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What CMS Did and Didn't Approve in Arkansas' Waiver—Both Tell Us A Lot

By Dee Mahan

The Center for Medicare and Medicaid Service's (CMS) efforts to remake Medicaid through administrative actions march on. On March 5, 2018 CMS approved Arkansas' request to add a work requirement to its Medicaid program, even though CMS's legal authority to approve those programs is highly questionable and a lawsuit against its approval of Medicaid work requirements in Kentucky is pending.

Arkansas is the third state to get approval to add a work requirement to Medicaid, after Kentucky and Indiana. Eight additional states have similar requests pending. There is every indication that CMS will plow forward and approve those requests, as well. The approval was executed with a great deal of fanfare, with CMS Administrator Seema Verma traveling to Arkansas. However, in spite of all that fanfare, CMS did not approve everything Arkansas asked for.

CMS did not approve Arkansas's request for a "partial" Medicaid expansion. The state was asking to reduce Medicaid expansion eligibility from the 133 percent of poverty mandated in law to 100 percent of poverty, and yet still receive the enhanced Medicaid expansion federal funding match.[1]

For this administration, approval of a work requirement coupled with failure to approve partial expansion is consistent: both ultimately mean fewer people in Medicaid. Shrinking Medicaid, particularly coverage for adults, is a goal of this administration.

CMS is approving work requirements that are not about putting people back to work, but are about cutting people off Medicaid

The tortured basis for CMS to claim that Medicaid work requirements are legal is that they will force people to find a job and improve their financial security, and that in turn will improve their health. But there's no evidence to support those claims. In fact, there is plenty of evidence showing the opposite: that it is health coverage through Medicaid that helps people work and improves their financial security. There's also plenty of evidence showing that added enrollee paperwork, a key feature of these programs, makes it harder for people to keep Medicaid coverage and results in fewer people enrolling in Medicaid in the first place.

Adding a work requirement to Medicaid is really about states cutting people off Medicaid and making Medicaid smaller, serving fewer people.

CMS isn't approving partial expansions

Ultimately, CMS's failure to approve Arkansas' request

[1]The federal government pays a share of state Medicaid costs. That share is different in the Medicaid expansion program and traditional Medicaid. In 2018, the federal government pays 94 percent of Medicaid costs for expansion enrollees, going down to 90 percent in 2020 and thereafter; for other Medicaid enrollees, the federal share varies by state, but ranges from 50 to a maximum of 83 percent

for a partial expansion is likely about shrinking Medicaid, too.

It is legally questionable whether CMS has the authority to approve the enhanced Medicaid expansion match rate for partial implementation of the ACA expansion—the Obama administration did not believe it did. But this administration is not pausing on approval of a work requirement, which is at least, if not more, legally dubious.

There are likely other reasons the Trump administration did not approve Arkansas' partial expansion request.

One is federal costs. While a partial expansion would mean a smaller state Medicaid program, it would mean more federal costs. Some of the people who would be cut from Medicaid if a state rolled eligibility back to 100 percent of poverty would presumably move to private plans on the marketplace. Private marketplace plans cost the federal government more than Medicaid coverage: while Medicaid expansion involves a 10 percent state share of costs, the marketplace subsidies are totally federally-funded. Being lower income, people between 100 percent and 133 percent of the poverty level would receive significant federal subsidies to help with the costs of coverage. Many states that have already expanded Medicaid would likely jump on an opportunity to reduce the program but keep the same matching rate for remaining beneficiaries, meaning more marketplace enrollees and higher federal costs. That's probably a rationale CMS will give for not approving partial expansion requests.

A second is that more states might expand Medicaid if they could get the same enhanced federal matching funds for a smaller program. That would mean many more people insured through Medicaid, and more states invested in keeping the Medicaid expansion in place.

In spite of the fact that she is in charge of administering the Medicaid program, including the Medicaid expansion, CMS Administrator Verma has been very clear that she thinks that the ACA Medicaid expansion was a mistake. It is unlikely that this CMS would approve a policy that might result in more states asking to expand Medicaid, and partial expansion is one such policy.

That's a rationale that won't get public play, but is equally, if not more, likely a reason Arkansas' request wasn't approved. And is a good window into what requests CMS will and won't approve going forward.