



## KENTUCKY HEALTH

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The Opportunity Solutions Project (OSP) strongly supports Kentucky's efforts to move able-bodied adults from welfare to work. The proposed Section 1115 waiver is a critical step forward in achieving this goal and will move thousands of able-bodied adults to self-sufficiency. The waiver will also protect limited resources for the truly needy, ensuring long-term sustainability for the Medicaid program.

## Background

Despite record-low unemployment, the number of able-bodied adults on Medicaid in Kentucky has skyrocketed to record levels. By 2015, the number of able-bodied adults dependent on the program reached more than 633,000, up from fewer than 133,000 able-bodied adults in 2013.<sup>1</sup> Spending on these adults has risen even faster, reaching more than \$4 billion in 2015—six times more than the \$667 million spent in 2013.<sup>2</sup>

Most of this growth is attributable to then-Governor Beshear's unilateral expansion of Medicaid under ObamaCare.<sup>3</sup> At the time, Kentucky projected that no more than 188,000 able-bodied adults would ever sign up for the expansion.<sup>4</sup> Actual enrollment exceeded those projections within just two months and expansion enrollment reached more than 466,000 by December 2016.<sup>5-6</sup> As a result, the state now faces large and still-growing cost overruns.

This expansion has cost taxpayers nearly twice what was initially expected and has become financially unsustainable, jeopardizing funding for the truly needy.<sup>7</sup> Despite promises that it would save the state money, the Kentucky Cabinet for Health and Family Services reports that the expansion is now consuming every new dollar of state revenue—and more. As a result, Kentucky's Medicaid program now faces a \$300 million shortfall. Without reform, that shortfall will have to be filled by eliminating expansion altogether or cutting eligibility or services to traditional Medicaid beneficiaries.

Every dollar spent on able-bodied adults who could otherwise be working and obtaining health coverage elsewhere is a dollar that cannot be used to fund services for seniors, poor children, or individuals with disabilities. Thousands of individuals with developmental disabilities are already languishing on waiting lists for needed home- and community-based services.<sup>8</sup> Many will die before ever receiving the care they desperately need.<sup>9</sup> Moving able-bodied adults on Medicaid back to work will not only help enrollees become self-sufficient, it will ensure resources are available for those truly vulnerable individuals who depend on the Medicaid program to survive.

## Kentucky needs more workers

In 2018, Kentucky's unemployment rate hit an all-time low.<sup>10</sup> Employers are desperate for workers, with more than 45,000 unfilled jobs currently posted online and an additional 84,000 new job openings being added each year.<sup>11-</sup><sup>12</sup> Four out of five Kentucky employers report having difficulty filling open jobs and most of the openings are for full-time, permanent positions.<sup>13</sup>

This labor shortage has helped spur higher wages and has employers scrambling to offer cash bonuses and other incentives just to find and keep workers. KentuckyOne Health, for example, is offering \$6,000 sign-on bonuses for nurses willing to stay with them for two years and up to \$24,000 in student loan payments for those committing to working for them for four years.<sup>14</sup> Some Kentucky companies are even offering thousands of dollars in bonuses just for referring potential workers.<sup>15</sup>

The number of able-bodied adults out of the workforce is contributing to today's labor shortage.<sup>16</sup> Kentucky has one of the lowest labor force participation rates in the nation, sitting at just 59.1 percent.<sup>17</sup> Kentucky employers report that the low number of applicants and competition from other employers over those in the applicant pool are the two factors causing the most difficulty in filling open jobs.<sup>18</sup>

This labor shortage means that there are jobs available for all skills levels. Despite concerns of a skills gap, the reality is that millions of jobs require little specialized education, training, or experience. In fact, according to the Bureau of Labor Statistics, nearly three-quarters of the job openings that will occur over the next decade require a high school education or less.<sup>19</sup> Nearly four out of five job openings require no training or less than a month's training on the job, while a whopping 87 percent require no prior experience.<sup>20</sup>

## **Able-bodied adults on Medicaid aren't working**

Although work is the best path out of dependency, few able-bodied adults on Medicaid work full-time and most do not work at all.<sup>21-22</sup> According to data provided by the Kentucky Cabinet for Health and Family Services, approximately 52 percent of the able-bodied adults made eligible for Medicaid by ObamaCare have no earned income.<sup>23</sup> With so few able-bodied enrollees working, it is clear that something must change in order to help these individuals back into independence and preserve limited public resources for the most vulnerable.

