

REGULATORY INTELLIGENCE

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Medicaid
Medicaid Eligibility

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I. Introduction

Medicaid expansion continued to be a topic of interest in 2021. To date, 39 states have expanded. Some of the 12 non-expansion states are considering doing so, typically with a work requirement as a condition of eligibility, which requires waiver approval from the federal government. While multiple work waiver requests were approved during President Trump's tenure, the Biden administration has opposed work requirements and has attempted to roll them back. The issue of expansion was also put to a referendum vote in multiple states. The bulk of current legislative and regulatory activity in the realm of Medicaid deals with these topics.

II. AFFORDABLE CARE ACT EXPANSION

Federal Actions

Federal News

Study Finds Medicaid Expansion Likely Improved Colon Cancer Care

According to a study published by the Journal of the American College of Surgeons, Medicaid expansion has likely improved colon cancer care.^[FN2] States that expanded in 2014 were compared to non-expansion states. It was found that expansion led to earlier diagnosis, better access to care and improved surgical care.

Data showed that patients in the first three stages of colon cancer who were in expansion states were more likely to receive primarily surgical treatment within 30 days than those in non-expansion states. The reason states had more stage 1 diagnoses after Medicaid expansion is unclear but may indicate better access to care. Researchers found that expansion allowed people who were otherwise uninsured to see a primary care physician and undergo colon cancer screening.

Expansion was also linked to fewer urgent cases and more minimally invasive surgery. Patients in expansion states were also more likely to receive palliative care to improve quality of life in the final states of colon cancer.

House COVID-19 Package Includes Medicaid Expansion

A portion of the \$1.9 trillion COVID-19 bill that the U.S. House of Representatives is aimed at expanding Medicaid eligibility.^[FN3] To entice the 12 states that have not expanded yet, the bill would add a 5-percentage-point increase for 2 years to a state's base federal matching rate. It would also provide 5 years of eligibility to incarcerated individuals 30 days before their release from prison. Furthermore, it would give a 5-year eligibility extension for women 12 months postpartum.

Congressional Democrats Try to Expand Medicaid By Going Around Conservative Leaders

Congressional Democrats are trying to expand Medicaid in the dozen states that haven't yet done so by working with local leaders and going around conservative state government leaders who have rejected the prospect for a decade.^[FN4] Representatives from 12 states announced that the Cover Outstanding Vulnerable Expansion-eligible Residents (COVER) Now Act would give dollars directly to local governments and hospitals that want to help expand Medicaid.

Texas rejected expanding Medicaid to the working poor again this legislative session. The COVER Now Act will go around those conservative leaders. 'I think you can't give the state ideological Republican leaders enough money to do this,' said Lloyd Doggett, (D-



TX) who authored the bill. ‘That’s why we just have to go around them and rely on effective local and willing leaders to do the job that we need in Texas.’

The bill allows the federal government to directly fund these local hospitals and governments in a ‘demonstration’ program that lasts five years and can be reapplied for. Governments that elect to take the money would qualify for 100% of Medicaid funding for three years and then it would fall to 95%.

Texas receives around \$3.87 billion a year from the federal government to offset uncompensated care hospitals provide to the uninsured. An extension of the program that provides that money, known as the 1115 waiver, was rescinded and the state may lose it after 2022. The move from the Biden administration was intended to pressure state lawmakers like those in Texas to finally expand Medicaid to make up for those costs.

The bill includes language to penalize states that ‘withhold or reduce’ funding or increase taxes on local governments that participate in the program. It also seeks to prohibit states from barring local governments or health providers from participating.

Insurance Coverage Expansion Is a Top Priority for New CMS Chief

The new head of the federal agency that oversees health benefits for nearly 150 million Americans and \$1 trillion in federal spending said in one of her first interviews that her top priorities will be broadening insurance coverage and ensuring health equity. ^[FN5]

According to Chiquita Brooks-LaSure, who was confirmed by the Senate to lead the Centers for Medicare & Medicaid Services on May 25 and sworn in on May 27, ‘our focus is going to be on making sure regulations and policies are going to be focused on improving coverage.’

This is an abrupt switch from the Trump administration, which steered the agency to spearhead efforts to repeal the Affordable Care Act and scale back Medicaid. There has been a robust focus on ACA insurance since President Joe Biden reopened enrollment in January. More than 1 million people have already signed up.

Brooks-LaSure also suggested that the administration would support efforts in Congress to ensure coverage for the millions of Americans in the so-called Medicaid gap. She supports states using the additional incentive funding provided in the recent American Rescue Plan to expand their Medicaid programs, ‘because ideally states are able to craft policies in their own states; they’re closest to the ground.’ But if states fail to take up the offer — none have so far — ‘the public option or other coverage certainly would be a strategy to make sure people in those states have coverage,’ Brooks-LaSure said.

Senators Seek Medicaid-Like Plan for Expansion Holdout States

Three Democratic U.S. senators from states that have refused to expand Medicaid want the federal government to set up a mirror plan to provide health insurance coverage to people in those states. ^[FN6] Sens. Raphael Warnock and Jon Ossoff of Georgia and Tammy Baldwin of Wisconsin introduced the bill. Congressional Democrats are pushing for a coverage expansion in upcoming legislation.

The bill would mandate a new health insurance plan that looks just like Medicaid offered to residents in holdout states. President Joe Biden proposed during his campaign to offer a public option through the federal healthcare marketplace. Democratic Rep. Lloyd Doggett of Texas and others introduced a bill June 17 to let local governments create local Medicaid expansions. The plan would require no premiums and only small copayments, while those costs can be much higher for individuals on the marketplace. People can enroll in Medicaid year-round, while marketplace enrollment is typically only in the fall, or when someone’s circumstances change.

A new plan could take years to set up, though. Many states use managed care networks to provide Medicaid services, and it’s unclear if the federal government would be able to contract with the groups. However, sponsors say coverage is already paid for because the original Affordable Care Act included money for all 50 states. States normally shoulder 10% of the cost, but the bill would require no state contributions. The plan also would boost incentives for holdout states to expand on their own. It would raise the federal share of state-federal Medicaid spending by 10 percentage points this coming decade. The current enticement, included in Biden’s coronavirus relief bill, is 5 percentage points for two years.

Federal Activity

On January 15, 2021, 2021 CONG US HR 340 was introduced. If adopted, it will provide the same level of federal matching assistance for every State that chooses to expand Medicaid coverage to newly eligible individuals, regardless of when such expansion takes place.

- On February 4, 2021, 2021 CONG US S 245 was introduced. If adopted, it will amend title XIX of the Social Security Act to provide the same level of Federal matching assistance for every State that chooses to expand Medicaid coverage to newly eligible individuals, regardless of when such expansion takes place, and for other purposes.
- On February 5, 2021, 2021 CONG US HR 871 was introduced. If adopted, it will amend title XIX of the Social Security Act to provide a temporary increase in FMAP for medical assistance under State Medicaid plans which begin to expend amounts for newly eligible mandatory individuals.
- On June 17, 2021, 2021 CONG US HR 3961 was introduced. If adopted, it will amend title XIX of the Social Security Act to provide for a demonstration project under the Medicaid program for political subdivisions of States to provide medical assistance for the expansion population under such program, and for other purposes.



State Actions

3 More States Could Get Medicaid Expansion

Florida, Mississippi and South Dakota are 3 states where Medicaid expansion could be possible soon.^[FN7] These are the last few states where expansion can be passed via ballot initiative. However, there is significant Republican opposition in those statehouses. The success of past ballot measures in other red states gives advocates confidence. They argue that the COVID-19 pandemic has shone a light on the need for health coverage, but social distancing has posed some logistical challenges for signature collection.

In Florida, an effort to bring expansion to the 2020 election ballot failed after the legislature made changes to the initiative process increasing the cost for collecting signatures and the number of signatures needed. Currently, it is unclear whether another ballot measure could be revived under some of the old rules or must begin again under the new rules.

South Dakota has two separate drives to put expansion on the 2022 ballot. One group has begun collecting signatures after getting ballot language approved late last year. South Dakota is the first out of the gate where ballot measures could appear in 2022. The other group is backing an effort supported by various health organizations.

Mississippi's ballot initiative effort is at an early state. Advocates expect to have ballot language before the secretary of state by the spring. However, signatures must be collected by the end of 2021. Support from the Mississippi Hospital Association (MHA) is considered crucial so an effective campaign can be run and funded. The MHA is expected to come on board if the legislature fails to pass an expansion bill this session.

Arkansas Overhauls Medicaid Expansion

Arkansas lawmakers gave final approval to Governor Asa Hutchinson (R) to overhaul the state's Medicaid expansion by encouraging work rather than requiring it.^[FN8] The program will continue to use Medicaid funds to put recipients on private insurance, but those do not work or attend school could be moved to the traditional fee-for-service Medicaid program. This would impact 300,000 people currently on the expansion program.

