
MEDICAID WORK REQUIREMENTS: THE ETHICS OF PERSONAL RESPONSIBILITIES FOR HEALTH POLICIES

ALEC HILTON, SUMR SCHOLAR

HARALD SCHMIDT, PHD

PROJECT OVERVIEW

- Examine a range of ethical issues that are raised by work requirements and other policies
- Understand the justification of work requirement policies
- Identify the possible unintended consequences for vulnerable patient populations and ways of mitigating these
- Address the impact of work requirements and other policies on different groups of health professionals
 - New responsibilities in enforcing policies

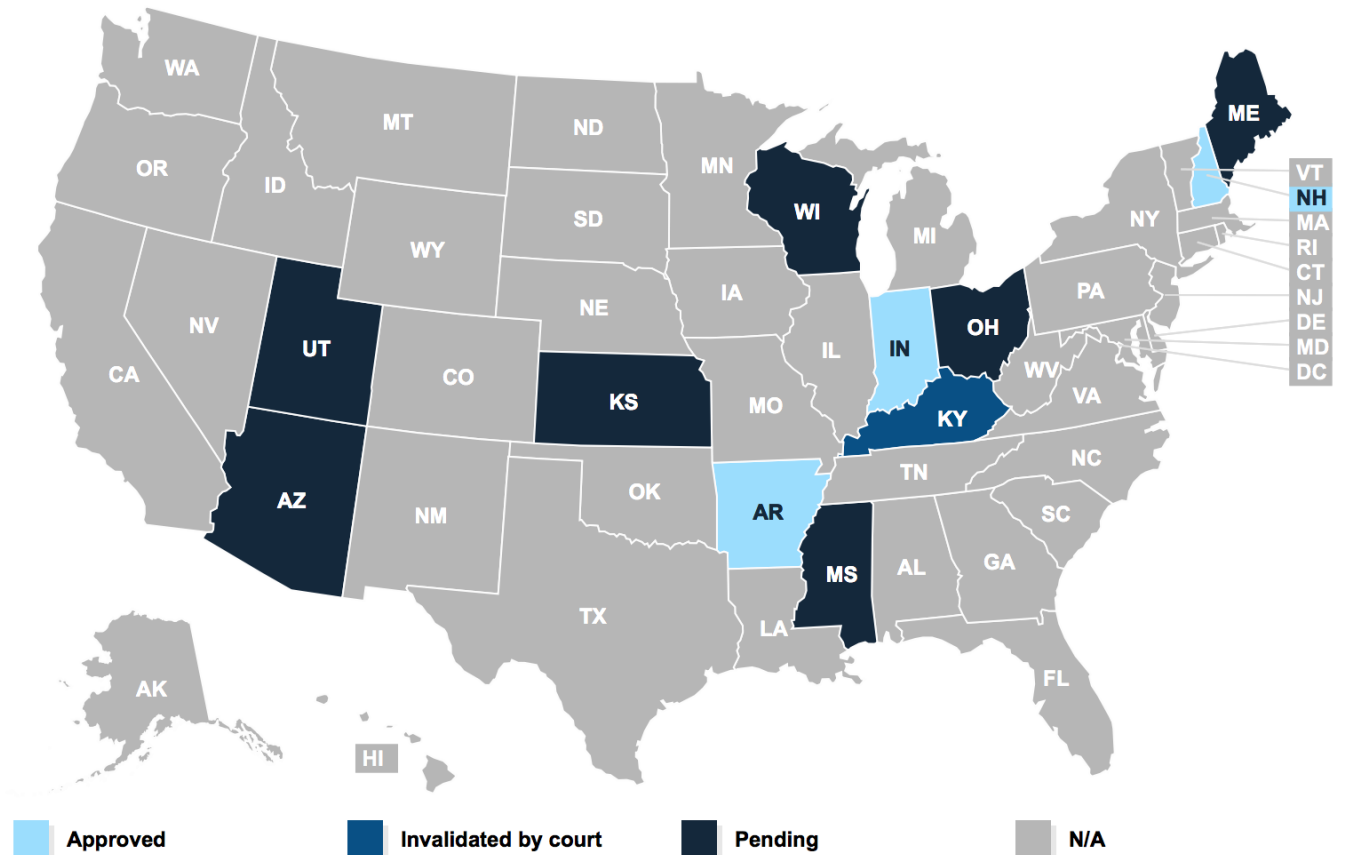
SECTION 1115 MEDICAID WAIVER

- From the Social Security Act
- Grants the Secretary of Health and Human Services (HHS) authority to approve experimental, pilot, or demonstration projects
 - likely to assist in promoting the objectives of the Medicaid program.
 - give states additional flexibility to design and improve their programs
 - demonstrate and evaluate state-specific policy approaches to better serving Medicaid populations

RELEVANCY

11 states have filed applications to test adding work requirements for people who previously had Medicaid access without any conditions

Kentucky is the only state where the court has invalidated the approval



Source: Kaiser Family Foundation, State Health Facts, *Approved Section 1115 Medicaid Waivers* and *Pending Section 1115 Medicaid Waivers*, August 8, 2018.



ETHICS OF WORK REQUIREMENTS



GRANT PROPOSAL

- Physician survey
 - Practicing PCPs in AK, IN, KY, NH
 - Must accept Medicaid patients
- My role:
 - Investigate prior analysis and research
 - Help out studying physicians' attitudes
 - Factors influencing physicians' willingness to request exemptions

PHYSICIAN DECEPTION

- Literary review
 - Only 18 papers discuss the physician bending the rules for their patient so far
- Response analysis
 - Approximate range of 10% to 60% of physicians bend the rules
 - Identified factors influencing percent of physicians bending the rules
 - severity of the condition
 - an unpromising appeal process
 - patient requests
 - percentage of Medicaid patients

PHYSICIAN DECEPTION

- “Rule out cancer” if no insurance coverage
 - 70% of physicians
- Exaggerating symptoms- Study by Kaiser et al. 1999
 - ~50%
- Exaggerating the severity of patients' conditions, changing official billing diagnoses, and documenting nonexistent symptoms to gain additional benefits for patients
 - 39%