## **Work requirements are effective**

Work requirements have a proven track record in moving able-bodied adults into self-sufficiency. In the 1990s, work requirements helped moved millions of able-bodied adults out of welfare and back into the workforce, spurring economic growth, more employment, and less dependency.<sup>24</sup> State-level analyses have shown similar successes.

When Kansas reinstated work requirements for able-bodied adults on food stamps, it set in place a system to track wages and employment among those affected by the change.<sup>25</sup> The Kansas Department for Children and Families matched each individual affected by the policy change with quarterly wage records from the Kansas Department of Labor.<sup>26</sup> The results showed those leaving food stamps went back to work in more than 600 different industries and saw their incomes more than double, on average.<sup>27</sup> Even better, higher wages more than offset lost benefits, leaving those affected financially better off.<sup>28</sup> Enrollees' financial situations improved as they left welfare and moved into the workforce, helping them achieve independence. As caseloads declined, more resources could be preserved for the truly needy, ensuring the program's long-term sustainability.

Other states have seen similar successes. In Maine, able-bodied childless adults leaving food stamps saw their wages more than double, on average, with higher wages more than offsetting lost welfare benefits.<sup>29</sup> State-level research on those leaving cash welfare after work requirement sanctions were strengthened reported similar results.<sup>30</sup>

## **Work requirements will further Medicaid's core objectives**

One of Medicaid's core statutory objectives is to help low-income families and individuals attain capability for independence.<sup>31</sup> As part of the Section 1115 demonstration review process, the Centers for Medicare and Medicaid Services evaluate whether such demonstration proposals "promote upward mobility, greater independence, and improved quality of life"—key metrics of helping families and individuals attain capability for independence.<sup>32</sup> Section 1115 demonstration waivers are also reviewed to ensure long-term sustainability of the program.<sup>33</sup>

Kentucky HEALTH will further these critical objectives. Work is the best path into self-sufficiency and independence. Research on other welfare programs—including TANF cash welfare, a program under the Secretary's oversight—shows that work requirements can successfully move able-bodied adults from welfare to work. Those leaving welfare see higher earnings and those earnings more than offset the welfare benefits they lose. Kentucky HEALTH will help thousands of able-bodied adults move from welfare to work, leading them to the path of self-sufficiency

and independence. By emphasizing work, Kentucky HEALTH can also help improve the health, well-being, and quality of life for these individuals.<sup>34-35</sup> Kentucky HEALTH will also help ensure the Medicaid program's long-term sustainability, preserve resources for the truly needy, and avoid substantial cuts to eligibility or services that may result if the waiver is denied.

Kentucky HEALTH also builds on existing statutory authority to incorporate work requirements within the Medicaid program. Federal law provides states with the option to terminate individuals' Medicaid coverage if they are also receiving TANF benefits and refuse to meet the TANF work requirement.<sup>36</sup> Kentucky HEALTH builds on this existing statutory option to ensure that even more individuals and families can achieve self-sufficiency and independence.

## **Success is not determined by program enrollment**

Although the Medicaid program provides medical assistance to individuals, the program's success is not determined by the number of individuals enrolled in the program. Opponents of Kentucky HEALTH have argued that no reform that could potentially reduce enrollment would ever further the objectives of the Medicaid program. In *Stewart v. Azar*, for example, plaintiffs claimed that any outcome that reduced overall enrollment in the program would be "inconsistent with the objectives of the Medicaid Act."<sup>37</sup>

But this argument is at odds with the text of the Medicaid statute itself. One of Medicaid's core statutory objectives is to help low-income families and individuals attain capability for independence.<sup>38</sup> Under the critics' view, an able-bodied adult with no earnings who moves to full-time work, gains private insurance coverage, and becomes independent should be viewed as a negative mark on the program's success, solely because that individual is able to leave the Medicaid program behind. But helping individuals gain the capability for independence can and should reduce enrollment in the program, as individuals become more self-sufficient and exit the program.