The overhaul was proposed after the work requirement was blocked by federal courts and the Biden administration. President must still approve these changes. The state plans to submit its proposal by July.

Arkansas Medicaid Expansion Reauthorization Vote Falls Short

An effort to keep Arkansas' Medicaid expansion program another year fell short of the votes needed for reauthorization in the state legislature.^[FN9] The House voted 53-31 for the budget bill for Medicaid and the expansion program, falling short of the 75 votes needed for its reauthorization. The bill failed after the House rejected a proposal to consider the expansion budget separately from the Medicaid budget.

Arkansas' Medicaid expansion has sharply divided Republicans, who control a majority of the Legislature, since it was first approved in 2013. Past efforts to reauthorize the program have faced repeated votes before winning narrow approval.

Lawmakers had previously approved a plan to overhaul the expansion program to encourage participants to work, but it was blocked by the courts and the Biden administration.

Georgia Delays Medicaid Expansion

Georgia delayed the rollout of its limited Medicaid expansion, originally planned for July 1, until at least August 1, according to a letter the state Department of Community Health sent to Washington.^[FN10] The delay came after the plan has come under scrutiny by the Biden Administration because of the state's requirements that beneficiaries either work or attend school or engage in other qualifying activities.

In several other states, the administration has already revoked Medicaid work requirements, citing the pandemic and economic environment and saying such rules present barriers to those lacking access to transportation or child care, among other issues.

Gov. Brian Kemp's administration in turn has told federal officials that any attempt to rescind approval for the requirements would be 'arbitrary, unreasonable, and unlawful.' This delay adds time for Georgia to negotiate with Washington over differences. Kemp worked with the previous Trump administration to craft its plan and seek a waiver of parts of the federal law to implement the limited expansion with work requirements.

Mississippi Medicaid Expansion Ballot Initiative Suspended

An organizing committee working to get Medicaid expansion on the ballot in Mississippi called 'Yes on 76' suspended its campaign after the Mississippi Supreme Court ruled that the state's entire ballot initiative process is 'unworkable and inoperative' due to outdated language in the state's constitution.^[FN11] Ballot initiatives have been an effective tool in getting Medicaid expansion passed in six conservative states that were traditionally against the measure.



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It was estimated that Initiative 76 would extend coverage to about 200,000 more people. About 25% of the state's population currently receives benefits under Medicaid or CHIP. The committee said it continue to 'urge elected leaders in Mississippi to expand Medicaid to deliver healthcare, help keep our rural hospitals open and bring our tax dollars home from Washington.'

However, Governor Tate Reeves (R) opposes expansion, making it unlikely that the state will take up expansion through legislation.

Mississippi

- On January 8, 2021, 2021 MS S.B. 2161 (NS) was introduced. If adopted, it will expand Medicaid eligibility to include individuals entitled to benefits under federal Patient Protection and Affordable Care Act. ^[FN12]
- On January 15, 2021, 2021 MS H.B. 207 (NS) was introduced. If adopted, it will expand Medicaid eligibility under the health care reform law. ^[FN13]
- On January 18, 2021, 2021 MS H.B. 794 (NS) was introduced. If adopted, it will expand Medicaid eligibility for certain persons to receive services through a provider sponsored health plan. ^[FN14]
- On January 18, 2021, 2021 MS H.B. 918 (NS) and 2021 MS H.B. 968 (NS) were introduced. If adopted, they will expand Medicaid eligibility under the federal health care reform law. ^[FN15]
- On January 18, 2021, 2021 MS [S.B. 2735](#) (NS) was introduced. If adopted, it will expand Medicaid eligibility to include individuals entitled to benefits under federal Patient Protection and Affordable Care Act. ^[FN16]

Missouri Republicans Block Medicaid Expansion Funding

Even though Missouri voters approved Medicaid expansion last August, Republicans in the state house have blocked funding multiple times. ^[FN17] State Democrats are calling the move a threat to the state's Medicaid program and billions of dollars' worth of federal aid.

The state House Budget Committee voted on partisan lines, 20-9 to drop \$130 million for Medicaid expansion from the budget of Gov. Mike Parson, also a Republican. The House is expected to pass the budget, sending it to the state Senate.

The \$130 million would have secured a federal match of about \$1.4 billion to pay for the program and bring 230,000 Missourians earning less than \$18,000 a year under the health care coverage beginning July 1. The state would also get an additional \$1 billion over the next two years to help implement the program.

Now Missourians are left to wonder whether the legislature will fulfill the will of its voters only by stretching the state's Medicaid program to the financial breaking point. Because expansion is an amendment to the state constitution, the state will still have to provide those additional 230,000 Missourians with Medicaid coverage — it will just have less money for Medicaid services.

Missouri Legislature Refuses to Expand Medicaid

A constitutional amendment voters approved last summer set the stage for Missouri to become the 38th state to expand Medicaid coverage through the Affordable Care Act. ^[FN18] However, the state legislature has moved to strip funding for such an expansion.

Expansion money was separated from the budget into its own bill, which a GOP-controlled committee voted down in March. Expansion opponents argued that extra spending is irresponsible, even though the federal government covers 90% of the cost. In addition, Missouri currently has a \$1.1 billion budget surplus.

Republicans argue that the more rural districts they represent voted against expansion or were misled. Democrats say Republicans are pushing ideology over the will of the people, who voted by more than 6% to expand Medicaid. They also contend the legislature is now required to fund expansion because it's in the state's constitution.

Governor Mike Parson (R) opposed expansion in the run-up to the vote, but now considers it his duty to carry out the will of the people. If expansion is not funded, there will be legal challenges. The result of those challenges will depend on what the Department of Social Services does with the money it is budgeted.

The state Senate also voted down expansion, where Republicans were split. ^[FN19] The deadline for disputes to be resolved is July 1, when expansion was intended to take place.

Missouri Governor Tries to Expand Medicaid Despite Lack of Funding

Governor Mike Parson's (R) administration appears to be laying the groundwork for voter-approved Medicaid expansion, despite the state legislature providing no money to add more people to the program. ^[FN20] The Department of Social Services has filed a proposed rule change with the Secretary of State's office seeking to expand Medicaid for adults between ages 19 and 64.

The proposed rule change would give providers the ability to begin enrolling people earning less than \$18,000 per year beginning July 1. Rule changes generally undergo a review process that goes relatively unnoticed, but this rule would likely face a significant challenge given its high cost and political ramifications. Advocates, such as the Missouri Hospital Association, support the move since it would expedite enrollment but are fairly certain it will not stop the issue from being decided by litigation.



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The GOP-controlled House and Senate sent a budget plan to Parson that added no additional money, even though the state budget is brimming with emergency stimulus cash from the federal government. Expansion is estimated to cost \$1.85 billion, with the federal government paying \$1.57 billion of that bill.

Missouri Judge Says Medicaid Expansion Ballot Measure Was Unconstitutional

A Missouri circuit court judge has ruled that the ballot measure to expand Medicaid was unconstitutional since it sought to force lawmakers to set aside expansion money. ^[FN21] Under the state constitution, lawmakers cannot be forced to make appropriations unless the ballot measure includes a funding mechanism.

This probably means that hundreds of thousands of newly eligible adults will not be able to access the program by July 1 as intended. 3 low-income women sued the state to try to force Governor Mike Parson's (R) administration to give them coverage. They plan to appeal the ruling.

Missouri Supreme Court: Additional 275K People Eligible for Medicaid Again

The Missouri Supreme Court ruled that an additional 275,000 low-income individuals in the state are again eligible for Medicaid. ^[FN22] Missouri voters successfully pushed through a state constitutional amendment on the ballot last August to adopt Medicaid expansion, but the Republican-dominated legislature refused to implement it, prompting Gov. Mike Parson, also a Republican, to pull the plug on plans to bolster the health care program.

The question before the Missouri justices was whether the 2020 ballot item required lawmakers to appropriate money, which would have been a violation of state law. In a unanimous opinion, the state Supreme Court ruled that was not the case — that new Medicaid recipients would join the existing pool of Medicaid recipients in the state and that lawmakers would have to decide what to do when the current appropriation runs out.

The decision does not mean newly eligible Missourians can access benefits immediately. In May, Gov. Mike Parson withdrew federal paperwork that set up the enrollment process.

First Missourians Enrolled in Medicaid Expansion

Roughly 4,300 Missourians eligible for health care under Medicaid expansion have been enrolled, which represents a little over a quarter of the more than 17,000 applications the state has received since it began accepting applications in August. ^[FN23]

The first application was processed on October 1, as the state said it would. The state has up to 45 days to determine eligibility on applications. Despite a county judge ruling in August that eligible citizens must be allowed to enroll, the Department of Social Services said it would need 2 months to make necessary system updates and train staff. Applications submitted after July 1, when expansion was supposed to go into effect, were denied, kept in a queue and are currently being re-evaluated for eligibility.

