Health Law Daily Wrap Up

Health Law Daily Wrap Up, TOP STORY: Trump’s CMS endorses Medicaid work requirements, (Jan. 11, 2018)

By Kathryn S. Beard, J.D.

Blaming the previous administration for the expansion of Medicaid coverage to able-bodied adults under section 2001 of the Patient Protection and Affordable Care Act (ACA), the Trump Administration announced that, for the first time in the 58-year history of the Medicaid program, states will be allowed to impose work requirements on some beneficiaries. CMS is now committed to supporting state demonstration projects that would require eligible adult beneficiaries to engage in work or community engagement activities. The agency does ask that states tailor such requirements to adults who are eligible for Medicaid on a basis other than disability and in accordance with federal civil rights laws (CMS Letter to State Medicaid Directors, SMD: 18-002, January 11, 2018).

Reasoning for policy change. In a letter to State Medicaid Directors, CMS confirmed a new policy that the agency had hinted at previously: state demonstration projects testing work or community engagement requirements should be supported by the federal government in order to determine whether those requirements assist beneficiaries in obtaining sustainable employment or lead to improved health outcomes. The agency previewed the policy in a March 2017 letter to governors regarding possible changes to the Medicaid program (see Did CMS just sound the death knell for Medicaid expansion?, March 15, 2017; see Does Medicaid work with a work requirement?, March 29, 2017), and states quickly moved to take advantage of the shift (see Medicaid waiver applications test new administration’s policies, May 11, 2017; States are pursuing novel changes with Medicaid waivers, December 14, 2017). According to CMS, 10 states have proposed demonstration projects that include employment and community engagement initiatives; CMS Administrator Seema Verma said that the policy change will give states needed flexibility to improve their programs. The letter further explained that CMS is trying to align the Medicaid program with other state programs, including the Temporary Assistance for Needy Families (TANF) program and Supplemental Nutrition Assistance Program (SNAP), which include work-related requirements for some recipients.

Work requirement guidance. The letter provided guidance to Medicaid directors on the types of considerations that should be accounted for in waiver applications. States should clearly identify which eligibility groups would be subject to work or community engagement requirements, and specifically noted that reasonable modifications should be available for individuals who are nondisabled for Medicaid purposes but who may have a disability under other provisions of state or federal law. It specifically discussed the opioid epidemic, and said that steps to ensure that eligible individuals with opioid addiction or other substance use disorders have access to appropriate coverage and treatment services. It recommended that a wide range of activities satisfy the requirement, such as career planning, educational programs, job training, caregiving, and volunteer or tribal employment. States should describe in the application the available support programs for beneficiaries such as childcare assistance, transportation, and job training. Market forces and structural barriers should also be accounted for.

History of Medicaid work requirements. The Medicaid program is administered by the states, with joint funding from the state and federal government. Eligibility requirements, benefit packages, cost-sharing obligations, payment rates, and delivery systems vary by state, but, in general, the program provides health coverage for pregnant women and children, and elderly and disabled individuals receiving Supplemental Security Income. The ACA (P.L. 111-148) expanded coverage to nondisabled adults with income levels up to 138 percent of the federal poverty level, but not all states implemented the expansion. States have the opportunity to waive otherwise applicable requirements of the Medicaid program with CMS’ approval through waivers and demonstration projects, but prior to the Trump Administration, CMS refused to approve changes that would
implement work requirements. Previous studies on work requirements showed very little long-term employment gain, and that families in such programs would be more likely to end up in deep poverty (see Medicaid work requirements may be counterproductive, undo reform efforts, July 18, 2016). The Trump Administration, however, believes that the ACA’s expansion of eligibility to nondisabled, nonpregnant, nonelderly adults makes it more likely that work requirements would assist in promoting the Medicaid program’s objectives of improving quality, accessibility, and health outcomes.