Indeed, federal courts have considered and rejected similar claims regarding Section 1115 waivers in the past. In *Aguayo v. Richardson*, plaintiffs argued that Section 1115 "does not permit the Secretary to waive any requirement ... which might result in the curtailment or denial of assistance."<sup>39</sup> The Second Circuit expressly rejected this argument, finding that no such restriction on Section 1115 waivers exists.<sup>40</sup>

States also have existing statutory authority to disqualify individuals from the Medicaid program if they fail to meet requirements in other welfare programs—including work requirements for those receiving both Medicaid and TANF cash welfare.<sup>41</sup> These comparable disqualification policies continue to further the objectives of the Medicaid program, even if those policies reduce overall enrollment in the program.

But even if program enrollment were an appropriate metric, the reality of the circumstances surrounding Kentucky HEALTH is that the waiver is likely to furnish medical assistance to more individuals than if the demonstration project is denied. As the Kentucky Cabinet for Health and Family Services reports, ObamaCare's Medicaid expansion is unsustainable. The program has enrolled more able-bodied adults than state officials ever expected to sign up, leading to significant cost overruns and budget shortfalls. Kentucky law already requires the state's Medicaid agency to terminate ObamaCare's Medicaid expansion in the event that any provision in its previously-approved Section 1115 waiver is prohibited by court action.<sup>42</sup> Similar action is likely to result if this waiver is not reapproved.

## **Mandatory requirements are necessary for success**

Opponents of Kentucky HEALTH have also falsely claimed that mandatory work requirements are not necessary to meet the demonstration program's objectives. In their view, the demonstration project could achieve similar results by operating a voluntary workforce development program. But experience from other welfare programs and other states effectively shows voluntary programs are largely ineffective.

In the food stamp program, for example, more than six million able-bodied adults are considered “work registrants,” the prime target for employment and training programs.<sup>43</sup> But most states operate voluntary programs and, as a result, participation is low. Just 380,000 able-bodied adults voluntarily participate in the employment and training programs nationwide, compared to 2.2 million participants where the program requirements are mandatory.<sup>44</sup>

Kentucky’s own experience with voluntary employment and training programs highlights this issue. In fiscal year 2018, the Kentucky Department for Community Based Services reported that an estimated 280,000 able-bodied adults would be enrolled in the food stamp program as work registrants.<sup>45</sup> The state’s employment and training program operated on a voluntary basis and, as a result, just 13,000 able-bodied adults were expected to voluntarily participate.<sup>46</sup> But even that overstates the participation rate, as approximately 13,000 able-bodied adults were subject to a separate work requirement that could be fulfilled by participating in the employment and training program.<sup>47</sup>

States that have attempted to run voluntary employment and training programs for Medicaid enrollees have faced similar challenges. In 2017, Arkansas began referring able-bodied adults on Medicaid to the Department of Workforce Services for employment and training services.<sup>48</sup> Fewer than five percent of those able-bodied adults ever accessed those services after referral.<sup>49</sup>

## **Conclusion**

OSP strongly supports Kentucky’s efforts to move more able-bodied adults from welfare to work. The proposed Section 1115 demonstration project is an important step in ensuring the independence of able-bodied adults and the preservation of critically needed resources for the most vulnerable. The Centers for Medicare and Medicaid Services should promptly approve this demonstration project to further the objectives of the Medicaid program.

