The idea of requiring able-bodied adults to work or be actively seeking it as a condition for government assistance is certainly not new, but its application to Medicaid is as of January, when the Trump administration began approving some states’ applications to impose work rules as a condition of eligibility for this public health insurance program.

In its official guidelines, released Jan. 11, the U.S. Centers for Medicare & Medicaid Services will now allow states to make “work or participation in other community engagement activities” — including skills training, education, job search, volunteering or caregiving — conditions for Medicaid eligibility for able-bodied, working-age adults.

People with a disability, elderly beneficiaries, children, and pregnant women must be excluded. According to a CMS press release, states’ work and community engagement requirements also “should take into consideration areas of high unemployment or caregiving for young children or elderly family members.”

In seeking such a federal waiver, states must “describe strategies to assist eligible individuals in meeting work and community engagement requirements and to link individuals to additional resources for job training, provided they do not use federal Medicaid funding to finance these services.”

CMS also said it will support states’ efforts to align Medicaid work and community engagement requirements with those already in place for the Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families, where appropriate.

States must also fully comply with federal disability and civil rights laws and ensure that all individuals with disabilities have the necessary protections to ensure that they are not inappropriately denied coverage, CMS said.

As of Jan. 31, CMS had received demonstration project proposals from 11 states, including Indiana, Kansas and Wisconsin in the Midwest. South Dakota Gov. Dennis Daugaard announced in January that, he, too, will seek a “Section 1115” waiver — named for that section of the Social Security Act — to implement a two-year pilot workrequirement project in two counties containing the state’s largest cities, Sioux City and Rapid City. And Illinois Gov. Bruce Rauner’s office, when asked in January by the Chicago Tribune, said the new federal guidelines were “under review.”

Within 24 hours of the CMS statement, however, Kentucky became the first U.S. state to get federal approval and announce plans to implement Medicaid work requirements.

Eyes on waiver-related lawsuit

If Kentucky’s Section 1115 waiver survives a legal challenge, then starting in July, Kentucky will make Medicaid available only to non-disabled adult residents who are working at least 20 hours per week, volunteering, studying or taking care of a family member.

The state was also granted the ability to charge Medicaid recipients health care premiums of up to 4 percent of income, more than allowed in other waivers issued so far. Kentucky may also now implement six-month lockout periods for people who fail to re-enroll in time or to report changes in circumstances affecting eligibility. The state, too, can eliminate full coverage of dental care, vision services, and over-the-counter medications for many adults.
Former foster care youths, pregnant women and full-time students are exempt from these changes. A lawsuit was filed on Jan. 24, brought by the Southern Poverty Law Center, the National Health Law Program and the Kentucky Equal Justice Center, alleging that the “authorization of work and community engagement requirements is categorically outside the scope of the [HHS] Secretary’s Section 1115 waiver authority.”

The lawsuit also argues that work rules for Medicaid represent “a fundamental alteration” of the program and of the Affordable Care Act, and is thus an unlawful attempt to rewrite federal legislation.

Lynne Valenti, secretary of South Dakota’s Department of Social Services, says she — and certainly plenty of other states — will be watching this lawsuit closely as her state pursues a Section 1115 waiver for its own pilot program. According to Gov. Dennis Daugaard, the program will involve 1,300 people in Minnehaha (Sioux City) and Pennington (Rapid City) counties, “where there is the greatest availability of employment and training resources.”

Participants will be automatically enrolled for individualized services, and those who eventually earn enough of an income to transition off Medicaid will get other assistance — such as child care subsidies — to ensure their long-term success.

“All work has dignity, and work is an important part of personal fulfillment,” Daugaard wrote in announcing the pilot project. “By making this adjustment to our Medicaid program, we will continue to help persons in need, while helping find jobs for those able to work, and also find that sense of pride and accomplishment which accompanies work.”

Mindful of CMS’s slow march toward waiver approval, South Dakota’s program will be voluntary when it launches in July, Valenti says. (A mandatory work requirement will need a federal waiver.)

Legislators, tribal representatives and county welfare agencies began meeting in February to start framing the program design, Valenti says, adding that the goal is to have a final plan in place by the end of March. The next step would then be to hold public hearings, as required by the Section 1115 waiver process.

According to Valenti, this state panel will look at what constitutes work under the new state program and examine potential administrative costs — the program must be revenue-neutral. “The idea is to help people who have barriers to employment,” Valenti says.

Indiana first Midwest state to get waiver

This year, as of early February, bills also had been introduced in at least two Midwestern states, Iowa and Michigan, to require work for some Medicaid enrollees.

Iowa’s SF 2158 would require the state Department of Human Services to request a Section 1115 waiver; enrollees would have to spend at least 20 hours a week in work, in job training, looking for work or attending school. The bill would also require Medicaid enrollees with children to ensure school attendance; all enrollees would have to undergo a drug screening. In addition, Medicaid coverage would not begin until six months after approval of an individual’s application for assistance.