The state will also be eligible to draw down an estimated \$968 million in federal funds for its Medicaid program over the next two years through the American Rescue Plan. Approximately 275,000 Missourians are eligible for healthcare under Medicaid expansion.

Montana

On March 24, 2021, 2021 MT H.B. 676 (NS) was introduced. If adopted, it will prohibit continuous eligibility for the Medicaid expansion program and extended eligibility for the 1931 Medicaid program. ^[FN24]

North Carolina

On April 1, 2021, 2021 NC H.B. 470 (NS) was introduced. If adopted, it will expand Medicaid to qualified individuals in the Medicaid coverage gap.

North Dakota

On January 18, 2021, 2021 ND H.B. 1203 (NS) and 2021 ND [S.B. 2222](#) (NS)

were introduced. If adopted, they will repeal the Medicaid Expansion program. ^[FN25]

Oklahoma Voters Reject Tobacco Settlement Money for Medicaid Expansion

Oklahoma voters have decided that Medicaid expansion should not be paid for by using the state's constitutionally protected Tobacco Settlement Endowment Trust (TSET). ^[FN26] State lawmakers proposed reducing the annual payment that flows into TSET by 50% to offset upcoming expansion expenses.

The rejection of this proposal puts lawmakers in a difficult position, who are required to balance the budget. Spending will need to be cut somewhere and there are only so many options left. Otherwise taxes will need to be raised, which will not be politically popular either. Had the measure passed, 75% of the state's expansion share would have been paid by TSET funds.

Voters also approved Medicaid expansion in 2020.

Oklahoma Medicaid Expansion Enrollment Tops 100K



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More than 100,000 Oklahomans have qualified for Medicaid since enrollment began in June under an expansion of the program that voters approved last year. ^[FN27] The Oklahoma Health Care Authority, which oversees the Medicaid program, reported that 101,001 state residents have already qualified for benefits, including about 60,000 from urban areas and more than 41,000 from rural Oklahoma. Benefits began July 1.

After a decade of Republican resistance, Oklahoma voters narrowly approved a constitutional amendment last year to expand eligibility for benefits. The Health Care Authority has projected that about 215,000 residents would qualify for expanded Medicaid for a total annual cost of about \$1.3 billion. The estimated state share would be about \$164 million.

However, those numbers could be considerably higher given the number of Oklahomans who lost their jobs and work-related health insurance because of the economic shutdown amid the coronavirus pandemic.

Oklahoma

Effective July 1, 2021, 2021 OK REG TEXT 562940 (NS) and 2021 OK REG TEXT 590146 (NS) expand Medicaid eligibility for certain expansion adults.

South Dakota Is Next Target for Medicaid Expansion

South Dakota is the next Republican-leaning state to be targeted for Medicaid expansion by The Fairness Project, a group that has already put together a half dozen other successful ballot campaigns to extend healthcare coverage to poor Americans. ^[FN28] The group says more than 40,000 people would gain healthcare coverage and the state could save tens of millions of dollars thanks to funding in the American Rescue Plan Act.

The expansion effort has backing from groups that include AARP, the South Dakota Association of Healthcare Organizations, the Community HealthCare Association of the Dakotas, the Farmer's Union, the South Dakota Education Association, the South Dakota State Medical Association, the American Cancer Society Cancer Action Network and the American Heart Association. Supporters are working to get the question on the November 2022 general election ballot.

Medicaid Expansion Likely to Appear on South Dakota Ballot

South Dakotans Decide Healthcare announced Friday its collected 33,921 valid signatures, which the group says means Medicaid expansion will be on South Dakota ballots in November 2022. ^[FN29] South Dakotans Decide Healthcare is a group made up of patient advocates, nurses, health care providers, farmers, faith leaders, educators and more.

A release by the group states that Medicaid expansion will boost the economy, create jobs, save rural hospitals and that 'every dollar that South Dakotans don't have to spend paying down medical debt means more money to spend in their local communities.' The status of the potential ballot initiative has not yet been updated on the South Dakota Secretary of State website.

Texas May Be Forced to Reconsider Medicaid Expansion

The COVID-19 pandemic may force the Texas legislature to reconsider its position against expanding Medicaid in the upcoming legislative session. ^[FN30] Texas is one of 12 states that has yet to expand its program, due to ideological and budgetary reasons.

The state has long had the highest uninsured rate in the country, but the pandemic has made the situation even worse. A recent study found that 29% of Texas adults under 65 did not have health insurance and that 659,000 people lost coverage between February and May.

Advocates argue that expansion is a cost-effective and already-established mechanism for covering millions of Texans who remain uninsured. They believe expansion is becoming more palatable to some lawmakers because an influx of federal dollars could assist with budget constraints Texas will be facing in the coming years. However, both legislative houses are controlled by Republicans, who typically oppose expansion.

Texas Plans to Re-Submit Medicaid Expansion Waiver

The Texas Health and Human Services Commission plans to resubmit an 1115 waiver extension application to prolong Medicare and Medicaid services for 10 years, allowing it to run through 2030. ^[FN31] The state recently sued the Biden administration after it rescinded a Medicaid waiver extension put in place by the former Trump administration. Some think this was a move by Biden to force Texas to expand Medicaid more permanently, as intended by the Affordable Care Act.

Texas has been depending on the waiver since the Affordable Care Act became law a decade ago and has been granted three extensions since then. It was originally meant as a temporary safety net, but Republicans have been leaning on it to oppose full expansion.

The Texas Hospital Association supports both the renewal of the waiver, and the permanent expansion of Medicaid coverage in Texas. The organization said the two can work hand in hand. The state will now be trying to amend the waiver to get approval from the federal government before the current waiver expires in 2022.

Texas



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- On January 19, 2021, 2021 TX H.B. 1189 (NS) was introduced. If adopted, it will expand Medicaid eligibility to certain working parents for whom federal matching money is available.
- On February 9, 2021, 2021 TX H.B. 1730 (NS) was introduced. If adopted, it will expand Medicaid eligibility to all persons for whom federal matching money is available.
- On February 25, 2021, 2021 TX H.B. 389 (NS) was introduced. If adopted, it will expand Medicaid eligibility to certain persons under the federal Patient Protection and Affordable Care Act.
- On March 1, 2021, 2021 TX H.J.R. 24 (NS) was introduced. It proposes a constitutional amendment requiring the state to expand eligibility for Medicaid to certain persons under the federal Patient Protection and Affordable Care Act.
- On March 12, 2021, 2021 TX H.B. 4406 (NS) was introduced. If adopted, it will expand eligibility for Medicaid to certain persons under the federal Patient Protection and Affordable Care Act.
- On August 25, 2021, 2021 TX H.B. 234 (NS) was introduced. It proposes a constitutional amendment requiring the state to expand eligibility for Medicaid to certain persons under the federal Patient Protection and Affordable Care Act.
- On September 27, 2021, 2021 TX H.J.R. 16 (NS) was introduced. It proposes a constitutional amendment requiring the state to expand eligibility for Medicaid to certain persons under the federal Patient Protection and Affordable Care Act.

Virginia

Effective March 12, 2021, 2021 VA REG TEXT 534334 (NS) extends the expiration date of the emergency regulation for 12 VA ADC 30-30 for 6 months to allow hospitals to administer presumptive eligibility activities for individuals covered through Medicaid expansion.

Wisconsin Republicans Kill Medicaid Expansion Effort

The Republican-controlled Wisconsin legislature quickly ended a special session called by Governor Tony Evers (D) to expand Medicaid in the state and receive a one-time \$1 billion bonus in federal coronavirus funding.^[FN32] The Assembly session lasted all of about 40 seconds, while the Senate was done in less than 10 seconds. There was no debate, let alone any votes taken.

It marked the latest in a long line of defeats for Democrats on the issue. Democrats have for years advocated in vain to expand eligibility for the state's Medicaid program known as BadgerCare Plus. This time, with the \$1 billion in federal stimulus money at play, Democrats said it made no sense not to join 38 other states in accepting expansion.

Republicans who have long opposed expansion called the latest attempt a political stunt. They don't want to move people from private insurance to the BadgerCare Plus plan and worry the federal money will dry up, forcing the state to pay a higher share for coverage.

Evers called the special session, promising to use \$850 million of the \$1 billion in federal money for a host of economic development projects. He called for saving the other \$150 million. Republicans have said if Evers wanted to fund those projects, he could instead tap some of the \$2.5 billion coming to the state under the coronavirus stimulus bill.

Wisconsin

- On June 24, 2021, 2021 WI S.B. 439 (NS) was introduced. If adopted, it would expand eligibility under the medical assistance program.
- On July 12, 2021, 2021 WI A.B. 444 (NS) was introduced. If adopted, it will expand eligibility under the medical assistance program.