## References

1. Author's calculations based upon total member months of the non-expansion and expansion adult enrollment eligibility categories. See, e.g., Centers for Medicare and Medicaid Services, "Kentucky HEALTH § 1115 demonstration modification request," U.S. Department of Health and Human Services (2017), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-pa2.pdf>.
2. Author's calculations based upon total Medicaid expenditures of the non-expansion and expansion adult enrollment eligibility categories. See, e.g., Centers for Medicare and Medicaid Services, "Kentucky HEALTH § 1115 demonstration modification request," U.S. Department of Health and Human Services (2017), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-pa2.pdf>.
3. Author's calculations based upon the growth in enrollment and expenditures disaggregated by eligibility category. See, e.g., Centers for Medicare and Medicaid Services, "Kentucky HEALTH § 1115 demonstration modification request," U.S. Department of Health and Human Services (2017), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ky/ky-health-pa2.pdf>.
4. Jonathan Ingram and Nicholas Horton, "ObamaCare expansion enrollment is shattering projections: Taxpayers and the truly needy will pay the price," Foundation for Government Accountability (2016), <https://thefga.org/wp-content/uploads/2016/12/ObamaCare-Enrollment-is-Shattering-Projections-1.pdf>.
5. Ibid.
6. Nicholas Horton and Jonathan Ingram, "How the ObamaCare dependency crisis could get even worse – and how to stop it," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/01/How-the-ObamaCare-dependency-crisis-could-get-even-worse—and-how-to-stop-it-1-15-18.pdf>.
7. Jonathan Ingram and Nicholas Horton, "A budget crisis in three parts: How ObamaCare is bankrupting taxpayers," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/02/A-Budget-Crisis-In-Three-Parts-2-6-18.pdf>.
8. Nicholas Horton, "Waiting for help: The Medicaid waiting list crisis," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/03/WAITING-FOR-HELP-The-Medicaid-Waiting-List-Crisis-07302018.pdf>.
9. Ibid.
10. Bureau of Labor Statistics, "Local area unemployment statistics: Kentucky, statewide," U.S. Department of Labor (2018), <https://data.bls.gov/timeseries/LASST210000000000003>.
11. Sam Adolphsen, "There has never been a better time for welfare reform," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/06/Its-Time-To-Get-To-Work-FINAL.pdf>.
12. Office of Employment and Training, "Kentucky occupational outlook to 2024: A statewide analysis of wages, employment, growth, and training," Kentucky Department of Workforce Investment (2016), <https://kystats.ky.gov/Content/Reports/2014-2024%20KY%20Occupational%20Outlook.pdf>.
13. Bridging the Talent Gap, "Combined dashboard: Hiring landscape," Graduate Network (2018), <https://bridgingthetalentgap.org/combined-dashboard>.
14. Darla Carter and Darcy Costello, "There are not enough veteran nurses, so Kentucky hospitals are offering big cash bonuses," Courier-Journal (2017), <https://www.courier-journal.com/story/life/wellness/health/2017/10/06/kentucky-nurse-shortage-hospitals-cash-bonus/622301001>.
15. Ibid.
16. Sam Adolphsen, "There has never been a better time for welfare reform," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/06/Its-Time-To-Get-To-Work-FINAL.pdf>.
17. Bureau of Labor Statistics, "Region, division, and state labor force participation rates, June 2018," U.S. Department of Labor (2018), <https://www.bls.gov/web/laus/lalfprder.xlsx>.