UNDERSTANDING WORK REQUIREMENTS

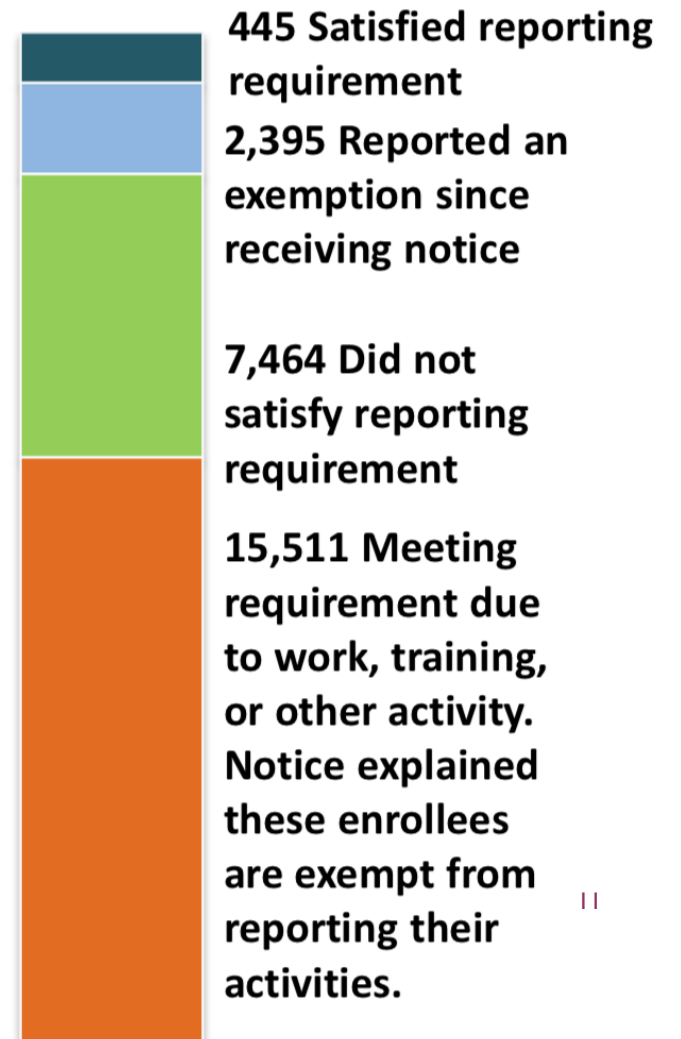
STATE-SPECIFIC CASE STUDY

WHAT DO WORK REQUIREMENTS LOOK LIKE: ARKANSAS

- Applies to Medicaid recipients aged 30-49 in 2018
- Must work at least 80 hours per month
 - If you fail to meet the requirement during any 3 months, loss of Medicare coverage for the year
- Common Exemptions
 - Living at home with a dependent minor
 - Enrolled in full-time education, job training, or vocational training
 - Pregnancy until end of post-partum period
 - Has been determined “medically frail”

WHAT DO WORK REQUIREMENTS LOOK LIKE: ARKANSAS

- 25,815 subject to work requirement reporting in June 2018
 - How many of those satisfied the reporting requirement?
 - 1/3 of the population did not satisfy reporting requirement



“MEDICALLY FRAIL” DEFINITION

- CMS definition of individuals who are medically frail
 - disabling mental disorders (including children with serious emotional disturbances and adults with serious mental illness)
 - chronic substance use disorders
 - serious and complex medical conditions
 - disability that significantly impairs ability to perform 1 or more activities of daily living
 - disability determination based on Social Security criteria

BACKGROUND: KENTUCKY

- 3 one-month federal public comment periods
 - 2016, 2017, 2018
- Stewart v. Azar; June 29, 2018 decision
 - DC federal district court invalidated the approval
 - Case brought by 16 Kentucky Medicaid enrollees challenging the Secretary of HHS
 - Concluded that the Secretary did not adequately consider how the waiver would promote coverage
 - Found that the Secretary never discussed how many people would lose coverage when approving the waiver

METHODS: EVALUATION PROCESS

- Public comment period
 - Run a query for each period
 - Comb through comments for those written by physicians
- Kentucky state open records request
 - Request results are pending

PUBLIC COMMENT PERIODS

- 2016
 - 1800 responses
 - 27 Identifiable physician responses
 - Analyzed using NVivo with a word text query
- 2017
 - 1300 responses
- 2018
 - To terminate on August 18th
 - To date there are 7006 responses
- Focused on physician responses from both physician groups and individuals

GENERAL PHYSICIAN ATTITUDES: INDIVIDUAL

“All Kentuckians deserve access to quality and affordable health care. The governor’s HEALTH proposal creates more barriers, takes Kentucky backwards and should be withdrawn. We should not take away anyone’s health care! As a physician and a psychiatrist I am appalled at the politics of reprisal and revenge, actions that damage people who are disadvantaged.”

“I agree that better engagement by participants in their health and healthcare decisions will enhance accountability and hopefully improve health... encouraging people to become employed and become more active consumers of healthcare, moving to greater use of commercial health insurance. Ultimately, this will help our economy and reduce the burden of government.”

GENERAL PHYSICIAN ATTITUDES: PROVIDER GROUPS

“The Louisville Metro Board of Health stands in opposition to the changes to the Kentucky Medicaid program proposed in the Section 1115 waiver...The purpose of a Section 1115 Medicaid waiver is to demonstrate to the federal government that Kentucky can provide better access and better care than we are already doing. This is most certainly not the case with the proposed waiver...

The waiver erects barriers to treatment, cuts benefits, limits eligibility, increases costs and - creates coverage gaps. It also exacerbates health inequities...There is absolutely no evidence to suggest that charging premiums and enforcing a lock-out period will increase patient engagement or improve health.”