Medicaid Expansion Fails in Wyoming

The Wyoming legislature has rejected Medicaid expansion despite testimony providing overwhelming support.^[FN33] The Senate Labor and Health Committee voted 3 to 2 against an expansion bill.

An estimated 25,000 residents would have qualified for insurance under expansion. The federal government offered a larger match for states that have not yet expanded. Critics voiced concerns of expansion being too expensive and that the federal government wouldn't continue supporting the program after the initial 2-year match.

III. GENERAL ELIGIBILITY

Children and Pregnant Women

Federal

- On March 11, 2021, 2021 CONG US S 712 was introduced. If adopted, it will amend the SUPPORT for Patients and Communities Act to provide for immediate eligibility for former foster youth under Medicaid.
- On March 11, 2021, 2021 CONG US HR 1793 was introduced. It would amend the SUPPORT for Patients and Communities Act to provide for immediate eligibility for former foster youth under Medicaid.
- On March 11, 2021, 2021 CONG US HR 1794 was introduced. If adopted, it will amend title XIX of the Social Security Act to strengthen coverage under the Medicaid program for certain foster youth individuals.



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- On March 11, 2021, 2021 CONG US HR 1795 was introduced. It would amend title XIX of the Social Security Act to ensure health insurance coverage continuity for former foster youth.
- On May 7, 2021, 2021 CONG US HR 3063 was introduced. It would improve Medicaid benefits for low-income pregnant women.
- On May 10, 2021, 2021 CONG US S 1542 was introduced. If adopted, it will extend continuous Medicaid and CHIP coverage for pregnant and postpartum individuals.
- On June 8, 2021, 2021 CONG US S 1977 was introduced. If adopted, it will amend title XIX of the Social Security Act to provide Medicaid coverage for all pregnant and postpartum women, to provide coverage under the Medicaid program for services provided by doulas, midwives, and lactation consultants, and for other purposes.
- On August 10, 2021, 2021 CONG US S 2689 was introduced. If adopted, it will ensure that children in foster care who are placed in a qualified residential treatment program are eligible for Medicaid.
- On September 29, 2021, 2021 CONG US HR 5414 was introduced. It would amend title XIX of the Social Security Act to ensure that children in foster care who are placed in a qualified residential treatment program are eligible for Medicaid.

Alabama

On February 23, 2021, 2021 AL H.B. 431 (NS) was introduced. If adopted, it will extend postpartum Medicaid coverage for eligible pregnant women to one year after birth.

Arizona

- On January 25, 2021, 2021 AZ H.B. 2271 (NS) was introduced. If adopted, it will expand Medicaid eligibility for pregnant women.
- On February 1, 2021, 2021 AZ S.B. 1518 (NS) was introduced. If adopted, it will require the Arizona health care cost containment system administration to request from CMS a waiver of the five-year waiting period for eligibility for qualified noncitizen pregnant women and children.

Arkansas

Effective November 1, 2021, 2021 AR REG TEXT 591662 (NS) adds a step to determine Newborn Medicaid coverage eligibility outside of normal determination rules: Was the mother eligible at the time of the child's birth? Also adjusts the current policy to ensure that newborns born to pregnant women approved under the Unborn child category are also eligible for the Newborn category.

Connecticut

- On March 24, 2021, 2021 CT S.B. 910 (NS) was amended/substituted. If adopted, it will expand Medicaid coverage for post-partum care to twelve months after a Medicaid beneficiary gives birth to a child.
- On July 12, 2021, 2021 CT H.B. 6687 (NS) was adopted. It provides state-funded medical assistance to any child 8 years old and younger, regardless of immigration status, according to certain income criteria.

Delaware

On June 8, 2021, 2021 DE H.B. 234 (NS) was introduced. It amends Title 31 related to the extension of Medicaid coverage through the first year postpartum.

Florida

On March 2, 2021, 2021 FL S.B. 238 (NS) was introduced. If adopted, it will be revising the period of eligibility for Medicaid for postpartum women, etc. ^[FN34]

Georgia

- On January 14, 2021, 2021 GA H.B. 72 (NS) was introduced. If adopted, it will allow mothers giving birth to newborns to retain Medicaid eligibility for one year following such birth.
- On February 10, 2021, 2021 GA H.B. 381 (NS) was introduced. If adopted, it will expand Medicaid allowing women giving birth to newborns to retain eligibility for one year following the birth.
- On February 16, 2021, 2021 GA [S.B. 173](#) (NS) was introduced. If adopted, it will allow mothers giving birth to retain Medicaid eligibility for one year.

HHS Expands Medicaid Postpartum Coverage for Illinois Mothers

President Biden's Health and Human Services Department (HHS) has approved expanded Medicaid postpartum coverage for mothers in Illinois, making it the first state to provide continuous coverage for up to a year after a birth. ^[FN35] It will stay in place until December 31, 2025.

The expansion is expected to allow about 2,500 women with incomes up to 208 percent of the federal poverty level to receive steady Medicaid coverage for up to a year after giving birth. \$12 million will be made available over four years for the Rural Maternity and



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Obstetrics Management Strategies (RMOMS) program. Those who earn RMOMS funding will work toward models and strategies to improve access to maternal health care in rural areas.

52 percent of pregnancy-related deaths in the U.S. take place up to one year postpartum. In Illinois, the percentage reaches 80 percent. More than half of pregnant women on Medicaid had a coverage gap in the first six months after giving birth, according to HHS.

Illinois

On February 19, 2021, 2021 IL H.B. 3119 (NS) was introduced. If adopted, it will provide that, subject to federal approval, children younger than age 19 shall be eligible for medical assistance when countable income is at or below 313% (rather than 133%) of the federal poverty level. Also provides that any individual determined eligible for medical assistance as of or during the COVID-19 public health emergency may be treated as eligible for such medical assistance benefits during the COVID-19 public health emergency, and up to 12 months after the period expires, regardless of whether federally required or whether the individual's eligibility may be State or federally funded, unless the individual requests a voluntary termination of eligibility or ceases to be a resident.

Indiana

On January 7, 2021, 2021 IN H.B. 1155 (NS) was introduced. If adopted, it will provide Medicaid coverage for an eligible pregnant woman for the duration of the pregnancy and for the one-year postpartum period that begins on the last day of the pregnancy (current law is 60 days coverage), without regard to any change in income of the family of which she is a member during that time.

Iowa

On January 25, 2021, 2021 IA S.F. 155 (NS) was introduced. If adopted, it will expand Medicaid postpartum coverage.

Kansas

On February 12, 2021, 2021 KS S.B. 241 (NS) was introduced. If adopted, it will allow a child placed up for adoption following termination of parental rights to remain eligible for state-provided health insurance.

Kentucky

On February 2, 2021, 2021 KY H.B. 290 (NS) was introduced. If adopted, it will extend Medicaid eligibility for certain new mothers for up to 12 months postpartum.

Louisiana

- On May 6, 2021, 2021 LA H.B. 468 (NS) was engrossed. If adopted, it will provide for Medicaid eligibility for low-income pregnant individuals and provide for postpartum coverage.
- On June 10, 2021, 2021 LA S.R. 208 (NS) was adopted. It urges and requests the Louisiana Department of Health to develop and submit to the Centers for Medicare and Medicaid Services an amendment to the Medicaid state plan on or before April 1, 2022, allowing for postpartum Medicaid coverage for twelve months after birth for eligible pregnant individuals who qualify.

Maryland

On May 30, 2021, 2021 MD S.B. 923 (NS) was adopted. It makes changes requiring medical assistance coverage for the duration of a pregnancy and for one year immediately following the end of a woman's pregnancy.

Massachusetts

- On February 18, 2021, 2021 MA S.B. 799 (NS) was introduced. If adopted, it will seek approval and federal financial participation through a demonstration waiver under Section 1115 of the Social Security Act to extend MassHealth Standard coverage to pregnant and postpartum residents of the commonwealth who are eligible through Title XIX and Title XXI of the Social Security Act to 12 months following the end of the pregnancy plus an additional period extending to the end of the month in which the 12 month period ends, regardless of any change in the resident's family income.
- On February 19, 2021, 2021 MA S.B. 738 (NS) was introduced. If adopted, it will provide medical assistance to pregnant patients who are presumptively eligible for the services to be covered in conformity with appropriate standards of care not less than 12-months postpartum from the date of birth or adjusted date of birth in the case of a premature birth.

Michigan

On March 17, 2021, 2021 MI S.B. 252 (NS) was introduced. If adopted, it will provide Medicaid eligibility criteria for postpartum women.

Minnesota

On January 28 and February 8, 2021, 2021 MN H.F. 521 (NS) and 2021 MN S.F. 735 (NS) were introduced. If adopted, they will extend medical assistance postpartum coverage.

