NONPROFITS: LEGISLATION

The Feds Blinked - At Least Temporarily! - on the Draconian New Medicaid Work Rules

11.26.26 | Linda J. Rosenthal, JD



Medicaid has come roaring back into the national headlines. And not a minute too soon.

In just five weeks – January 1, 2027 – the new "work-or-equivalent" mandate [the "Mandate"} goes into effect for many "Medicaid-expansion" enrollees or applicants, ages 19-64. This change was included in the initial budget-resolution legislation of the Trump 2.0 era: H.R. 1 (July 4, 2025), the so-called One Big Beautiful Bill Act (OBBBA).

The targets of the OBBBA, by the way, were not limited in scope to Medicaid, or even more generally to health care coverage. It was a slash-and-burn orgy for the social safety net more broadly (including SNAP benefits) as well as for newly disfavored family planning, higher education, and environmental programs.

Of course, it took direct aim at all of the health-financing systems – Medicare, Medicaid, the Affordable Care Act, and Health Savings Accounts. See *Health Provisions in the 2025 Federal Budget Reconciliation Law* (August 22, 2025) *KFF* and *Implementation Dates for 2025 Budget Reconciliation Law*, *KFF [click "Medicaid" tab to condense the table to only Medicaid-specific deadlines]*

For a change, the latest Medicaid news is … relatively good. Behind the scenes over these sixteen or so months, there has been pushback – with results! – on two separate, but concurrent, tracks: one administrative and one judicial.

Let's start off early this Thanksgiving morning with a quick peek at how the executive branch – uncharacteristically – has backed off a hard-line problematic deadline.

A Bit of Background

This Mandate is one of the more dreadful ideas to come from the Trump 2.0 administration. And let's face it: There's a lot of competition for that dubious honor.

Requiring so-called "able-bodied" adults ages 19-64 to affirmatively prove, repeatedly, that they have racked up at least 80 hours a month in paid work, school enrollment, or as a "volunteer" for a charity is such a non-starter that even the truest of true believers who drafted the 900+-page Project 2025 did not go that far. Perhaps allow the states to try it out as an option, they wrote. But a mandate? No.

Fun Fact: The Trump 1.0 administration had taken that idea of a "work-or-equivalent" opt-in pilot program for a test drive in 2017. It crashed and burned spectacularly. See, e.g. *An Overview of Medicaid Work Requirements: What Happened Under the Trump and Biden Administrations?* (May 3, 2022) Madeline Guth and MaryBeth Musumeci, *KFF;* and *Mandatory Volunteerism: A Bad Idea All Around* (March 15, 2018) *FPLG Blog.*

But here we are – ten years later – back again.

Seeing the Big Picture

The Medicaid "work-or-equivalent" rules will have an effect on a much larger chunk of the American population than generally believed. "Medicaid is the primary program providing comprehensive coverage of health care and long-term care to about 80 million low-income people in the United States. Medicaid accounts for nearly one-fifth of health care spending (and half of spending for long-term care) and a large share of state budgets…." See *Medicaid 101* (October 8, 2025) *KFF.*

There is widespread agreement and acknowledgment that the level of healthcare cuts approved by Congress and enacted into law by President Trump on July 4, 2025, will have a devastating ripple effect, impacting "not only Medicaid beneficiaries but entire safety-net health care systems, which serve a wide array of patients and families." See, e.g., *Federal Cuts to Medicaid Could End Medicaid Expansion and Affect Hospitals in Nearly Every State* (May 2025) *Issue Brief, The Commonwealth Fund; The Potential Impacts of Cuts to Medicaid* (April 3, 2025) *Johns Hopkins Bloomberg School of Public Health; 5 Key Facts About Medicaid and Hospitals* (March 5, 2025) Scott Hulver et al, *KFF.*

So turning our collective attention now to resistance against this nutty idea is a critical priority. Note that, in connection with the administrative resistance track, there is urgent action that state and territorial officials, including governors and Medicaid directors, should turn to next week after the Thanksgiving holiday.

Pushback on Administrative Track

Upon passage of the OBBBA on the Fourth of July last year, the government assured the nervous and alarmed state and territorial Medicaid partners, that there would be a period of 18 months to ease the transition to the new "work-or-equivalent" requirement, effective no later than New Year's Day 2027.