18. Bridging the Talent Gap, "Combined dashboard: Hiring landscape," Graduate Network (2018), <https://bridgingthetalentgap.org/combined-dashboard>.
19. Sam Adolphsen, "There has never been a better time for welfare reform," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/06/Its-Time-To-Get-To-Work-FINAL.pdf>.
20. Ibid.
21. Nicholas Horton and Jonathan Ingram, "The future of Medicaid reform: Empowering individuals through work," Foundation for Government Accountability (2017), <https://thefga.org/wp-content/uploads/2017/11/The-Future-of-Medicaid-Reform-Empowering-Individuals-Through-Work.pdf>.
22. Council of Economic Advisers, "Expanding work requirements in non-cash welfare programs," Executive Office of the President (2018), <https://www.whitehouse.gov/wp-content/uploads/2018/07/Expanding-Work-Requirements-in-Non-Cash-Welfare-Programs.pdf>.
23. Victoria Eardley and Nicholas Horton, "ObamaCare's not working: How Medicaid expansion is fostering dependency," Foundation for Government Accountability (2018), <https://thefga.org/wp-content/uploads/2018/07/MedEx-Not-Working-FINAL.pdf>.
24. Jonathan Ingram and Nicholas Horton, "SNAP to it: Restoring work requirements will help solve the food stamp crisis," Foundation for Government Accountability (2015), <https://thefga.org/wp-content/uploads/2016/12/Snap-To-It-Restoring-Work-Requirements-Will-Help-Solve-the-Food-Stamp-Crisis.pdf>.
25. Jonathan Ingram and Nicholas Horton, "The power of work: How Kansas' welfare reform is lifting Americans out of poverty," Foundation for Government Accountability (2016), <https://thefga.org/wp-content/uploads/2016/02/Kansas-study-paper.pdf>.
26. Ibid.
27. Ibid.
28. Ibid.
29. Jonathan Ingram and Josh Archambault, "New report proves Maine's welfare reforms are working," Forbes (2016), <https://www.forbes.com/sites/theapothecary/2016/05/19/new-report-proves-maines-welfare-reforms-are-working>.
30. Nicholas Horton and Jonathan Ingram, "Work requirements are working for Kansas families: How welfare reform increases incomes and improves lives," Foundation for Government Accountability (2017), <https://thefga.org/wp-content/uploads/2017/07/Work-Requirements-are-Working-for-Kansas-Families.pdf>.
31. 42 U.S.C. § 1396-1 (2016), <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title42/pdf/USCODE-2016-title42-chap7-subchapXIX-sec1396-1.pdf>.
32. Centers for Medicare and Medicaid Services, "About Section 1115 demonstrations," U.S. Department of Health and Human Services (2018), <https://www.medicare.gov/medicaid/section-1115-demo/about-1115/index.html>.
33. Ibid.
34. Richard Sugden, "Work requirements will help, not harm, Medicaid recipients," Real Clear Policy (2018), [https://www.realclearpolicy.com/articles/2018/02/07/work\\_requirements\\_will\\_help\\_not\\_harm\\_medicaid\\_recipients.html](https://www.realclearpolicy.com/articles/2018/02/07/work_requirements_will_help_not_harm_medicaid_recipients.html).
35. Jonathan Ingram et al., "Building on success: Congress should expand work requirements in food stamps," Foundation for Government Accountability (2017), <https://thefga.org/wp-content/uploads/2017/12/Building-on-Success-Congress-should-expand-work-requirements-in-food-stamps.pdf>.
36. 42 U.S.C. § 1396u-1(b)(3) (2016), <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title42/pdf/USCODE-2016-title42-chap7-subchapXIX-sec1396u-1.pdf>.
37. Thomas J. Perrelli et al., "Stewart v. Azar: Plaintiff's memorandum in support of motion for summary judgment," National Health Law Program (2018), <http://www.healthlaw.org/component/jfsfsubmit/showAttachment?tmpl=raw&id=00P0W00000wQss9UAC>.

38. 42 U.S.C. § 1396-1 (2016), <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title42/pdf/USCODE-2016-title42-chap7-subchapXIX-sec1396-1.pdf>.
39. *Aguayo v. Richardson*, 473 F.2d 1090 (1973), [https://scholar.google.com/scholar\\_case?case=6054588961942897456](https://scholar.google.com/scholar_case?case=6054588961942897456).
40. *Ibid.*
41. 42 U.S.C. § 1396u-1(b)(3) (2016), <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title42/pdf/USCODE-2016-title42-chap7-subchapXIX-sec1396u-1.pdf>.
42. Kentucky Executive Order 2018-040 (2018), <http://apps.sos.ky.gov/Executive/Journal/execjournalimages/2018-MISC-2018-0040-253682.pdf>
43. Food and Nutrition Service, "Characteristics of Supplemental Nutrition Assistance Program households: Fiscal year 2016," U.S. Department of Agriculture (2017), <https://fns-prod.azureedge.net/sites/default/files/ops/Characteristics2016.pdf>.
44. *Ibid.*
45. Department for Community Based Services, "SNAP employment and training plan: Federal fiscal year 2018," Kentucky Cabinet for Health and Family Services (2017).
46. *Ibid.*
47. *Ibid.*
48. Centers for Medicare and Medicaid Services, "Letter to Arkansas Department of Human Services re: approval of demonstration project 11-W-00287/6," U.S. Department of Health and Human Services (2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/ar-works-ca.pdf>.
49. *Ibid.*