Mississippi

- On January 8, 2021, 2021 MS S.B. 2159 (NS) was introduced. If adopted, it will authorize and direct Medicaid to provide up to 12 months of continuous coverage postpartum for any individual who qualifies for Medicaid as a pregnant woman. ^[FN36]



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- On January 15 and 18, 2021, 2021 MS S.B. 2346 (NS) and 2021 MS H.B. 1087 (NS) were introduced. If adopted, they will extend Medicaid coverage for eligible women for up to 12 months postpartum. ^[FN37]
- On January 18, 2021, 2021 MS H.B. 610 (NS) was introduced. If adopted, it will provide that pregnant women who are eligible for Medicaid coverage must remain eligible for maternal care services for 12 months after the end of their pregnancies. ^[FN38]

Nevada

- On June 4, 2021, 2021 NV A.B. 189 (NS) was adopted. It requires the Director of the Department of Health and Human Services to expand coverage under the State Plan for Medicaid for certain pregnant women.
- On June 9, 2021, 2021 NV S.B. 420 (NS) was adopted. It requires the state plan for Medicaid to include certain other coverage relating to pregnant women if money is available.

New York

- On January 21, 2021, 2021 NY A.B. 307 (NS) was amended/substituted. If adopted, it will extend the coverage period for medical assistance to a period of one year beginning on the last day of pregnancy.
- On March 11, 2021, 2021 NY S.B. 1411 (NS) was amended/substituted. If adopted, it will extend the coverage period for medical assistance to a period of one year beginning on the last day of pregnancy.
- On January 19, 2021, 2021 NY A.B. 2417 (NS) was introduced. If adopted, it will provide Medicaid eligibility for youth leaving court-ordered placement.

North Carolina

- On March 17, 2021, 2021 NC H.B. 316 (NS) was introduced. If adopted, it will provide Medicaid coverage for pregnant women for 12 months postpartum instead of only 60 days postpartum, as allowed under the American Rescue Plan Act of 2021.
- On April 6, 2021, 2021 NC S.B. 530 (NS) was introduced. If adopted, it will provide Medicaid coverage for pregnant women for 12 months postpartum, allowed under the American Rescue Plan Act of 2021.

Oklahoma

- Effective July 1, 2021, 2021 OK REG TEXT 590143 (NS) revises various provisions regarding SoonerCare eligibility and countable income and other eligibility factors for pregnant women and families with children.
- Effective September 1, 2021, 2021 OK REG TEXT 572473 (NS) allows for a retroactive period of eligibility for pregnant women and children.

Pennsylvania

- On March 12, 2021, 2021 PA S.B. 359 (NS) was introduced. If adopted, it will provide pregnancy-related and postpartum medical assistance for up to an additional ten months following the birth of the child.
- On April 14, 2021, 2021 PA H.B. 1173 (NS) was introduced. If adopted, it will provide for pregnancy-related and postpartum medical assistance.

Rhode Island

- On February 24, 2021, 2021 RI H.B. 5714 (NS) was introduced. If adopted, it will expand the Rite Track Program to provide health care coverage to children up to age nineteen (19) funded by federal funds, if available, or if not available, by state funds.
- On March 3, 2021, 2021 RI H.B. 6075 (NS) was introduced. If adopted, it will expand medical assistance for pregnant women/Rite Start commencing for 12 months after one-month post-birth.
- On March 11, 2021, 2021 RI S.B. 576 (NS) was introduced. If adopted, it will expand the Rite Track Program to provide health care coverage to children up to age 19 funded by federal funds, if available, or if not available, by state funds.

Texas

- On February 25, 2021, 2021 TX H.B. 414 (NS) was introduced. If adopted, it will continue to provide Medicaid eligibility for certain women after a pregnancy.
- On March 5, 2021, 2021 TX H.B. 2963 (NS) was introduced. If adopted, it will provide the process for determining the Medicaid eligibility of certain former foster care youth.
- On March 8, 2021, 2021 TX S.B. 1187 (NS) was introduced. If adopted, it will provide for the Medicaid eligibility of certain women after a pregnancy.
- On March 9, 2021, 2021 TX S.B. 1243 (NS) was introduced. If adopted, it will provide requirements regarding a child's eligibility for the Medicaid buy-in program for children.



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- On June 8, 2021, 2021 TX S.B. 1059 (NS) was adopted. It increases the time that a former foster care youth shall be eligible to recertify themselves for medical assistance, streamlines the process of determining former foster care youths' eligibility for Medicaid, and allows them to recertify online.
- On June 15, 2021, 2021 TX H.B. 1664 (NS) was adopted. It reinstates eligibility for medical assistance of certain children placed in juvenile facilities.

Vermont

On June 1, 2021, 2021 VT H.B. 430 (NS) was adopted. It expands eligibility for Dr. Dynasaur to all income-eligible children and pregnant individuals, regardless of immigration status, by July 1, 2022.

West Virginia

- On April 28, 2021, 2021 WV H.B. 2266 (NS) was adopted. It expands Medicaid coverage for pregnant women to a 1-year period beginning on the last day of pregnancy.
- On February 18, 2021, 2021 WV S.B. 354 (NS) was introduced. If adopted, it will eliminate mandatory hospital presumptive Medicaid eligibility and restrict presumptive eligibility determinations to children and pregnant women eligibility groups.

Wisconsin

On September 15 and October 4, 2021, 2021 WI S.B. 562 (NS) and 2021 WI A.B. 592 (NS) were introduced. They would extend eligibility under the medical assistance program for postpartum women.

Elderly, Blind and Disabled

Arkansas

On April 26, 2021, 2021 AR H.B. 1847 (NS) was adopted. It ensures that beneficiaries on the low-income disabled working person category of Medicaid can transition to other categories in the Medicaid program.

New Jersey

On May 12, 2021, 2020 NJ A.B. 5262 (NS) was amended/substituted. If adopted, it will revise eligibility requirements for NJ Workability Program and Personal Assistance Services Program.

New York

- On January 28, 2021, 2021 NY A.B. 3702 (NS) was introduced. If adopted, it will authorize Medicaid coverage to a disabled person attending an out-of-state college or university who is in need of continuous medical care and is a domiciliary of the state of New York.
- On April 23, 2021, 2021 NY S.B. 3055 (NS) was amended/substituted. If adopted, it will provide eligibility for medical assistance for personal care services for persons with traumatic brain injury, developmental disability, cognitive impairments, blindness or visual impairment.

Oklahoma

Effective September 1, 2021, 2021 OK REG TEXT 575140 (NS) makes revisions supporting other agency rules, which propose to establish coverage of residential substance use disorder (SUD) treatment for Medicaid-eligible individuals and removes the eligibility exclusion of members in an institution for mental disease (IMD) under the SoonerCare Choice program.

Rhode Island

- Effective March 24, 2021, 2021 RI REG TEXT 550230 (NS) amends various sections regarding eligibility for the Medicaid for Working People with Disabilities Program.
- Effective June 28, 2021, 2021 RI REG TEXT 586784 (NS) continues Medicaid for Working People with Disabilities program eligibility for individuals that may have a change in employment status that occur during the novel Coronavirus Disease (COVID-19) declaration of emergency for sixty (60) days or until the termination of the novel coronavirus declaration of emergency, whichever is longer.

Texas

On March 12, 2021, 2021 TX H.B. 4053 (NS) was introduced. If adopted, it will expand Medicaid eligibility for certain persons diagnosed with certain mental health disorders for whom federal matching money is available.

General

Biden Faces Legal Challenges After Last-Minute Trump Medicaid Changes

Less than two weeks before President Joe Biden came into office, the Trump administration provided Tennessee a 10-year waiver that caps the state's Medicaid funding.^[FN39] It also allows Tennessee lawmakers to use a portion of any federal cash they save from the program in other areas of the state.



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Critics say it will encourage Tennessee to make cuts to Medicaid to shore up other state programs and fundamentally change TennCare. 12 Tennessee families have filed a lawsuit against the Department of Health and Human Services to force the Biden administration to rescind the changes.

This case, and similar ones in other states, has the Biden administration walking a legal tightrope to unwind President Donald Trump's Medicaid policies. Some observed that will be a challenge while the agency still has key leadership positions unfilled. The agency is working without a permanent general counsel or head of its Centers for Medicare and Medicaid Services. It is also worth noting that the agency is contending with unprecedented challenges, including the global pandemic and immigration issues.

Report: 15 Million People Could Lose Medicaid Coverage Post-Pandemic

A new report by the Urban Institute, funded by Robert Wood Johnson Foundation, anticipates that 15 million people could be out of Medicaid coverage when the pandemic public health emergency ends. ^[FN40] Medicaid enrollment initially swelled as a result of early pandemic joblessness and continuous coverage requirement of the Families First Coronavirus Response Act.

With the public health emergency in place through the end of 2021, researchers estimated that Medicaid enrollment could grow to 17 million new members since the start of the pandemic. That would bring the total number of Medicaid beneficiaries under the age of 65 to 76.3 million. Should the public health emergency conclude at the end of 2021 as anticipated, however, 9 million adults and 6 million children could lose coverage through 2022, according to the report.