FUTURE OF MEDICAID

- Kentucky setting precedent
 - Waiver process was ahead of other states
- Trump Administration stated they are committed to pushing ahead
 - Path is unsure
- Efficacy and evaluation of work requirements
 - Physician deception skewing future data and evaluation
- Evolving picture

KEY TAKE-AWAYS AND NEXT STEPS

- Leading edge of research in political field
 - Uncertainty of project
- Timeline of research can change based on external factors
- Paper in progress for submission to American Journal of Public Health
 - Continue work throughout the next of the year using KY data then backed up by the literature review

GENERAL REFERENCES

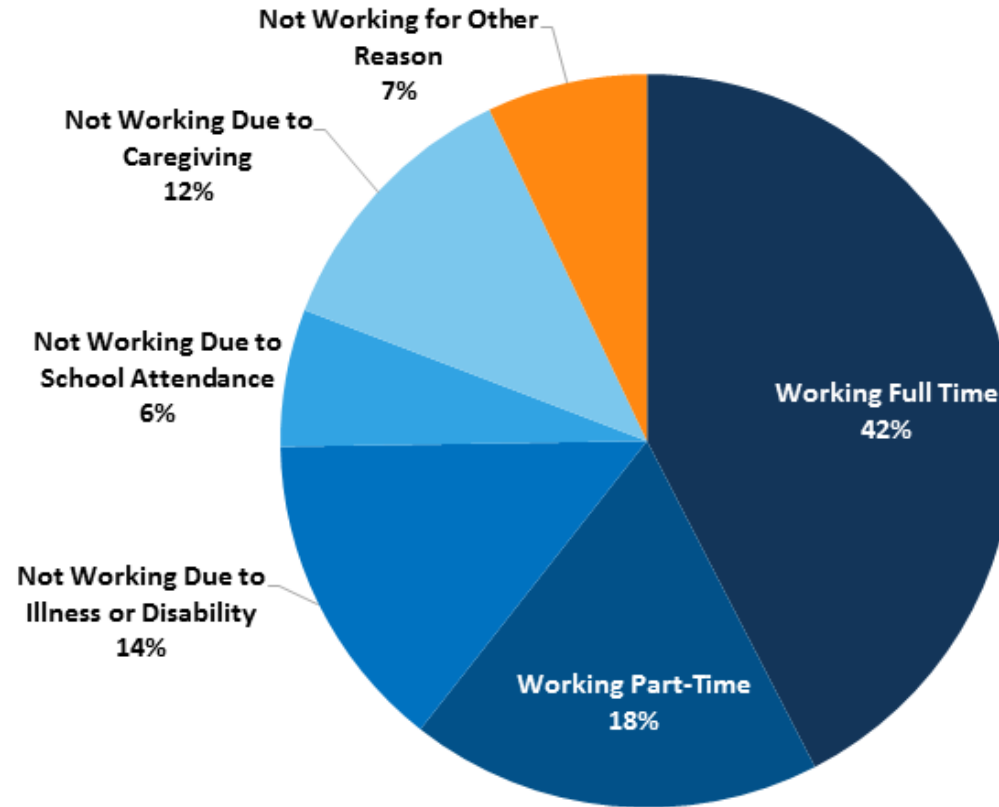
<https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/ar-works-ca.pdf>

<https://www.gpo.gov/fdsys/pkg/CFR-2016-title42-vol4/pdf/CFR-2016-title42-vol4-sec440-315.pdf>

