Preserving Medicaid Coverage for People with Disabilities: What Federal Disability Rights Laws Require of States

Bazelon Center for Mental Health Law

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Introduction

This guide highlights how federal disability rights laws may be used to help people with disabilities secure or maintain Medicaid coverage in the wake of changes made by the recent budget reconciliation bill passed by Congress on July 4, 2025. The law, the so-called "One Big Beautiful Bill Act" (OBBBA), cut $1 trillion from the Medicaid program and is expected to result in millions of people losing Medicaid coverage due to certain provisions such as work requirements and more frequent eligibility redeterminations.[1]

The OBBBA requires Medicaid enrollees and applicants to work or participate in certain other activities (such as community service, a work program, or an educational program) for at least 80 hours per month. The law exempts people from this requirement if they are "medically frail" or have "special medical needs," including for example people with:

- **a "disabling mental disorder"**
- **a substance use disorder**
- **a physical, intellectual, or developmental disability "that significantly impairs their ability to perform 1 or more activities of daily living"**
- **a "serious or complex medical condition"**
- **a disability as defined for purposes of Social Security Disability or Supplemental Security Income benefits**

The OBBBA also requires states to determine eligibility at least every six months. All of this imposes burdensome documentation requirements on people applying for Medicaid as well as those already receiving Medicaid. Such documentation requirements may create particular burdens for many people with disabilities to maintain Medicaid coverage.

Impact of the OBBBA on People with Disabilities

Below are some of the ways that Medicaid enrollees with disabilities are expected to lose their coverage when the requirements of the OBBBA begin taking effect.

First, Medicaid work requirements are expected to pose particular barriers for many people with disabilities. While large numbers of Medicaid enrollees with disabilities are already working,[2] and many people are exempt from the work requirement due to the nature of their disability, they may still face obstacles in getting or keeping Medicaid. Many will now face disability-related barriers as a result of the paperwork to show that they are complying with, or exempt from, the new work requirements. Many disabilities interfere with an applicant's or enrollee's ability to manage repeated documentation requirements. For example, a significant psychiatric disability or an intellectual disability may make it difficult for a person to navigate complex paperwork requirements without help. Similarly, a speech, vision, or hearing disability may make it difficult to communicate effectively with state or local Medicaid officials, including online and by phone.

Further, many Medicaid enrollees face disability-related barriers to securing and maintaining work at the 80 hour per month level required by the OBBBA. Employment rates for people with disabilities remain at less than half of those for people without disabilities.[3] Pervasive discrimination, including widespread failures to provide reasonable accommodations in the workplace, contributes to these low employment rates. And many enrollees with disabilities who are employed face barriers to working a higher number of hours. Supported employment services have proven extremely successful in helping people with disabilities secure and maintain work, but they are scarce. Only about 2% of individuals in public mental health systems receive supported employment.[4]

<50%

Employment rate, compared to people without disabilities

2%

people in the public mental health system receive supported employment

Second, more frequent eligibility redeterminations are likely to pose additional barriers for people with disabilities. Too often, people with disabilities have lost Medicaid coverage inappropriately during eligibility redeterminations because their disabilities make it particularly challenging to navigate the complex processes required to prove their continued eligibility.

Further, many people with disabilities are less likely to have the required paperwork, such as a driver's license or a non-driver's ID. Starting a new Medicaid application after being removed from the rolls means a long wait without services. This problem can be expected to increase with the more frequent eligibility redeterminations mandated by the OBBBA.

Importance of Medicaid for People with Disabilities

Medicaid coverage is extremely important for people with disabilities. It funds the key services that many need to live and thrive in their own communities and to enable them to work.

For example, the intensive community-based services they need are typically unavailable through sources other than Medicaid. Medicaid-covered health and mental health services, including employment services, are often essential for them to get a job or stay employed.

People who lose Medicaid coverage often forgo necessary medications and other care because the cost is prohibitive.[5] Further, coverage interruptions create the potential for increased emergency room visits and hospitalizations, as well as shelter use and incarceration.[6] The resulting costs fall to states and local governments.

Despite these concerns, people with disabilities are at particular risk of losing their Medicaid coverage as a result of the changes made by the OBBBA. Such coverage losses would be catastrophic for many people with disabilities.

How can this harm be prevented?

What Can Be Done to Ensure that People with Disabilities Do Not Lose Medicaid Coverage due to the OBBBA?

People with disabilities, including mental health disabilities, intellectual and developmental disabilities, and physical disabilities, have important protections under **federal disability rights law.**

This guide identifies how the rights of people with disabilities under federal disability rights laws apply to Medicaid applications and enrollment, eligibility redeterminations, and work requirements. It also explains measures that states can take to comply with disability rights laws.

States' Obligations Under Federal Law Not to Discriminate Based on Disability in their Medicaid Programs

The Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act provide important protections for people with disabilities participating in or applying for states' Medicaid programs. These protections require states to afford people with disabilities **equal opportunity** in their Medicaid programs and to make **reasonable modifications to avoid discrimination based on disability**. As described above, the Medicaid work requirements and more frequent eligibility determinations are expected to pose particular barriers for many people with disabilities, and thus, the protections of the ADA, Section 504, and Section 1557 may be crucial to ensure that they receive equal opportunity in state Medicaid programs.