The report highlighted possible ways to tamper disenrollment, such as making American Rescue Plan Act Marketplace premium tax credits permanent, which would assist nearly a third of adults at risk of losing coverage.

Federal

- On March 10, 2021, 2021 CONG US HR 1738 was introduced. It would amend titles XIX and XXI of the Social Security Act to provide for 12-month continuous enrollment of individuals under the Medicaid program and Children's Health Insurance Program, and for other purposes.
- On August 6, 2021, 2021 CONG US HR 4937 was introduced. It would provide Medicaid assistance to individuals and families affected by a disaster or emergency, and for other purposes.
- On October 19, 2021, 2021 CONG US S 2999 was introduced. It would prohibit the Secretary of Health and Human Services, any officer or employee of the Department of Health and Human Services, and States from requiring COVID-19 vaccination as a condition of eligibility for benefits or assistance under the Medicare, Medicaid, or CHIP programs.

Arkansas

Effective December 1, 2020, 2020 AR REG TEXT 565560 (NS) provides a temporary extension of Medicaid eligibility when a family was previously receiving Parent/Caretaker Relative Medicaid coverage and lost it due to increased wages or increased hours of employment.

California

- On March 25, 2021, 2021 CA A.B. 112 (NS) was amended/substituted. If adopted, it will amend Section 14011.10 of the Welfare and Institutions Code, relating to Medi-Cal eligibility.
- On April 13, 2021, 2021 CA A.B. 470 (NS) was amended/substituted. If adopted, it will add a section regarding Medi-Cal eligibility.

Colorado

- Effective December 11, 2020, 2021 CO REG TEXT 572521 (NS) amends various provisions regarding medical assistance eligibility.
- Effective August 9, 2021, 2021 CO REG TEXT 590132 (NS) adopted various amendments regarding medical assistance eligibility.

Connecticut

- On January 25, 2021, 2021 CT S.B. 304 (NS) was introduced. If adopted, it will create presumptive Medicaid eligibility for certain home care benefits.
- On February 16, 2021, 2021 CT [S.B. 813](#) (NS) was amended/substituted. If adopted, it will grant retroactive Medicaid eligibility to home-care applicants consistent with federal law.

Florida

On March 2, 2021, 2021 FL S.B. 556 (NS) was introduced. If adopted, it will extend Medicaid eligibility to specified adults. ^[FN41]

Georgia

On February 4, 2021, 2021 GA [S.B. 83](#) (NS) was introduced. If adopted, it will institute a Medicaid public option program to provide coverage to individuals not eligible for Medicaid, Medicare or CHIP.

Illinois



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On January 14, 2021, 2021 IL H.B. 65 (NS) was introduced. If adopted, it will require that a redetermination of eligibility for medical assistance benefits be conducted once every 12 months.

Kentucky

On January 5, 2021, 2021 KY H.B. 16 (NS) was introduced. If adopted, it will create a new section of KRS Chapter 205 to require the Department for Medicaid Services to request approval of a Medicaid state plan amendment from the Centers for Medicare and Medicaid Services that exempts individuals who have been diagnosed with metastatic breast cancer from meeting spend-down requirements in order to be eligible for Medicaid services within 30 days of the effective date of this Act.

Massachusetts

On January 28, 2021, 2021 MA H.B. 1243 (NS) was introduced. If adopted, it will create a MassHealth buy-in program.

Minnesota

On February 15, 2021, 2021 MN S.F. 1029 (NS) was introduced. If adopted, it will expand MinnesotaCare eligibility and establish a public option.

Montana

On April 8, 2021, 2021 MT H.B. 37 (NS) was adopted. It clarifies eligibility requirements for the Medicaid medically needy program.

Nebraska

On January 7, 2021, 2021 NE L.B. 129 (NS) was introduced. If adopted, it will change provisions relating to eligibility for services under the Medical Assistance Act.

Oklahoma

On February 1, 2021, 2021 OK S.B. 904 (NS) was introduced. If adopted, it will authorize suspension of Medicaid coverage under certain conditions and prohibit certain termination of coverage.

Pennsylvania

On February 26, 2021, 2021 PA H.B. 665 (NS) was introduced. If adopted, it will provide for persons eligible for medical assistance.

Rhode Island

- Effective May 1, 2020, 2020 RI REG TEXT 553513 (NS) revises various provisions regarding Medicaid and CHIP non-financial general eligibility requirements.
- Effective May 1, 2020, 2020 RI REG TEXT 553516 (NS) revises various provisions regarding the 'medically needy' eligibility pathway for Community Medicaid beneficiaries.
- Effective June 28, 2021, 2021 RI REG TEXT 586786 (NS) temporarily extends the 6- month eligibility period for Medically Needy program enrollees. This extension will last until the end of the federal emergency period.
- Effective June 28, 2021, 2021 RI REG TEXT 586791 (NS) postpones the processing of annual Medicaid eligibility renewals that fall during the novel Coronavirus Disease (COVID-19) declaration of emergency until the termination of the Federal COVID-19 declaration of emergency. This includes the suspension of periodic data checks for unemployment, SWICA, TALX and other sources and suspension of quarterly post-eligibility verifications.
- Effective July 1, 2021, 2021 RI REG TEXT 586873 (NS) makes certain changes to non-financial Medicaid eligibility requirements. Provides that EOHHS will temporarily waive verification rules related to age/date of birth, receipt of other coverage, Social Security Number, application for other benefits, and whether the applicant has access to employer-sponsored insurance.

Missouri

On January 6, 2021, 2021 MO H.B. 42 (NS) and 2021 MO H.B. 118 (NS) were introduced. If adopted, they will modify provisions relating to MO HealthNet eligibility.

Rhode Island

Effective March 24, 2021, 2021 RI REG TEXT 550229 (NS) amends various sections regarding eligibility for Medicaid long-term services.

Texas AG Sues Biden Over Revoked Medicaid Funding

Texas Attorney General Ken Paxton filed a lawsuit against the Biden administration May 14, alleging that its decision to revoke a state Medicaid funding waiver was an unlawful 'power grab.'^[FN42] In April, CMS rescinded approval for a Section 1115 waiver amendment that would have extended reimbursement to Texas hospitals for uncompensated care through September 2030.



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The Biden administration said that under the previous administration, CMS and Texas failed to adhere to public comment period requirements in the approval process. CMS argued that the public comment period is necessary for stakeholders to share feedback. Paxton argued that “the Biden Administration cannot simply breach a contract and topple Texas’s Medicaid system without warning.”

Texas has had an extension for its 1115 waiver agreement since 2011. Its current waiver is set to expire in October 2022.

Texas

- On February 25, 2021, 2021 TX H.B. 290 (NS) was introduced. If adopted, it will make changes regarding the period of continuous eligibility for medical assistance.
- On March 10, 2021, 2021 TX H.B. 3672 (NS) was introduced. If adopted, it will provide for Medicaid eligibility of persons diagnosed with sickle cell disease.
- On March 11, 2021, 2021 TX H.B. 3761 (NS) was introduced. If adopted, it will provide for the continuation of medical assistance for certain individuals.
- On June 16, 2021, 2021 TX S.B. 1341 (NS) was adopted. It provides eligibility criteria for certain benefits provided under public assistance programs, including Medicaid.

Utah

On February 11, 2021, 2021 UT H.B. 344 (NS) was introduced. If adopted, it will make changes regarding Medicaid eligibility and waivers.

Wisconsin

- On March 8, 2021, 2021 WI REG TEXT 564694 (NS) provided an emergency notice that the Wisconsin Department of Health Services is proposing changes to various Medicaid eligibility requirements.
- On November 1, 2021, 2021 WI REG TEXT 585701 (NS) provided emergency notice that certain Medicaid eligibility requirement provisions are being repealed and amended.

Wyoming

On March 10, 2021, 2021 WY REG TEXT 578879 (NS) provided a notice of intent to adopt certain Medicaid eligibility rules.

Immigration and Residency

Federal

- On May 12, 2021, 2021 CONG US HR 3149 was introduced. It would expand Medicaid access for immigrants by removing legal and policy barriers to coverage.
- On May 20, 2021, 2021 CONG US HR 3434 was introduced. If adopted, it will amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under Medicaid regarding eligibility.

Arkansas

- On March 11, 2021, 2021 AR S.C.R. 5 (NS) was adopted. It encourages the governor to amend Arkansas' Medicaid eligibility rules to provide access to coverage for migrant men, women and children from the compact of free association islands.
- Effective July 1, 2021, 2021 AR REG TEXT 579356 (NS) deems Marshall Islanders as qualified aliens for the purposes of Medicaid eligibility.

Iowa

On January 25, 2021, 2021 IA H.F. 211 (NS) was introduced. If adopted, it will provide Medicaid coverage for individuals lawfully residing in the state in accordance with the compacts of free association.