Michigan’s HB 5317 would require able-bodied adults to work a yet-to-be-determined number of hours.

Indiana received CMS approval on Feb. 1 for its “Healthy Indiana Plan 2.0” and a two-year demonstration project that includes a “community engagement” requirement. Starting in 2019, able-bodied adults will be required to work, volunteer or be in school for 20 hours per week (the number of hours required will be phased in over two years), for at least eight months of the year, in order to maintain coverage through Indiana’s Medicaid program.

Per CMS’s notification letter to the Indiana Family and Social Services Administration, some recipients — including pregnant women, medically frail beneficiaries, students, some caregivers and beneficiaries in active treatment for substance abuse disorders — will be exempt from this requirement.

Enrollees who fail to meet the hours requirement in the preceding calendar year will have their eligibility suspended in the new calendar year until one month after the state is notified that they have completed a calendar month of required hours, and will have to reapply.
“With this policy, the state will test whether requiring some beneficiaries to engage in community engagement requirements will lead to improved health outcomes,” the letter states.

In its Jan. 11 letter to all state Medicaid directors, CMS director Brian Neale — who was Indiana’s health care policy director under then-Gov. Mike Pence — wrote that the agency recognizes “a growing body of evidence [which] suggests that targeting certain health determinants, including productive work and community engagement, may improve health outcomes.” Among the benefits found by myriad studies, he said, were that:

- higher earnings are positively correlated with longer life spans;
- unemployment is generally harmful to health, including higher mortality, medical consultation and hospital admission rates;
- employment has a protective effect on depression and general mental health; and
- community engagement efforts such as volunteering are associated with improved health outcomes and can lead to paid employment.

Kansas, too, seeks a work requirement in its application (submitted in late December) to renew “KanCare 2.0 [10]” from 2019 through 2023. If CMS approval is given, work requirements would be implemented on or after Jan. 1, 2019, but no later than July 1, 2020, and would affect able-bodied adults who do not fall into any of 14 exempted categories.

Minimum weekly work requirements would be 20 to 30 hours in a one-adult household, depending on whether there is a child under the age of 6, or 35 to 55 hours in two-adult households. Applicants would be required to complete a self-assessment and take part in a program orientation.

Wisconsin’s application to extend its BadgerCare demonstration includes an 80-hour-a-month work/community engagement requirement, but also a 48-month lifetime limit on Medicaid coverage, monthly premiums for households with incomes from 51 to 100 percent of the federal poverty level, and an $8 co-pay for use of an emergency department.

**Words of caution**

An issue brief released in January by the Kaiser Family Foundation [11] offers several points of caution regarding state work requirements for Medicaid. Among them:

- Administrative costs to track whether Medicaid enrollees meet weekly work requirements may negate expected program savings.
- CMS requires states to describe how they will assist Medicaid recipients to meet work requirements, but Medicaid funds cannot be used for support services such as child care or transportation.
- Robust, independent evaluations of demonstration program results will be critically important to determine the efficacy of these Medicaid changes.

“It is not clear whether tying eligibility to work promotes health,” authors of the issue brief wrote. “While some research shows that increased income or employment is associated with improved health outcomes and mortality, it is difficult to determine the direction of causation — whether income and work lead to better health, or whether better health facilitates income and work.”

The authors add that “evaluations of existing work requirements in other programs find weak evidence for an effect on health and well-being.”

There is some evidence pointing to the positive effects of work among Medicaid-eligible disabled people. But the authors note two important distinctions about these types of programs: they are voluntary and provide “a full range of supportive services to enable individuals to continue coverage as income increases.”

That last point is crucial, as some who work in low-wage jobs, even at the minimum wage, might make too much to stay in Medicaid.

Citing Kansas and Mississippi as examples, co-authors of the Kaiser issue brief write: “Meeting Medicaid work requirements through 20 hours of work per week at minimum wage could lead to loss of Medicaid eligibility. In addition, these jobs are unlikely to have health benefits.”

Work requirements may not have much of an effect on the state or Medicaid recipients in Kansas, because the
unemployment rate is so low (3.4 percent as of December 2017, the most recently available figure from the federal Bureau of Labor Statistics), says Rep. Susan Concannon, vice chair of the Kansas House Health and Human Services Committee.

“I don’t worry about that, about it being detrimental or harmful, because we just don’t have that many people not working,” says Concannon, who is also co-chair of the Midwestern Legislative Conference’s Health and Human Services Committee. If work requirements are necessary to get legislative approval of Medicaid expansion, she says, that’s a trade-off she can accept.

“It gives us hope that we can get the votes for expansion” if the topic comes up in the current legislative session — although education funding, which caused the Legislature to work overtime in 2017, is looming again, she adds.