, the percentages are similar, except an even higher percentage (41 percent) of those who are not working are unable to work because of illness or disability.¹²



According to the Kaiser study, there are 482,000 non-elderly adult Tennesseans who are enrolled in TennCare, and who do not qualify for federal disability benefits.¹³ Because Tennessee has not accepted federal funding to expand Medicaid eligibility to low-income childless adults, nearly all of these beneficiaries are parents of children under 18 years old. Nevertheless, unless their children are under 6 years old, these parents will lose TennCare coverage if they are or become unemployed under the legislation introduced by Representative Harwell. So, if a single mother of two children 7 and 9 years old loses her job and cannot quickly find another one, she could also lose her TennCare coverage.

Denying Medicaid to Unemployed Workers Will Not Help Them Find Jobs

People need to be healthy to work. As explained above, disability and illness are the main reasons that adult Medicaid beneficiaries do not work. Denying Medicaid to unemployed workers will not help them find jobs. In fact, it is far more likely to make it harder for adults to work.

Medicaid provides people with the supports they need to find and maintain jobs. Studies of adults who gained coverage in Ohio and Michigan under the Affordable Care Act's Medicaid expansion, show that access to Medicaid reduces barriers to employment. The majority of unemployed who gained access to Medicaid in Michigan (55 percent)¹⁴ and Ohio (74.8 percent)¹⁵ reported that having Medicaid made it easier for them to look for work. Unemployed workers in Ohio noted that Medicaid allowed them to get treated for chronic conditions that previously had prevented them from working. In addition, about one-third of new Medicaid enrollees screened positive for mental health disorders, which can hinder individuals' ability to look for jobs. When these individuals were enrolled in Medicaid, they reported improvements in their ability to access medical care and medicines they needed to search for jobs or stay in the workforce.¹⁶

The CMS guidance says that states will be required to implement strategies to help Medicaid beneficiaries find work and other employment resources like job training, child care assistance, and transportation, but it explicitly provides that no federal Medicaid funding can be used to finance these supports. Effective work programs require the ability to conduct assessments to determine who is able to work, monitor work program participation, and develop relationships with employment and training providers and employers. Most state Medicaid programs would have to create such programs and hire additional staff to administer them. States are unlikely to be able to fund these programs without federal financial assistance.

Increased Red Tape Will Cause Eligible Individuals to Lose Coverage and Cost States

In states that choose to implement the new work requirement policy denying Medicaid to unemployed workers, Medicaid beneficiaries will be required to provide state Medicaid agencies with documentation of their participation in approved activities, such as employment, job search, or job training programs, for a certain number of hours each week. Beneficiaries eligible for an exemption will also be required to provide documentation, such as a letter from a doctor verifying that they are unable to work, to continue to receive coverage. Experience from other public benefits programs suggests that many eligible individuals will inevitably lose coverage due to their inability to provide

Tennesseans could lose access to needed medical care because of red tape – not because they are ineligible for the program.

required documents or to navigate other bureaucratic hurdles—not because they are ineligible for the program.¹⁷ This means that people could lose access to needed medical care because of red tape.

The additional administrative burden on state Medicaid agencies required to track work verifications and exemptions will also increase the likelihood of erroneous denials or terminations of eligible individuals. TennCare has struggled to implement even basic changes to the Medicaid eligibility and enrollment process required by the Affordable Care Act. Its new computerized eligibility system, the TennCare Eligibility Determination System (TEDS), is still not operational over four years after it was supposed to be completed. TEDS is not predicted to be online until 2019.¹⁸ This has created months-long delays in coverage for people trying to enroll.¹⁹ TennCare’s process for annual redeterminations of eligibility has also caused numerous eligible individuals to be wrongfully terminated from the program.²⁰ Auditors from the Tennessee Comptroller of the Treasury conducted a review of TennCare’s redetermination process and found a host of problems, including enrollees’ coverage being terminated without notice or temporarily lost when packets are returned by the due date, lengthy call center wait times, and other problems.²¹ Adding more paperwork and red tape to the eligibility process will only increase the problems and confusion at TennCare.

It will also increase costs to states. State experience in implementing policies denying Temporary Assistance to Needy Families (TANF) to unemployed workers suggests that implementing a similar policy in Medicaid could cost states thousands of dollars per beneficiary.²² States would have to create new programs and hire new staff to track beneficiaries’ employment status and cut off their health coverage if they do not meet the eligibility requirements.

Denying Medicaid to Unemployed Parents Will Hurt Children

Historically, the Medicaid program has only provided health coverage to certain categories of low-income people, like children, pregnant women, parents of young children, and people with disabilities. The Affordable Care Act broadened eligibility to cover anyone earning less than 138 percent of the federal poverty level, but the Supreme Court made this expansion optional for the states. Since Tennessee has not accepted the federal funding to expand Medicaid, nearly all non-pregnant, non-disabled adult TennCare enrollees are parents of children under 18. Thus, if Tennessee implements a policy denying Medicaid to unemployed workers, nearly all the individuals affected will be parents of minor children.