Title II of the ADA bars state and local governments from discriminating based on disabilities.[7] Among other obligations:

- State and local governments must afford people with disabilities equal opportunity to participate in and benefit from their programs, services, and activities.[8] For example, if a state's Medicaid program requires applicants to come to buildings that are inaccessible to people with mobility impairments, it would not be providing equal opportunity to people with disabilities.

- State and local governments must also make **reasonable modifications** to their ordinary policies or practices to ensure equal opportunity in their programs, services, and activities.[9] For example, a state may need to provide assistance to an individual with a disability in the proccess of proving that the person has met work requirements or is exempt from them.

- State and local governments must ensure **effective communication** for people with disabilities.[10] A state's Medicaid program must, for example, ensure that it communicates information about work requirements in a manner that is accessible to beneficiaries who are blind or low vision and provide them with an accessible means of providing proof that they are meeting or exempt from the work requirement.

- State and local governments must **make information about the ADA's protections available** to "applicants, participants, beneficiaries, and other interested persons."[11] For example, state Medicaid programs must provide information about the right of applicants and beneficiaries with disabilities to receive reasonable modifications to ordinary rules and procedures when needed to ensure equal opportunity.

Section 504 of the Rehabilitation Act imposes virtually identical requirements as Title II of the ADA, but applies to programs and activities that receive federal financial assistance and to federal executive branch agencies.[12] Section 504 requires state Medicaid programs to comply with the same rules described above.

Similarly, **Section 1557 of the Affordable Care Act**, which prohibits disability discrimination in health programs and activities receiving federal financial assistance, requires state Medicaid programs to comply with these rules as well. Finally, many states have non-discrimination laws that impose similar obligations on state Medicaid programs. Some state laws may impose additional or broader obligations.

How Can States Comply With These Requirements?

There are a number of steps that states can take to comply with the requirements of the ADA, Section 504, and Section 1557. We identify examples of such steps below.

States can put processes in place to ensure that people with disabilities receive equal opportunity in their systems for enrollment, eligibility redeterminations, and demonstrating required proof with respect to work requirements.

This may include, for example:

- providing people who will assist applicants or beneficiaries in collecting, producing, and submitting required documents.[13]
- using data the state already has available to verify eligibility (including compliance with or exemption from the work requirement) whenever possible, and eliminating or limiting documentation required of applicants and beneficiaries.[14] For example, mental health treatment records or prior Medicaid records may demonstrate that a person is exempt from work requirement.
- allowing a wide range of activities to be considered when determining whether an individual has met the work the requirement.

- maximizing work requirement exemptions for people who are “medically frail” or have “special needs.” For example, a state can broadly define the terms “disabling mental disorder” and “serious or complex medical condition.” Unless and until CMS provides more specificity for how these exemptions are defined, states can apply definitions that exempt anyone with a health or functional impairment that affects the ability to meet the work requirement.

- applying a similarly broad standard when assisting those navigating the eligibility process, so that anyone with a health or functional impairment that affects the ability to navigate the eligibility process is entitled to assistance. This simple test is consistent with the goals and text of OBBBA and is a practical way to capture people who may be entitled to protections under federal disability rights law.

- allowing applicants or enrollees to self-attest that they are exempt from the work requirement on the grounds that they are “medically frail.” The OBBBA specifically provides that states may elect not to require individuals to verify information, resulting in their exemption. [15]

- for states that require applicants or enrollees to verify that they are exempt from the work requirement, considering a wide variety of documentation when determining whether an individual qualifies for an exemption. For instance, applicants and enrollees should be able to provide evidence from several kinds of sources to demonstrate the existence of a disabling mental disorder, as well as other forms of being “medically frail,” regardless of a formal diagnosis.

- providing services such as supported employment to assist people with disabilities in meeting work requirements if they are not exempt from such requirements.

- communication about application, renewal, or re-enrollment processes in an accessible format to ensure effective communication for people with disabilities. This may include, for example, communication in plain language, use of ASL interpreters, and use of accessible technology for people to notify individuals.

- providing counseling and support for people with disabilities who are eligible for and can enroll in SSI/SSDI benefits.[16]

States can ensure that they are implementing a process to provide reasonable modifications requested by individuals with disabilities in the application, enrollment, and eligibility redeterminations processes. This may include any of the strategies identified above, as well as other modifications

For example:

- to the extent allowed by the OBBBA, a state may need to provide additional time to applicants or beneficiaries with a disability to produce required documentation to prove they are meeting the work requirement or are exempt.[17]

- a state requiring enrollees to provide a driver's licence to prove their identity for eligibility redeterminations would generally need to accept a different form of identification as a reasonable modification where a person's disability precludes them from obtaining a driver's license.

States can provide notice to applicants and beneficiaries informing them of their right to request reasonable modifications in the application, enrollment, and eligibility redeterminations processes, providing examples of such modifications, and explaining how to request them.

