

Strategies for Opposing Restrictive Medicaid Waivers in Your State

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Since the Trump Administration took office, several states have asked the Centers for Medicare and Medicaid Services (CMS) for approval to waive Medicaid requirements or add new ones through requests known as Section 1115 waivers. The vast majority of these requested changes would *cut* Medicaid enrollment and make the program work less effectively for consumers. CMS is approving many of these requests, even though there are often [questions about their legal authority](#) to do so.

Waiver requests start at the state level, through the state legislative or executive branch. State advocates can play a key role in stopping anti-consumer waiver proposals, or in having them reversed later if they do get approved.

1. Assume your state is going to ask for a restrictive waiver. Not every state will ask for a waiver that effectively cuts Medicaid, but many have, including some that do not fit the profile of states one might expect to ask for such restrictive waivers.¹

It makes sense to lay the groundwork for action to be taken if and when it is needed. So start early.

- » **Build a coalition of diverse, publicly trusted allies who are willing to speak out about the importance of a strong Medicaid program.**

Look to the state hospital association; community health centers; associations of state physicians, pediatricians, and nurses; teachers and school nurses organizations; clergy; and associations for state and local law enforcement officers. Maintain your coalition so that it can be activated quickly when needed.

- » **Develop materials to support Medicaid.** Use local data and stories showing how Medicaid helps people access care, improve their finances, and get and keep jobs. Studies from local universities or think tanks can be very helpful. Focus on the importance of Medicaid for adults—the group most states and the Administration are targeting through waivers.
- » **Connect with advocates in other states** to learn which strategies worked for them, and which didn't. Families USA can help you connect with advocates across the country who have worked on waivers at the state level.
- » **Cultivate legislative champions**, ideally from both parties.
- » Take every appropriate opportunity to **tell positive stories about Medicaid in the media.**

2. Do your homework: Learn how to talk about common restrictive elements in ways that resonate with target groups in your state.

There are common 1115 waiver requests that states are submitting to CMS (on such topics as work

requirements, prompt paperwork requirements, time limits on eligibility, asset tests, benefits elimination, and premiums and disenrollment penalties). Learn how to talk about each in ways that show the harm—and the intent (generally to cut people off or get them to drop coverage)—that residents in your state can connect with. Personal stories can be very effective here. Have this material ready to use as soon as state officials start talking about waivers.

Remember, your audience is legislators and the public. Legislators need to understand that cuts to Medicaid, which are typically what these waiver requests are in effect, will have political consequences.

3. If your state is pursuing legislation requiring anti-consumer waiver provisions, get engaged in the legislative process as soon as you can.

Activate your coalition as soon as legislative waiver proposals are mentioned. Rely on strategies you use in legislative fights: social media, op eds in news outlets in the state and key legislative areas, petitions, grassroots activation, ads and mailers, letters to the editor of key news outlets, emails and calls to legislators, etc.

4. If the waiver is originating with the executive branch, start a campaign targeting the governor.

Initiate a campaign targeting the governor, using strategies you typically use in campaigns (see above).

5. Use the state comment period—and make sure that your state complies with comment requirements. Federal law requires a 30-day public

comment period before an 1115 waiver proposal is submitted to CMS, plus two public hearings. [Use the comment period fully.](#)

- » Organize a large number of diverse groups to submit comments. The volume of comments shared shows that the public cares and is watching. Comments should focus on potential harm to the state and state residents.
- » Use the internet to educate consumers about the waiver. Provide them with opportunities to submit comments online, using template language that they can modify.
- » Organize good turnouts at the public hearings. Provide attendees with questions or testimony they can read. Make sure press coverage is good if turnout is going to be high.
- » The state's submission to CMS has to include a section showing that it considered public comments and noting how it addressed those comments. If the state ignored all the consumer comments, turn that into a media story.

6. Use the federal comment period, too. After the state files the waiver with CMS, there is a 30-day federal comment period. Use this, too.

- » Organize as many in-state groups as you can to submit federal comments. The volume of comments provided does matter.
- » Federal comments should focus on harm to state residents, and legal requirements for 1115 waivers. Point out issues of administrative overreach and the purpose of 1115 waivers. Your comments may not sway CMS, but you are building an administrative record. That can be important if there are lawsuits surrounding the waiver, and also for a subsequent administration. [Families USA's federal waiver comments](#) can be a helpful template.

- » If your state did not comply with all the state comment period legal requirements, raise that in your federal comments.

7. Advocacy continues even if a waiver is

approved. Just because a waiver is approved, it doesn't mean things are over. Waivers can be pulled or changed. Political changes can lead to waivers being cancelled. Pennsylvania's Medicaid expansion waiver, for example, was pulled when there was a change in the governor's office. Advocacy to change or pull waivers should begin soon after approval.

- » By law, the state has to hold a public forum within six months of waiver implementation and annually thereafter. Use that as an opportunity to garner press attention to the impact on consumers.
- » Work with researchers at universities and think tanks in the state to document the impact of the waiver on consumers' access to health care and ability to enroll and keep coverage, as well as the impact on providers.

- » Keep your coalition active and engaged.
- » In state and local elections, support candidates who want to make pro-consumer changes to the Medicaid waiver, or eliminate it entirely.
- » During implementation, work with the state's Medicaid department if you can, to make sure that the waiver is implemented in as pro-consumer a way as possible.

8. What you learn in your state can be used in any upcoming federal fights.

Republican leaders in Congress would like to make the anti-consumer provisions that are currently moving through Medicaid waivers part of federal Medicaid law.

When that push starts, what you learn in your state waiver fights can inform federal advocacy and help stop anti-consumer provisions from becoming part of federal Medicaid law. Your lessons learned and your activism helps people in your state, and nationwide.

Endnotes

¹Massachusetts, the state that implemented insurance reforms and a coverage requirement before the Affordable Care Act even existed, asked CMS for approval to reduce Medicaid eligibility through a partial expansion.