New Jersey

On March 1, 2021, 2020 NJ A.B. 5416 (NS) was introduced. If adopted, it will authorize an undocumented immigrant alien to obtain full medical assistance coverage, as provided under the State Medicaid program.

New Mexico

On January 25, 2021, 2021 NM H.B. 13 (NS) was introduced. If adopted, it will clarify medical assistance eligibility for and coverage of certain services provided to non-citizens.

New York

- On January 21, 2021, 2021 NY [S.B. 2545](#) (NS) was introduced. If adopted, it will grant medical assistance eligibility for kidney transplant expenses for undocumented persons.
- On October 20, 2021, 2021 NY A.B. 8350 (NS) was introduced. It would ensure that temporary protected status beneficiaries would continue to receive Medicaid benefits, even if the federal government ends the designation for that individual's country of origin.



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Oregon

On March 24, 2021, 2021 OR S.B. 706 (NS) was engrossed. If adopted, it will enroll citizens of the island nations in the Compact of Free Association in the state medical assistance program.

Texas

On January 29, 2021, 2021 TX S.B. 521 (NS) was introduced. If adopted, it will adopt a section regarding the eligibility of certain persons lawfully present in the United States.

Virginia Expands Medicaid for Documented Immigrants

Virginia has made a rule change eliminating the 10-year work history requirement for Medicaid eligibility, known as the 40-quarter rule. ^[FN43] It was one of six states with a 10-year requirement.

Gov. Ralph Northam (D) and state legislators approved a budget last year that eliminated the rule. The change went into effect this month. Freddy Mejia, a policy analyst at the Commonwealth Institute, said the old rule was a roadblock for legal permanent residents. "Someone who comes to the country as an older adult, possibly doesn't get the opportunity to work for 10 years but gets sick," Mejia said as an example.

Lawmakers and advocates lobbied for the change in 2019, but it did not pass. Northam and lawmakers approved the change as a line budget amendment in 2020, but it was vetoed once the COVID-19 pandemic began. It was funded again in the 2020 fall special session, and the change went into effect April 1, 2021.

Washington

- Effective October 23, 2020, 2020 WA REG TEXT 559819 (NS) amends [WA ADC 182-507-0130](#) (Refugee medical assistance (RMA)).
- Effective July 22, 2021, 2021 WA REG TEXT 585781 (NS) amends [WA ADC 182-503-0535](#) (Washington apple health—Citizenship and immigration status).

Income and Assets

Federal

On July 12 and 21, 2021, 2021 CONG US S 2315 and 2021 CONG US HR 4595 were introduced. If adopted, it will require the Secretary of Health and Human Services to establish a program to provide health care coverage to low-income adults in States that have not expanded Medicaid.

Arizona

On January 27, 2021, 2021 AZ H.B. 2531 (NS) was introduced. If adopted, it will require that Medicaid eligibility determinations use the average of the last 6 months of a person's income. ^[FN44]

Arkansas

Effective November 1, 2021, 2021 AR REG TEXT 591664 (NS) adjusts the sponsor deeming instructions. 1.) Income and resource disregards may be applied for sponsor; and 2.) Household size is counted according to MAGI or SSI rules. In addition, some changes to deeming conditions are: 1.) Updated wording to match CMS updates; 2.) Removed wording that did not match changes to CMS updates; and 3.) Added 40 qualified work quarters.

Connecticut

- On January 12, 2021, 2021 CT H.B. 5111 (NS) was introduced. If adopted, it will allow Medicaid applicants to establish eligibility via use of a Miller Trust.
- On March 24, 2021, 2021 CT S.B. 913 (NS) was amended/substituted. If adopted, it will ensure fairness to families who discover an asset or are unable to immediately liquidate an asset after applying for Medicaid.
- On April 19, 2021, 2021 CT S.B. 1056 (NS) was amended/substituted. It would expand access to Medicaid to persons under age 65 with income not exceeding 200% of the federal poverty level.

Missouri

On January 6, 2021, 2021 MO H.B. 536 (NS) was introduced. If adopted, it will modify provisions relating to the Medicaid Inmate Exclusion Policy.

New Mexico

- Effective December 1, 2020, 2020 NM REG TEXT 562512 (NS) amends NM ADC 8.291.430 (Financial Responsibility Requirements).
- Effective January 1, 2021, 2020 NM REG TEXT 562511 (NS) amends NM ADC 8.250.500 (Income and Resource Standards) regarding Medicaid eligibility.

New York



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- On April 21, 2021, 2021 NY S.B. 2864 (NS) was amended/substituted. If adopted, it will make changes relating to the combined household income limit for Medicaid eligibility.
- On April 23, 2021, 2021 NY S.B. 2542 (NS) was amended/substituted. If adopted, it will amend the definition of the 'look-back period' for the determination of eligibility of an individual for medical assistance benefits and exempt certain assets used on the individual's behalf or for care services provided to the individual by a family member or informal caregiver.
- On April 27, 2021, 2021 NY A.B. 833 (NS) was amended/substituted. If adopted, it will make changes regarding the definition of the 'look-back period' for the determination of eligibility of an individual for medical assistance benefits. It would also exempt certain assets used on the individual's behalf or for care services provided to the individual by a family member or informal caregiver.
- On March 1, 2021, 2021 NY A.B. 5879 (NS) was introduced. If adopted, it will provide that the 'look back' period for medical assistance eligibility for transfer of real property commences on filing the certificate of transfer with the county clerk.

Oklahoma

- Effective September 1, 2021, 2021 OK REG TEXT 575158 (NS) revises sections relating to eligibility and countable income for medical assistance for adults and children.
- Effective September 1, 2021, 2021 OK REG TEXT 572474 (NS) brings the agency into compliance with the Advancing Chronic Care, Extenders and Social Services Act, which changed the way qualified lottery winnings or qualified gambling winnings of \$80,000 and above, which are paid out in a single payout option, are treated when determining MAGI-based income eligibility.

Rhode Island

- Effective May 1, 2020, 2020 RI REG TEXT 553514 (NS) revises various provisions regarding MAGI financial eligibility determinations and verification during the COVID-19 emergency.
- On February 10, 2021, 2021 RI S.B. 231 (NS) was introduced. If adopted, it will allow pregnant women with an annual family income above the applicable Medicaid income limit to be eligible to purchase health insurance through one of the Medicaid managed care plans.
- On February 24, 2021, 2021 RI H.B. 5790 (NS) was introduced. If adopted, it will increase the income eligibility limit for medical assistance coverage for seniors and disabled individuals 100% to 133% of federal poverty level.
- On February 24, 2021, 2021 RI H.B. 5754 (NS) was introduced. If adopted, it will exempt permanently and totally disabled applicants with income below 300% of the federal poverty line, from the income and resource eligibility rules, regulations and limits.
- On March 4, 2021, 2021 RI S.B. 492 (NS) was introduced. If adopted, it will increase the income eligibility limit for medical assistance coverage for seniors and disabled individuals from 100% to 133% of federal poverty level.
- Effective June 28, 2021, 2021 RI REG TEXT 586790 (NS) temporarily suspends the verification requirements of the Modified Adjust Gross Income (MAGI) standard and to allow for self-attestation of these requirements when determining MAGI-related eligibility for the Medicaid Affordable Care Coverage (MACC) groups identified in Part 1 of this Chapter, in order to respond to the novel Coronavirus (COVID-19) emergency.

South Carolina

On January 12, 2021, 2021 SC H.B. 3226 (NS) and 2021 SC S.B. 210 (NS) were introduced. If adopted, it will provide that an adult 65 years of age or younger whose income is at or below 133% FPL, with a 5% income disregard, is eligible for Medicaid.

Washington

Effective September 3, 2021, 2021 WA REG TEXT 558509 (NS) adopts [WA ADC 182-521-0100](#) (Disregarded income, to identify income that the agency does not count when determining apple health eligibility).

Inmates

Federal Lawmakers Reintroduce Bill to Give Inmates Medicaid Access

A bipartisan group of lawmakers on Tuesday reintroduced legislation that would provide inmates with access to Medicaid. ^[FN45] The Humane Correctional Health Care Act would repeal Medicaid Inmate Exclusion, which keeps incarcerated Medicaid enrollees from accessing benefits and shifts the cost burden to states and counties.

Rep. Annie Kuster (D-NH), who sits on the House Subcommittee on Health, was joined by a bipartisan group of House members, including Rep. Brian Fitzpatrick (R-PA) in reintroducing the bill. Sen. Cory Booker (D-NJ) introduced a companion bill in the Senate.

The Humane Correctional Health Care Act had previously been introduced in 2019. If passed, the bill would require the U.S. Comptroller General to submit a report three years after its passing that went over how many inmates receive medical assistance under title XIX of the Social Security Act; what access inmates had to health care; the quality of services provided; how health care coverage under a state plan affected an inmate's chances of reoffending; and other information the Comptroller General deemed relevant to the health of inmates.



