

Nebraska's Proposed Medicaid Reporting Requirements: A Costly Burden on the State's Government

Governor Ricketts is proposing a complex set of reporting requirements and bureaucratic hurdles as part of the long-delayed implementation of Nebraska's voter-approved Medicaid expansion. These reporting requirements include reporting on both employment status and other so-called "beneficiary engagement" activities. *But the evidence on these requirements from other states is overwhelming: Implementing these types of requirements will be costly to state taxpayers and will mire Nebraska in years of litigation.*

In November 2018, Nebraskans voted by a substantial majority to expand Medicaid. More than a year later, the Ricketts administration submitted a proposal to implement Medicaid expansion with a complicated series of reporting requirements, incentives, and penalties.

Nebraska is not the first state to try to implement work reporting requirements in Medicaid, and the track record of these programs is poor. Furthermore, Nebraska's proposal is even more complicated than the versions that have failed in other states.

According to a recent report from the Government Accountability Office (GAO), states have reported costs in the hundreds of millions of dollars in the first years of implementation.

» **Medicaid reporting requirements are expensive to implement:** If Nebraska implements the reporting requirements it has proposed, it will be taking on hundreds of millions of dollars in new costs for which it will receive a low federal match. Multiple states have tried to implement these reporting requirements and found them to be costly and administratively burdensome for the state, in addition to being onerous for patients and providers. According to a recent report from the Government Accountability Office (GAO), states have reported costs in the hundreds of millions of dollars in the first years of implementation.¹

Medicaid reporting requirements have a lot of expensive components, including additional staffing, information technology systems changes, beneficiary outreach, and new vendor contracting. Even worse, most of these costs will get a lower federal matching rate than Nebraska usually receives for its Medicaid program because these costs are administrative

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costs. Meanwhile, Nebraska Medicaid has not produced an estimate of the administrative cost of implementing all of these requirements.

- » **Because its proposed reporting requirements and tiered benefits are so complicated, Nebraska’s administrative costs will likely exceed those of other states who have tried similar programs:** Unlike other states, Nebraska is proposing multiple layers of reporting requirements on top of the work reporting requirement. These additional requirements include, among others, documentation of selection of primary care physician, annual health visits, and changes in income.² Each of these reporting requirements will involve multiple notices mailed out to beneficiaries and new staff and information technology to handle the reporting that comes in.

As shown in table 1 (page 3), Nebraska Medicaid’s proposed administrative burden is even higher than the burden other states have taken on.

- » **Like other states, Nebraska will face years of litigation before — if ever — it can implement these reporting requirements:** Governor Ricketts’ proposal will face the same court challenges every similar state proposal has faced. State after state that has tried to implement Medicaid “work requirements” has either had their program blocked in federal court or has simply given up and suspended the program.³ So far, every lawsuit challenging CMS’s approval of Medicaid work reporting requirements has been successful. And Nebraska’s proposal will likely have similar legal problems.⁴

Nebraska’s voters approved a simple Medicaid expansion well over a year ago. But the Ricketts administration’s needlessly complex proposal will make implementation much more expensive and drag the state into lengthy litigation.

Table 1. New administrative requirements for states implementing Medicaid expansion “work” and “wellness” reporting requirement waivers

