



Gresham v. Azar

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Outcome: Federal judge strikes down Medicaid work requirements in Arkansas

ASAM Interest

ASAM opposes work requirements in Medicaid due to the limitations they place on affordable access to treatment for substance use disorder.

Background

In 2018, Arkansas added work requirements to its Medicaid program as a condition of eligibility using Section 1115 waiver authority through the Arkansas Work Amendments (AWA) program. The AWA required most able-bodied adults aged 19 to 49 in the Medicaid expansion population to complete 80 hours of employment or other qualifying activities per month to remain eligible for Medicaid coverage. Ten Arkansans who had lost coverage or feared losing coverage due to the AWA then sued Secretary of Health and Human Services Alex Azar (the Secretary) and the State of Arkansas to undo the work requirements, even as these requirements had already removed many people from the state's Medicaid rolls. The plaintiffs made three arguments in support of rolling back work requirements, but the court only considered one, **whether Secretary Azar sufficiently considered if the waiver would promote the objective of Medicaid**. Secretary Azar and the State of Arkansas offered numerous answers to this question, all of which the court found unpersuasive.

Reasoned Decisionmaking

The court first examined whether the reasoning used to authorize the AWA met the requirements for "reasoned decisionmaking." In order for the reasoning to meet the requirement, it had to show that the Secretary adequately considered how AWA would affect the objective of the Medicaid Act, that being "furnishing medical assistance to a state's citizens." The court put forth two pathways to prove compliance with the requirement. The Secretary could show that he adequately considered how the AWA would harm coverage, or the Secretary could show that he adequately considered how the AWA would promote coverage. When the Secretary failed to prove adequately that he engaged in "reasoned decisionmaking," he then provided arguments attempting to justify his decision outside of the parameters of the central objective of Medicaid.

Important Takeaways

- **Loss of Coverage:** The court found that the Secretary failed to engage with numerous stakeholders who warned of significant coverage losses. The court further found that the Secretary's statement that potential coverage losses were considered was unfounded. Therefore, the Secretary's decision fell short of the requirements for it to be considered "reasoned decisionmaking."
- **Promotion of Coverage:** The court found that the Secretary's argument that a limited period of retroactive eligibility would improve coverage to be unpersuasive. Specifically, due to multiple

stakeholders disagreeing with the Secretary in their comment letters, the Secretary failed to fully consider the potential of the AWA to promote coverage. The court found that the Secretary failed to engage in “reasoned decisionmaking” in regard to the AWA’s promotion of coverage.

- The court then found the additional arguments the Secretary and State of Arkansas made to outweigh their failure to engage in “reasoned decisionmaking” to be unpersuasive.
 - The court found that “improving health outcomes” is not an objective of the Medicaid Act.
 - The court found that the objectives of the Medicaid Act apply to the expansion population created by the Affordable Care Act as well as to the original Medicaid population.

Conclusion

Due to the court’s finding that the Secretary failed to use “reasoned decisionmaking” when approving the AWA, the **approval of AWA was ruled “arbitrary and capricious,”** and the court ruled in favor of the plaintiffs and vacated the Secretary’s approval of AWA.

Why this Decision Matters

Medicaid is one of the largest payers of treatment for those with a substance use disorder. The advent of work requirements in Medicaid has placed the treatment of many in serious jeopardy. The reversal of this policy by the federal court is a win for patients who depend on Medicaid to finance their treatment. While Arkansas and the Secretary plan to appeal the decision, the ruling has placed AWA, and work requirements across the country, on tenuous ground. Additionally, this decision reaffirmed that the objective of the Medicaid Act also applies to the expansion population created by the Affordable Care Act (ACA). This helps to ensure that the expansion population continues to receive the same benefits as traditional Medicaid recipients.

More Information

The full decision is available [here](#).

Additional analysis is available [here](#).

Information about the impact of work requirements on people seeking treatment for a substance use disorder is available [here](#).

This analysis is not meant to and should not be construed as legal advice. It is for informational purposes only. If you need legal advice, please consult an attorney.

American Society of Addiction Medicine

11400 Rockville Pike, Suite 200, Rockville, MD 20852

Phone: 301.656.3920 | Fax: 301.656.3815

www.ASAM.org