Kinghorn, et al. "Should Doctors Ever Lie on Behalf of Patients" 1999

Figure 1

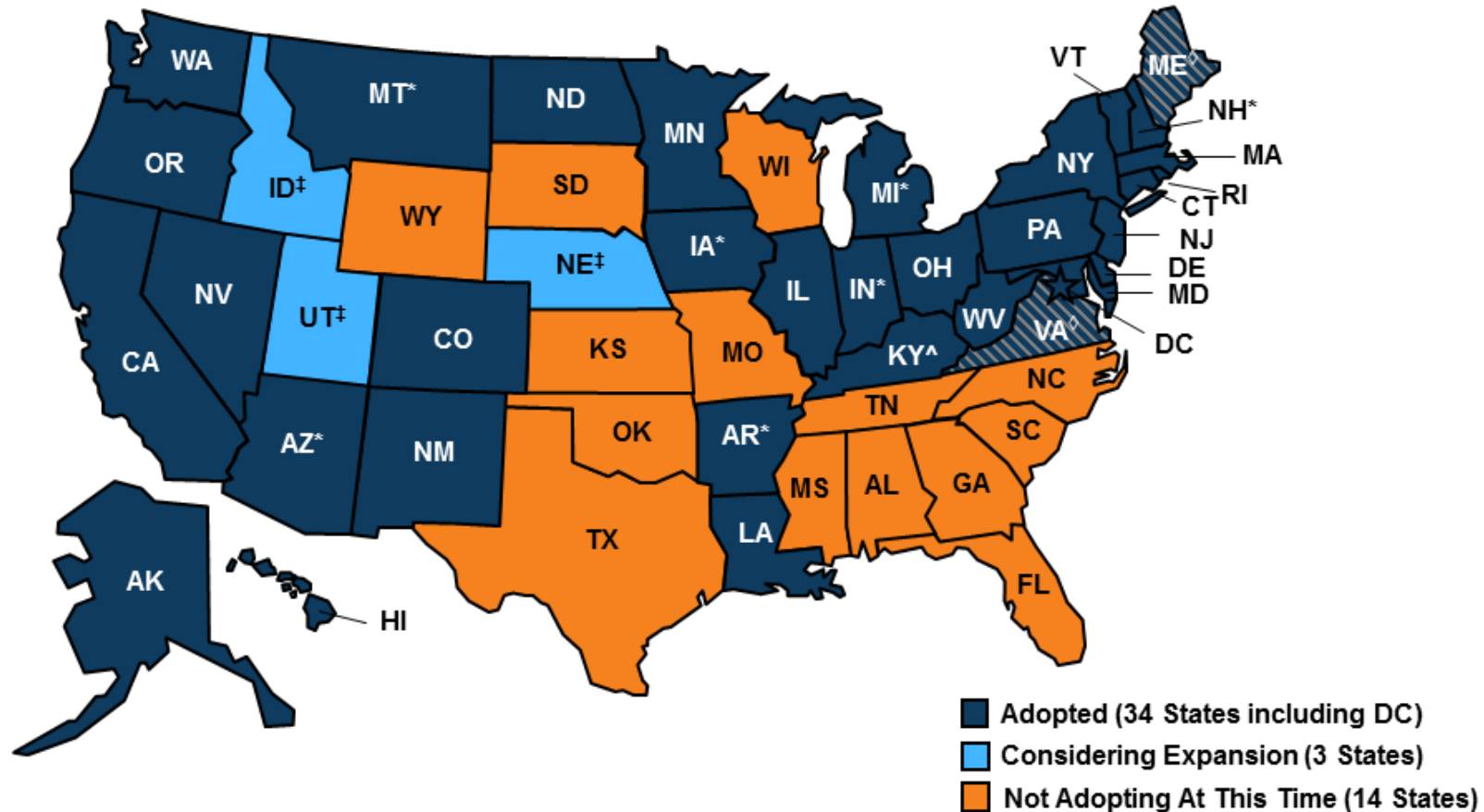
Work Status and Reason for Not Working Among Non-SSI, Nonelderly Medicaid Adults, 2016



Total = 24.6 million

Notes: "Not Working for Other Reason" includes retired, could not find work, or other reason. Working Full-Time is based on total number of hours worked per week (at least 35 hours). Full-time workers may be simultaneously working more than one-job.
Source: Kaiser Family Foundation analysis of March 2017 Current Population Survey.

Status of State Medicaid Expansion Decisions



NOTES: Current status for each state is based on KFF tracking and analysis of state activity. *AR, AZ, IA, IN, MI, MT, and NH have approved Section 1115 expansion waivers. ^On June 29, 2018, the DC federal district court invalidated the Kentucky HEALTH expansion waiver approval and sent it back to HHS to reconsider the waiver program. †UT passed a law directing the state to seek CMS approval to partially expand Medicaid to 100% FPL using the ACA enhanced match. ID and UT have measures on their November ballots to fully expand Medicaid to 138% FPL, and expansion supporters in NE are awaiting final confirmation that the signatures they submitted for a similar initiative meet the state's ballot initiative requirements. °Expansion is adopted but not yet implemented in VA and ME. (See the link below for more detailed state-specific notes.)

SOURCE: "Status of State Action on the Medicaid Expansion Decision," KFF State Health Facts, updated July 27, 2018.

<https://www.kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/>