The Centers for Medicare and Medicaid Services repeatedly made promises and assurances that official guidance would soon be issued. There was no indication, though, that the exemptions to the Mandate as described in the proposed or final regulations would be in any way different than how

Congress prescribed them in the OBBBA,

In early December 2025, the CMMS issued *Section 71119 of the "Working Families Tax Cut" Legislation, Public Law 119- 21: Requirements for States to Establish Medicaid Community Engagement Requirements for Certain Individuals* (December 8, 2025), [13 pp. PDF] *Centers for Medicare and Medicaid Services.*

There was no indication in that document of the later-included variation of the language in the regulation. See *Medicaid Work Requirement Guidance Provides Little Clarity for States Facing Tight Timeline* (December 8, 2025) Allie Gardner, *Center on Budget and Policy Priorities.*

On June 1, 2026, the government published in the Federal Register its Interim Final Rule on the Mandate: *Medicaid Program; Community Engagement Requirement for Certain Individuals.* Its release engendered surprise and concern. See *CMS Requires More Restrictive Definition of Medical Frailty in New Medicaid Work Requirements Rule* (June 2, 2026) Jennifer Tolbert, *KFF;* and *Final Rules for Medicaid Work Requirements Are Out. Here's What You Need To Know.* (June 12, 2026) Sam Whitehead, *KFF Health News.*

Repeatedly, state officials expressed both their surprise at this Interim Final Rule and emphasized the difficulties in putting into place the infrastructure and systems necessary to begin administration and enforcement of this not-as-expected Mandate. See, e.g., *Governors ask HHS for more time to implement Medicaid work requirements* (October 2, 2026, updated October 15, 2026), Rebecca Pifer Parduhn, *Health Dive* ["The governors of Oregon, California, Maine, New Mexico and Virginia don't think it's possible for states to meet the Jan. 1 deadline to stand up work requirements while protecting beneficiaries."]

Last week, on November 13, 2026, the Trump administration, through the Centers for Medicare and Medicaid Services (CMMS), took a dramatic and unexpected step retreating (temporarily) from its aggressive regulatory efforts to enforce the OBBBA's broad and deep assaults on the social safety net in America. See *Optional Hold Harmless Period for Community Engagement Implementation* [4 pp. PDF] (November 13, 2026) Letter from Daniel Brillman, Deputy Administrator and Director, Centers for Medicare and Medicaid Services, addressed to "State Medicaid Director."

"The hold harmless period is optional." Mr. Brillman continued: "[S]tates that choose to implement the hold harmless period are not required to use the option for the entire period through June 30, 2027."

He added: "States that intend to use the hold harmless period beginning January 1, 2027, ***are asked to notify*** *CMS by December 11, 2026.*" [emph. added]

See early reaction: for example, *CMS Announces Optional 6-Month Delay for Enforcing Medicaid Work Requirements* (November 14, 2026) Jennifer Tolbert, KFF ["Acknowledging the challenging timeline states were facing to implement new Medicaid work requirements and the fact that many were not going to be ready to meet the January 1 deadline, on November 13, 2026, the Centers for Medicare and Medicaid Services (CMS) announced it would grant states a six-month delay on enforcing the requirements."]

See also, e.g.: *Administration Offers Relief on Medicaid Red Tape, but There's a Catch* (November 19, 2026) Julie Carter, *Medicare Rights Organization* ["States still have to go through all of the processes of determining who would be eligible for coverage to, as the letter puts it, 'test and refine their systems and processes before enforcement begins.' *** [T]he hold harmless period is both incomplete and temporary. A full delay—and ultimately repeal—of this provision is necessary to ensure that people who need expansion Medicaid can get and keep it."

Conclusion

We'll continue in the next post with a peek at the judicial-track pushback.

There is quite a bit of activity there: three lawsuits filed since June 29, 2026 – just after the publication of the Interim Final Rule.

- *Commonwealth of Massachusetts et al v. Mehmet Oz, M.D., et al,* (D. Mass) Case 1:26-cv-12962, Complaint Filed, June 29, 2026.

This first case has already produced an important but incomplete result: a ruling granting the plaintiffs – a coalition of 26 Democratic attorneys general – partial summary judgment. It invalidates part of the Interim Final Rule: namely, the definition of a key exemption from the Mandate, "medical frailty." Of course, the ruling may be appealed.

- *Taylor et al v. Kennedy et al,* [D.Md] Case 1:26-cv-03705, Complaint Filed, September 18, 2026

The second lawsuit was filed on by a different collection of plaintiffs: medical associations as well as individual Medicaid-expansion enrollees with serious health issues. Among the relief sought is invalidation of that same "medical frailty" exemption. There is a pending motion for preliminary injunction as well as for summary judgment; briefing is not yet complete.

- *State of Oregon, et al v. Mehmet Oz, et al* [D.OR] Case 6:26-cv-02435-AA, Complaint Filed, November 5, 2026

The third lawsuit was filed just a few days after the judge in the first lawsuit issued his ruling. This new litigation, filed by four Democratic attorneys general, is the most ambitious and exciting: It takes direct aim at the entire "work-or-equivalent" requirement, on constitutional and other grounds, hoping to persuade the judge to throw it out entirely. In this case, there are also pending pre-trial motions, with briefing not yet complete.

There's a lot to chew on with these developments. Happy Thanksgiving!

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