



Stewart v. Azar, 18-152

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Outcome: Federal judge strikes down Medicaid work requirements in Kentucky

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 January 2018, the Secretary for Health and Human Services Alex Azar (the Secretary) allowed Kentucky to add work requirements, along with other conditions, to its Medicaid program through Section 1115 waiver authority under the Kentucky HEALTH program. Plaintiffs from Kentucky who were currently enrolled in Medicaid then brought a lawsuit against the Secretary, and a federal court struck down the entire Kentucky HEALTH waiver and remanded it to the Department of Health and Human Services. After making minor changes to the program, the Secretary once again approved the entire Kentucky HEALTH waiver in November 2018. The program includes the following components: a work requirement; premium payments; a six-month lockout for failure to complete the redetermination process or timely report changes to household circumstances; elimination of retroactive eligibility for most enrollees; elimination of non-emergency medical transport for most enrollees; heightened cost-sharing for non-emergency use of the emergency room, and usage of the My Rewards account for various benefits. The same group of plaintiffs from the original version of Kentucky HEALTH have once again come forward to sue the Secretary and halt the program.

Adequate Analysis

The court first examined whether the Secretary “adequately analyzed” whether Kentucky HEALTH would support the main objective of the Medicaid Act, that being “furnishing medical assistance to a state’s citizens.” The court put forth two pathways to prove the Secretary adequately analyzed Kentucky Health. First, the Secretary could show that he adequately considered how Kentucky HEALTH would harm coverage, or the Secretary could show that he adequately considered how Kentucky HEALTH would promote coverage. Once it became apparent that Kentucky Health did not support Medicaid’s main objective, the Secretary argued that there were alternative objectives in the Medicaid Act that Kentucky HEALTH did support.

Important Takeaways

- **Loss of Coverage:** The court found that the Secretary failed to consider adequately the impact of Kentucky HEALTH on the number of people covered in Kentucky. Specifically, he did not appear to try to understand how many people would lose coverage due to the new program. The court ruled that the Secretary did not “adequately analyze the consequences” of reapproval.
- **Promotion of Coverage:** The court found the Secretary’s argument that a limited period of retroactive eligibility would improve coverage to be unpersuasive. Specifically, the Secretary failed to analyze sufficiently the impact of his policy in the face of multiple stakeholders arguing

that retroactive eligibility policies actually decrease coverage. Thus, the court found that the Secretary again did not “adequately analyze the consequences” of the waiver.

- The court ruled that improving the health of Medicaid recipients is ***not*** an independent objective of Medicaid.
- The court ruled that promoting financial independence of the expansion population created by the Affordable Care Act is ***not*** an objective of the Medicaid Act.
- The court ruled that while fiscal sustainability may be considered when determining whether a waiver supports the Medicaid Act’s objectives, the Secretary failed to analyze fully how Kentucky HEALTH specifically would impact fiscal sustainability, and thus his ***decision was arbitrary and capricious***.
- The court ruled that if a state threatens to revert Medicaid expansion if its waiver is not approved, the waiver does ***not*** inherently promote coverage due to the alternative being a reversion to pre-expansion levels of coverage.

Conclusion

Due to the Court’s finding that the Secretary’s approval of Kentucky HEALTH was arbitrary and capricious, the Court ruled in favor of the plaintiffs and reversed the Secretary’s approval of Kentucky HEALTH.

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 Kentucky and the Secretary plan to appeal the decision, the ruling has placed Kentucky HEALTH, 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](#).

More 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.

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