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"The Medicaid Inmate Exclusion (MIE) is an outdated, flawed policy which contributes to a vicious cycle of addiction, incarceration, and recidivism that devastates families and communities, and drains state and local budgets while harming public health and our economy," Kuster said in a press release.

Federal

- On February 8, 2021, 2021 CONG US S 285 was introduced. If adopted, it will amend title XIX of the Social Security Act to allow States to make medical assistance available to inmates during the 30-day period preceding their release.
- On July 20 and 21, 2021, 2021 CONG US HR 4583 and 2021 CONG US S 2413 were introduced. If adopted, they will amend title XIX of the Social Security Act to expand the requirement for States to suspend, rather than terminate, an individual's eligibility for medical assistance under the State Medicaid plan while the individual is an inmate of a public institution, to apply to inmates of any age.
- On August 10, 2021, 2021 CONG US S 2697 was introduced. If adopted, it will remove the Medicaid coverage exclusion for inmates in custody pending disposition of charges, and for other purposes.

Minnesota

On March 8, 2021, 2021 MN H.F. 1996 (NS) was introduced. If adopted, it will expand medical assistance coverage to community-based service coordination in jails.

Mississippi

On January 18, 2021, 2021 MS H.B. 967 (NS) was introduced. If adopted, it will suspend Medicaid eligibility of incarcerated persons instead of terminating it. ^[FN46]

Nevada

- On February 3, 2021, 2021 NV S.B. 93 (NS) was introduced. If adopted, it will suspend Medicaid eligibility for a person who is incarcerated, to the extent possible.
- On June 4, 2021, 2021 NV A.B. 358 (NS) was adopted. It requires the suspension, rather than termination, of eligibility for Medicaid of a person who is incarcerated.

New York

On May 27, 2021, 2021 NY S.B. 4766 (NS) was amended/substituted. If adopted, it will ensure that certain youth being discharged from juvenile justice facilities have access to Medicaid while they await their Medicaid eligibility determination.

Oregon

On January 11, 2021, 2021 OR H.B. 2201 (NS) was introduced. If adopted, it will require the Oregon Health Authority to enroll in medical assistance a veteran who is in pretrial detention after 60 days in detention. Medical assistance eligibility would cease when the veteran is released or transferred to Department of Corrections facility.

Washington

On May 3, 2021, 2021 WA H.B. 1348 (NS) was adopted. It makes changes relating to the provision of medical assistance to incarcerated persons.

Veterans

Connecticut

- On January 25 and 28, 2021, 2021 CT S.B. 386 (NS) and 2021 CT S.B. 692 (NS) were introduced. If adopted, they will exclude all veterans' benefits from income when determining eligibility for a state Medicaid program.
- On April 1, 2021, 2021 CT H.B. 6482 (NS) was amended/substituted. If adopted, it will exclude all federal veterans' benefits from income when determining eligibility for public assistance programs.
- On February 18, 2021, 2021 CT S.B. 917 (NS) was introduced. If adopted, it will exclude all veterans' federal pension benefits from income when determining eligibility for public assistance programs.

New York

On October 25, 2021, 2021 NY S.B. 7472 (NS) was introduced. It would determine that disability compensation or benefits received by veterans from the United States department of veterans affairs are not to be treated as income or resources for purposes of determining eligibility for means-tested programs, such as medical assistance.

North Carolina

- On April 5, 2021, 2021 NC S.B. 471 (NS) was introduced. If adopted, it will expand Medicaid eligibility for veterans with a modified adjusted gross income below 100% FPL.

Work Requirements



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Supreme Court Will Hear Case on Medicaid Work Requirements

The US Supreme Court has agreed to hear a case regarding the Trump administration's push for Medicaid work requirements.^[FN47] Earlier in 2020, the administration appealed lower court rulings that found New Hampshire and Arkansas work requirements to be unlawful.

Work requirements have been a top priority for the Trump administration, though the incoming Biden administration is expected to eliminate them while pushing to expand Medicaid access.

Biden Moves to Rescind Medicaid Work Requirements

The Biden administration has begun the process of rolling back Trump-era work requirement rules for Medicaid coverage.^[FN48] CMS has notified a number of states that recently received Section 1115 waiver approval under Trump that the Biden administration is determining whether to withdraw the approval. Uncertainty over whether recipients can fulfill work requirements during the pandemic was cited as reason for the decision.

As of Jan. 26, 2021, eight states have been approved for work requirement waivers, seven have applications pending, and four are waiting for court decisions. CMS will provide states with a written notice and an opportunity to request a hearing before determining whether to suspend, modify or withdraw the waiver.

This action follows a Biden executive order in January that asked agencies to consider additional actions that could be taken to strengthen and protect healthcare access.

Arkansas and New Hampshire Work Rules Left in Limbo by Supreme Court

The US Supreme Court closed its latest term with the fight over Medicaid work requirements unresolved.^[FN49] The Court put a case involving work rules in Arkansas and New Hampshire on hold after the Biden administration announced in April it would withdraw the Trump administration's prior approval. The case is now on life support and likely won't be fully put to bed until early next term, some health law scholars say. The delay gives Arkansas time to pursue its administrative appeal of the Biden administration's decision even though it's unlikely the state will prevail.

When the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court's decision to void the work rules, Arkansas and New Hampshire joined the Trump administration in an appeal to the Supreme Court. The justices originally agreed to hear the case, but later canceled oral arguments and held the case in abeyance. In a letter to the court on June 11, the Department of Justice said New Hampshire didn't timely file a notice of appeal with the Department of Health and Human Services. Arkansas filed its appeal within the 30-day deadline, but it might not matter since the state's waiver expires at the end of the year anyway.

'After the Biden Administration terminated Arkansas's waiver, Rutledge appealed to the U.S. Department of Health and Human Services so she could continue to seek review of the D.C. Circuit's decision,' a spokeswoman for Arkansas Attorney General Leslie Rutledge (R) said. 'Far from only setting aside the Arkansas Works waiver, the D.C. Circuit's decision has far-reaching implications for any number of healthy-behavior incentives for which Arkansas and its sister States might seek approval in Medicaid going forward.'

The Justice Department told the court it also thinks the D.C. Circuit decisions went too far even though they invalidated the states' work requirements. However, the DOJ and Arkansas disagree on what the court should do about it. The DOJ has asked the justices to wipe the appeals court decisions off the books and send the issue back to the agency. The court of appeals decisions threaten to significantly curtail the scope of the HHS secretary's authority to approve state programs that experiment with how the Medicaid program is run, the DOJ argued.

Georgia Officials Vow to Fight If Feds Kill State's Medicaid Waiver

Georgia officials have appealed the Biden administration's positions on the state's Medicaid waiver, which requires low-income adults to meet work or other eligibility standards.^[FN50] It is set to take effect July 1. In a letter from Frank Berry, the state's commissioner of Community Health, to CMS, it stated that Georgia will challenge a federal decision to revoke the waiver plan and argued that work and other eligibility requirements were core to the waiver.

In a February letter to the state, CMS criticized Georgia's plan to condition coverage on work or community engagement, as well as pointing to other uncertainties related to COVID-19. Berry's letter cites that officials worked with CMS in good faith during the Trump administration to adopt an innovative program that delivers coverage and helps build important skills needed for independence.

Some argue that Georgians would benefit more from the state expanding Medicaid. Currently, enhanced incentives are available under newly-approved COVID-19 relief legislation. States that expand now would receive an additional 5% increase in federal matching rate funding for 2 years. Even factoring in the cost of implementing expansion in the state, Georgia would net \$700 million with the incentives.

Medicaid Work Requirements Rescinded in Michigan and Wisconsin



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The Biden administration has rescinded permission for Michigan and Wisconsin to require Medicaid beneficiaries to work or attend school or job training as a condition of enrollment.^[FN51] Michigan and Wisconsin's Democratic governors opposed work requirements, which they inherited from their Republican predecessors.

Similar programs have been revoked in Arkansas and New Hampshire. The Trump administration embraced work requirements, granting permission to 12 states. Currently, there are 7 states still waiting for a decision, but they are unlikely to be approved by President Biden.

In letters to both states, CMS said work requirements were not consistent with the objectives of Medicaid, particularly during a pandemic. CMS also noted that all but a small minority of beneficiaries already work or are ill or disabled and thus would be eligible for exemptions.

Ohio

On January 26, 2021, 2021 OH S.B. 17 (NS) was introduced. If adopted, it will provide work and education requirements for certain Medicaid recipients.

Rhode Island

On February 24, 2021, 2021 RI H.B. 5683 (NS) was introduced. If adopted, it will reduce the eligibility requirement for many prospective members of the Rhode Island Works Program making it easier for some to qualify for its benefits.^[FN52]

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