	Nebraska (likely if approved) ⁵	Kentucky ⁶	Arkansas ⁷	New Hampshire ⁸	Indiana ⁹
Maintaining mechanisms to stop/start payments to managed care organizations based on compliance with reporting requirements	✓	✓	✓	✓	✓
Exchanging data on compliance with reporting requirements with other programs and agencies (SNAP, TANF, employment agencies)	✓	✓	✓	✓	✓
Providing timely and adequate notices on whether, how, and when beneficiaries comply with reporting requirements and exemptions	✓	✓	✓	✓	✓
Determining if further exemptions are necessary in areas with high barriers to compliance	✓	✓	✓	✓	✓
Providing community support and assistance to help beneficiaries meet requirements	✓	✓	✓	✓	✓
Addressing barriers, providing modifications for beneficiaries with disabilities	✓	✓	✓	✓	✓
Maintaining eligibility system to timely suspend/terminate and reinstate coverage based on compliance with reporting requirements	✓	✓	✓	✓	✓
Providing beneficiary protections (appeal rights, eligibility screenings, information on accessible health care) before and after suspension/termination of coverage	✓	✓	✓	✓	✓
Ensuring availability and accessibility of a range of qualifying work activities	✓	✓	✓	✓	✓
Conducting active outreach and education beyond notices	✓		✓	✓	
Additional assurances related to reporting on eligibility status (for example, timely processing of renewals and eligibility verifications, use of ex parte renewals and pre-populated forms, etc.)	✓	✓			✓
Additional assurances related to reporting on medical appointments attended	✓				
Additional assurances related to reporting on primary care provider selection/engagement	✓				
Additional assurances related to reporting on prescription medications filled	✓				
Additional assurances related to reporting on health risk screenings and social determinants assessments	✓				
Additional assurances related to reporting on annual health visits	✓				
Additional assurances related to reporting on commercial coverage	✓				

Endnotes

¹The Government Accountability Office notes in its report that these estimates “generally cover from 1 to 3 years of costs.” Medicaid Demonstrations: Actions Needed to Address Weaknesses in Oversight of Costs to Administer Work Requirements (U.S. Government Accountability Office, October 2019), <https://www.gao.gov/assets/710/701885.pdf>.

² Emmett Ruff and Joe Weissfeld, “Nebraska’s Reporting Requirements: An Unnecessary Burden on Patients and Providers,” Families USA, January 15, 2020, https://familiesusa.org/wp-content/uploads/2020/01/MCD_Nebrasikas-Reporting-Requirements-Burden-Analysis.pdf.

³ Governors in Maine and Kentucky withdrew their waivers. Arkansas and New Hampshire (and Kentucky) have had implementation of their waivers halted in court. Indiana, Michigan, Wisconsin, and Arizona have delayed implementation of their waivers. Ohio and South Carolina have not yet implemented their waivers. Utah implemented its waiver on January 1, 2020, with disenrollments set to begin on May 1, 2020.

⁴ For more detail on this point, see *For Nebraska: A Work Requirement by Any Other Name ... Will Still Be Struck Down in Court* (Washington, DC: Families USA, December 2019), <https://>

familiesusa.org/wp-content/uploads/2019/12/MCD_NE-Legal-Report-1.pdf.

⁵ *Heritage Health Adult Demonstration Final Waiver Application* (Nebraska Department of Health and Human Services, 2019), http://dhhs.ne.gov/Documents/1115_HHA_Application.PDF.

⁶ *KY HEALTH Demonstration Approval* (CMS, November 20, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-ca.pdf>.

⁷ *Arkansas Works Demonstration Approval* (CMS, March 5, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/ar-works-ca.pdf>.

⁸ *New Hampshire Granite Advantage Health Care Program* (CMS, November 30, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/nh/nh-granite-advantage-health-care-program-ca.pdf>.

⁹ *Healthy Indiana Plan* (CMS, December 20, 2019), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/in/in-healthy-indiana-plan-support-20-ca.pdf>.

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This publication was written by:

Emmett Ruff, Policy Analyst, Families USA

Eliot Fishman, Senior Director of Health Policy, Families USA

The following Families USA staff contributed to the preparation of this material (listed alphabetically):

Kimberly Alleyne, Senior Director, Communications

Nichole Edralin, Senior Manager, Design and Publications

Adina Marx, Communications Associate

Joe Weissfeld, Director of Medicaid Initiatives,

FAMILIESUSA
THE VOICE FOR HEALTH CARE CONSUMERS

1225 New York Avenue NW, Suite 800
Washington, DC 20005
202-628-3030
info@familiesusa.org
FamiliesUSA.org
facebook / FamiliesUSA
twitter / @FamiliesUSA