If Tennessee implements a policy denying Medicaid to unemployed workers, nearly all the individuals affected will be parents of minor children.

Denying Medicaid coverage to unemployed parents does not just hurt the parents—it also hurts their children. One reason is obvious: healthy parents are better parents, and having health coverage improves parents’ health.²³ If parents are unable to get medical treatment for health issues like maternal depression, their children’s health is likely to suffer.

Denying Medicaid to unemployed parents will also undermine the financial security of their whole families. Medical bills are the number one cause of bankruptcy in the United States.²⁴ The landmark Oregon Medicaid experiment, in which the state used a lottery to determine randomly who would be enrolled in a limited number of newly opened slots in Oregon’s Medicaid program, led to

significant reductions in out-of-pocket spending, borrowing money to pay bills, and the likelihood of medical debt for those enrolled. In addition, catastrophic medical expenditures were nearly eliminated.²⁵ A more recent study by National Bureau of Economic Research showed that having Medicaid significantly reduced the amount of unpaid medical bills sent to collections.²⁶ Medicaid clearly makes families more financially secure.

Finally, taking away parents' Medicaid coverage could lead to a loss of health coverage for their children. Research shows that when parents have health coverage, their children are more likely to have health coverage. Most uninsured children are eligible but not enrolled in Medicaid or the Children's Health Insurance Program (CHIP). Their enrollment significantly increases when their parents have coverage.²⁷ The reverse holds true as well: When parents lose coverage, children are at a greater risk of becoming uninsured, even if they remain eligible for Medicaid or CHIP. In 2012, after Maine cut eligibility for parents, coverage dropped 13 percent among children in the same income bracket as the parents who lost coverage.²⁸

Conclusion

The Trump Administration's reversal of the longstanding federal policy against denying Medicaid to unemployed workers will hurt families. It will make it harder for unemployed workers to get the support they need to find jobs and will cause many eligible people to lose coverage due to increased bureaucracy and red tape. Instead of erecting new barriers to health care that will be costly to the state and ineffective at increasing employment, Tennessee policymakers should protect Tennessee parents' access to the medical care they need to help them find and keep jobs.

Chris Coleman is a Staff Attorney at the Tennessee Justice Center.

¹ Section 1901 of the Social Security Act appropriates funds so states can "furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care."

² Letter from Sylvia Mathews Burwell to Asa Hutchinson, April 5, 2016, http://governor.arkansas.gov/images/uploads/Burwell_Letter_to_Governor.pdf; Letter from Andrew Slavitt to the Director of the Arizona Health Care Cost Containment System, September 30, 2016, <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/az/Health-Care-Cost-Containment-System/az-hccc-demo-ext-09302016.pdf>.

³ Press Release, CMS and Indiana Agree on Medicaid Expansion (January 27, 2015), <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2015-Press-releases-items/2015-01-27.html>

⁴ Gordon Waddell and A Kim Burton, *Is Work Good For Your Health and Well-Being?*, at 30 (2006) (quoted in Statement of Review by LaDonna Pavetti, January 11, 2018), <http://www.healthlaw.org/publications/browse-all-publications/nhelp-letter-to-cms-regarding-work-requirements#.WlfE2TdG201>).

⁵ L. Argys *et al.*, "Losing Public Health Insurance: TennCare Disenrollment and Personal Financial Distress," Federal Reserve Bank of Atlanta (August 2017), <https://www.frbatlanta.org/>

[/media/documents/research/publications/wp/2017/06-losing-public-health-insurance-2017-08-31.pdf](#).

⁶ D. Tello-Trillo, “Effects of Losing Public Health Insurance on Healthcare Access, Utilization and Health Outcomes: Evidence from the TennCare Disenrollment (2016)(Ph.D. dissertation, Vanderbilt University), <https://dsebastianello.files.wordpress.com/2014/12/tenncare-05212016-21.pdf>.

⁷ W. Tarazi *et al.*, “Impact of Medicaid Disenrollment in Tennessee on Breast Cancer Stage at Diagnosis and Treatment,” *Cancer* (June 26, 2017), <http://onlinelibrary.wiley.com/doi/10.1002/cncr.30771/abstract>.

⁸ J. Mattise, “Beth Harwell Proposes TennCare Work Requirements,” *The Tennessean*, January 11, 2018, <https://www.tennessean.com/story/news/politics/2018/01/11/beth-harwell-proposes-tenncare-medicaid-work-requirements/1026063001/>.

⁹ M. Musumeci, R. Garfield, and R. Rudowitz, “Medicaid and Work Requirements: New Guidance, State Waiver Details, and Key Issue,” Kaiser Family Foundation (January 16, 2018), <https://www.kff.org/medicaid/issue-brief/medicaid-and-work-requirements-new-guidance-state-waiver-details-and-key-issues/>.

