

Nebraska Is Holding Up Its Medicaid Expansion to Pursue a Misguided Waiver to Cut Dental Benefits

In fall 2018, Nebraska voted to finally expand Medicaid, as most other states had already done. The state's Medicaid expansion will extend coverage to almost 100,000 Nebraskans, including single adults, parents, and caregivers, the vast majority of whom are employed.¹ But implementation is now at risk of indefinite delay because of Gov. Pete Ricketts' new proposal to condition the Medicaid dental benefit on documenting work and other activities. Ricketts' proposal is both illegal and poorly conceived.

The Ricketts Proposal

The 2018 Medicaid expansion ballot initiative stated that Medicaid expansion would take place in spring 2019. But Ricketts has delayed implementation of voter-approved Medicaid expansion in order to pursue a federal waiver of Medicaid law to take away Medicaid dental benefits as a penalty for failure to regularly submit documentation. The waiver is sometimes described as a work requirement, but it is considerably more complicated than that. Proposed requirements include, but are not limited to, reporting and documentation of employment status; reporting on other "beneficiary engagement" activities, like volunteering; documentation of primary care physician selection; documentation of annual health visits; and reporting changes in income.

This proposal has three distinct problems, as described below.

Problem 1: Ricketts' proposal will lead to litigation, further complicating implementation of Medicaid expansion.

Based on the experiences of other states, Ricketts' proposal will mire the state in years of litigation before it can be implemented, if ever. Multiple states' Medicaid waivers to implement work reporting requirements have been successfully challenged in court on the grounds that they violate the principal objective of Medicaid waivers, which is to provide medical coverage rather than take it away.²

Problem 2: Reporting requirements will cause many people who are employed to lose coverage.

In Arkansas, over 18,000 people lost Medicaid coverage in three months due to that state's work reporting requirement, with almost all losses due to failures to submit documentation, until the federal courts stepped in to stop the program.³ According to Nebraska's own estimates, more than half of newly eligible beneficiaries will fail to qualify for regular Medicaid dental benefits in the first year of the waiver, even though the great majority of people eligible for Medicaid expansion are employed.⁴ There is a growing awareness in states that new documentation barriers cause eligible people to drop off the rolls, and some states have announced that they are reconsidering their previously announced Medicaid waivers. In fact, most states that have not yet been blocked in court have opted to halt or delay implementation.⁵

Dental care makes it easier for low-income people to find and keep jobs. Conditioning beneficiaries' dental benefits on their ability to find work is counterproductive.

Problem 3: Even on its own terms, taking away dental coverage to incentivize employment makes no sense.

The supposed goal of the waiver proposal is to push people to work. But conditioning beneficiaries' dental benefits on their ability to find work is counterproductive. There is substantial research showing that oral health care improves economic well-being as well as overall physical and psychological health.⁶ Dental care makes it easier for low-income people to find and keep jobs, in part because employers are significantly less likely to hire people with missing teeth, especially for jobs that entail interacting with the public.⁷ Almost one in three low-income adults report that the appearance of their mouth and teeth affects their ability to interview for a job.⁸ In addition, untreated dental issues can contribute to more serious and chronic health conditions, which can make it more difficult for people to find and keep a job.^{9,10}

Conclusion

Nebraska should implement what its voters approved: a Medicaid expansion that provides the state's standard Medicaid dental benefit for newly eligible beneficiaries. If Nebraska goes ahead with some form of work reporting despite the potential legal and policy problems, the state should consider the experiences of Idaho and Virginia. These two states recently expanded their Medicaid programs while their proposals to implement work reporting requirements were still pending approval from the Centers for Medicare & Medicaid Services. Both states successfully implemented expansion without the delays, coverage losses, and lawsuits associated with work reporting requirements.¹¹