Conclusion

Medicaid coverage is a lifeline for people with disabilities. Despite this, the OBBBA creates particular burdens for applicants and enrollees with disabilities, especially when it comes to work requirements and frequent eligibility redeterminations. Such burdens will almost certainly result in the inappropriate and devastating loss of health care coverage for those who rely on it. **Federal disability rights laws, however, provide important protections** to people with disabilities, ensuring they have equal access to Medicaid.

We hope that this guide will be useful for people with disabilities, family members, and advocates, as well as for state and local policymakers to understand what must be done to comply with federal disability rights laws and prevent unnecessary loss of health care coverage as the OBBBA is implemented.

Endnotes

[1] In analyzing the OBBBA, the Congressional Budget Office (CBO) estimated by 2034 Medicaid coverage will decrease by 5.3 million adults as a result of work requirements, and in total health care coverage under Medicaid and the Affordable Care Act will decrease by 10 million people as a result of this portion of the OBBBA. "Estimate of Annual Changes in the Number of People Without Health Insurance Under Title VII, P.L. 119-21," CONGRESSIONAL BUDGET OFFICE, August 11, 2025 https://www.cbo.gov/publication/61367#data.

[2] Jennifer Tolbert et al., "Understanding the Intersection of Medicaid and Work: An Update," KFF, Feb. 4, 2025, https://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work-an-update/.

[3] "Persons with a Disability: Labor Force Characteristics," U.S. DEP'T OF LABOR, BUREAU OF LABOR STATS., Feb. 25, 2025, https://www.bls.gov/news.release/pdf/disabl.pdf (comparing labor force participation rate and employment to population ratio for people with disabilities with those for people without disabilities).

[4] SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, NATIONAL OUTCOME MEASURES, UNIFORM REPORTING SUMMARY (2024), at 10, https://www.samhsa.gov/data/sites/default/files/reports/rpt56432/Alabama.pdf (nationwide rate of supported employment for recipients of public mental health services was 2.4% in 2024).

[5] Jennifer Wagner & Jessica Schubel, States' Experiences Confirm Harmful Effects of Medicaid Work Requirements, CTR. ON BUDGET & POL'Y PRIORITIES (Nov. 2020), https://www.cbpp.org/sites/default/files/atoms/files/12-18-18health.pdf

[6] Anna Bailey & Judith Solomon, "Medicaid Work Requirements Don't Protect People with Disabilities," CTR. ON BUDGET & POL'Y PRIORITIES, Nov. 14, 2018, https://www.cbpp.org/research/health/medicaid-work-requirementsdont-protect-people-with-disabilities

[7] 42 U.S.C. § 12132.

[8] 42 U.S.C. § 12134, 28 C.F.R. § 35.130(b)(1).

[9] 42 U.S.C. § 12134, 28 C.F.R. § 35.130(b)(7).

[10] 42 U.S.C. § 12134, 28 C.F.R. § 35.130.160.

[11] 28 C.F.R. § 35.106.

[12] 29 U.S.C. § 794.

[13] As of 2023, 29 states already allowed a third-party to support an active or potential Medicaid beneficiary in completing administrative requirements. *See* Tricia Brooks et al., "Medicaid and CHIP Eligibility, Enrollment, and Renewal Policies as States Prepare for the Unwinding of the Pandemic-Era Continuous Enrollment Provision," KFF, April 4, 2023, https://www.kff.org/medicaid/medicaid-and-chip-eligibility-enrollment-and-renewal-policies-as-states-prepare-for-the-unwinding-of-the-pandemic-era-continuous-enrollment-provision/#4826cb72-18a4-4d04-b608-af16199e81ea.

[14] OBBBA Section 71119 requires states to "establish processes and use reliable information available to the State … without requiring, where possible, the applicable individual to submit additional information." An Act, Pub. L. 119-21, § 71119, 139 Stat. 309 (2025).

[15] OBBBA Section 71119 states that a "State shall deem an applicable individual to have demonstrated community engagement . . . for a month, and may elect to not require an individual to verify information resulting in such deeming" if the person meets one of the exemptions. *Id*. at 307-08.

[16]In the past, SSI/SSDI Outreach Access and Recovery (SOAR) has been a resource for this sort of work.

[17] The amount of additional time that a person can receive as a reasonable modification is likely limited by the terms of the OBBBA. Section 71119 of the OBBBA requires that when a state cannot verify whether an individual has met the requirement via data matching processes, the state must provide notice and give the individual 30 calendar days from the date of notice to make a satisfactory showing of compliance or exemption. If no showing is made that the person has complied and the person is not exempt from the work requirement, the state must deny the person's application for Medicaid or disenroll the person no later than the end of the month following the month during which the 30 days ends. The text of the law does not appear to preclude states from providing additional time beyond the 30 calendar days, and federal disability rights laws may require this if it is a reasonable modification under the circumstances. *See* An Act, Pub. L. 119-21, § 71119, 139 Stat. 309-10 (2025).