¹⁰ Though the CMS guidance applies to people eligible for Medicaid “on a basis other than disability,” many people with chronic health conditions may not be exempt because they do not meet the strict federal disability criteria, even though their health conditions prevent them from working.

¹¹ *Id.*

¹² R. Garfield, R. Rudowitz, and A. Damico, Appendix, “Understanding the Intersection of Medicaid and Work,” Kaiser Family Foundation (December 7, 2017), <https://www.kff.org/report-section/understanding-the-intersection-of-medicaid-and-work-appendix/>.

¹³ *Id.*

¹⁴ R. Tipirneni *et al.*, “Medicaid Expansion Helped Enrollees Do Better at Work or in Job Searches,” University of Michigan (June 2017), <http://ihpi.umich.edu/news/medicaid-expansion-helped-enrollees-do-better-work-or-job-searches>.

¹⁵ The Ohio Department of Medicaid, “Ohio Medicaid Group VIII Assessment: A Report to the Ohio General Assembly,” (January 2017), <http://medicaid.ohio.gov/Portals/0/Resources/Reports/Annual/Group-VIII-Assessment.pdf>.

¹⁶ *Id.*

¹⁷ N. Phillips, “How States Can Protect Workers with Irregular Schedules from Losing SNAP Benefits,” Center for Law and Social Policy (2016), <https://www.clasp.org/sites/default/files/publications/2017/04/2016.10.18-ABAWD-Irregular-Schedules-FINAL.pdf>; “A comprehensive assessment of able-bodied adults without dependents and their participation in the work experience program in Franklin County, Ohio,” Report of 2014, Franklin County Department of Job and Family Services and The Ohio Association of Foodbanks, <http://admin.ohiofoodbanks.org/uploads/news/WEP-2013-2014-report.pdf>.

¹⁸ M. Timms, “TennCare continues to push for transparency, clarification while navigating reviews,” *Daily News Journal*, December 9, 2017, <http://www.dnj.com/story/news/2017/12/09/tenncare-continues-push-transparency-clarification-while-navigating-reviews/930741001/>.

¹⁹ T. Wilemon, “TennCare admits more failures with delayed applications,” *The Tennessean* March 17, 2015, <https://www.tennessean.com/story/news/health/2015/03/17/tenncare-admits-failures-delayed-applications/24875473/>.

²⁰ M. Timms, “Seniors left scrambling after TennCare makes cuts to Social Security checks,” *Daily News Journal*, July 21, 2017, <http://www.dnj.com/story/news/2017/07/21/seniors-left-scrambling-after-tenncare-cuts-social-security-checks/479597001/>.

²¹ Review of TennCare Eligibility Determinations, Tennessee Comptroller of the Treasury, December 6, 2017, <http://www.comptroller.tn.gov/repository/SA/TennCareMemoandReport.pdf>.

²² Gayle Hamilton *et al.*, “National Evaluation of Welfare-to-Work Strategies: How Effective Are Different Welfare-to-Work Approaches? Five-Year Adult and Child Impacts for Eleven Programs,” Manpower Demonstration Research Corporation, December 2001, Table 13.1., https://www.mdrc.org/sites/default/files/full_391.pdf.

²³ “Healthy Parents and Caregivers are Essential to Children’s Healthy Development,” Georgetown Center on Children and Families (December 2016), <http://ccf.georgetown.edu/wp-content/uploads/2016/12/Parents-and-Caregivers-12-12.pdf>.

²⁴ Olga Khazan, “Why Americans are Drowning in Medical Debt,” *The Atlantic* (October 8, 2014), <https://www.theatlantic.com/health/archive/2014/10/why-americans-are-drowning-in-medical-debt/381163/>.

²⁵ K. Baicker, *et al.*, “The Oregon Experiment – Effects of Medicaid on Clinical Outcomes,” *The New England Journal of Medicine* (May 2, 2013), <http://www.nejm.org/doi/full/10.1056/NEJMsa1212321>.

²⁶ L. Hu *et al.*, “The Effect of the Patient Protection and Affordable Care Act Medicaid Expansions on Financial Wellbeing,” National Bureau of Economic Research (April 2016), <http://www.nber.org/papers/w22170.pdf>.

²⁷ S. Rosenbaum and R. Whittington, “Parental Health Insurance Coverage as Child Health Policy: Evidence from the Literature,” Department of Health Policy, George Washington University (June 2007), https://publichealth.gwu.edu/departments/healthpolicy/CHPR/downloads/Parental_Health_Insurance_Report.pdf.

²⁸ Maine Children’s Alliance, “Ensuring Health Coverage for Maine Families in 2014,” http://www.mekids.org/assets/files/issue_papers/healthcoverage_children_2014.pdf.