Endnotes

- ¹ Jordan Rasmussen, “Medicaid Expansion in Nebraska,” Center for Rural Affairs, May 24 2019, <https://www.cfra.org/publications/MedicaidExpansionInNebraska>.
- ² Emmett Ruff and Joe Weissfeld, “For Nebraska: A Work Requirement by Any Other Name ... Will Still Be Struck Down in Court,” Families USA, December 2019, https://familiesusa.org/wp-content/uploads/2019/12/MCD_NE-Legal-Report-1.pdf. These lawsuits include the four states (Kentucky, Arkansas, New Hampshire, and Indiana) that have attempted to implement work requirements after federal approval, plus one state (Michigan) that has yet to implement. In three of those states (Kentucky, Arkansas, and New Hampshire), the court has ruled to vacate their approval, finding that the justifications for approving these work requirements are inadequate. In the two other states (Indiana and Michigan), the cases have yet to be heard in court.
- ³ Most recently, the U.S. Court of Appeals ruled by unanimous decision to affirm the District Court’s decision to block Arkansas’ work reporting requirement.
- ⁴ Nebraska Medicaid and Long-Term Care, *Nebraska Medicaid Section 1115 Heritage Adult Expansion Demonstration: Improving Health Outcomes and Encouraging Life Successes for Adult Medicaid Beneficiaries* (Lincoln, NE: Nebraska Department of Health and Human Services, December 12, 2019) <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ne/ne-hha-pa.pdf>.
- ⁵ Harris Meyer, “New Hampshire Delays, Alters Its Medicaid Work Requirement,” *Modern Healthcare*, July 8, 2019, <https://www.modernhealthcare.com/medicaid/new-hampshire-delays-alters-its-medicaid-work-requirement>; Jessica Schubel, “More States Reconsidering Medicaid Work Requirements,” *Off the Charts* (blog), Center on Budget and Policy Priorities, January 9, 2020, <https://www.cbpp.org/blog/more-states-reconsidering-medicaid-work-requirements>; Kaiser Health News, “Indiana Becomes Second State in Recent Weeks to Pump the Brakes on Medicaid Work Requirement Plans,” *KHN Morning Briefing*, Kaiser Family Foundation, November 1, 2019, <https://khn.org/morning-breakout/indiana-becomes-second-state-in-recent-weeks-to-pump-the-brakes-on-medicaid-work-requirement-plans/>; David Wahlberg, “Wisconsin Delays Medicaid Work Requirement until Early Next Year,” *Wisconsin State Journal*, November 18, 2019, https://madison.com/wsj/news/local/health-med-fit/wisconsin-delays-medicaid-work-requirement-until-early-next-year/article_eedadfc3-46f3-593e-b6ee-30db71172b85.html.
- ⁶ Vivek H. Murthy, “Oral Health in America, 2000 to Present: Progress Made, but Challenges Remain,” *Public Health Reports* 131, no. 2 (March-April 2016): 224–225, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4765966/>; U.S. Department of Health and Human Services, *Oral Health in America: A Report of the Surgeon General* (Rockville, MD: U.S. Department of Health and Human Services, National Institute of Dental and Craniofacial Research, National Institutes of Health, 2000), <https://www.nidcr.nih.gov/research/data-statistics/surgeon-general>.
- ⁷ Jonel Aleccia, “Bad Teeth, Broken Dreams: Lack of Dental Care Keeps Many out of Jobs,” *NBC News*, June 12, 2013, <https://www.nbcnews.com/feature/in-plain-sight/bad-teeth-broken-dreams-lack-dental-care-keeps-many-out-v18906511>; S. Hyde, W.A. Satariano, and J.A. Weintraub, “Welfare Dental Intervention Improves Employment and Quality of Life,” *Journal of Dental Research* 85, no. 1 (January 2006): 79–84, <https://www.ncbi.nlm.nih.gov/pubmed/16373686>.
- ⁸ Health Policy Institute and American Dental Association, *Oral Health and Well-Being in the United States*, <http://www.ada.org/en/science-research/health-policy-institute/oral-health-and-well-being>.
- ⁹ Thomas E. Van Dyke and Jacqueline R. Starr, “Unraveling the Link between Periodontitis and Cardiovascular Disease,” *Journal of the American Heart Association* 2, no. 6 (2013): e000657, <https://www.ahajournals.org/doi/pdf/10.1161/JAHA.113.000657>.
- ¹⁰ Sharon L. Christ, D. Diane Zheng, and Bonnielin K. Swenor, “Longitudinal Relationships among Visual Acuity, Daily Functional Status, and Mortality: The Salisbury Eye Evaluation Study,” *JAMA Ophthalmology* 132, no. 12 (2014): 1400–1406, <https://jamanetwork.com/journals/jamaophthalmology/fullarticle/1897292>.
- ¹¹ Betsy Russell, “Department to JFAC: Medicaid Expansion Going ‘Remarkably Smoothly’ So Far,” *Idaho Press*, February 10, 2020, https://www.idahopress.com/eyeonboise/department-to-jfac-medicaid-expansion-going-remarkably-smoothly-so-far/article_effb2e3-159d-52cc-bc07-590b9b47290e.html; Josh Barney, “Medicaid Expansion Slashed Uninsured Rates in Diabetes Belt,” *University of Virginia, UVA Today*, February 4, 2020, <https://news.virginia.edu/content/medicaid-expansion-slashed-uninsured-rates-diabetes-belt-study-finds>; Virginia Medicaid Program, “Access Dashboard: Medicaid Expansion Access and Health Services,” Virginia Department of Medical Assistance Services, <http://dmas.virginia.gov/#/accessdashboard>.

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