



# February 2020 Federal Court ruling on Arkansas' Medicaid work requirements



## Do work requirements advance the objectives of Medicaid?

Yes. Work requirements advance several core objectives of the Medicaid program, stated in the Medicaid statute, including helping individuals attain the capacity for independence. Unfortunately, a federal judge in DC has paused Arkansas' waiver over procedural issues related to the rulemaking process. On appeal, the DC Circuit affirmed the judge's decision based on procedural issues with the waiver.

This Court decision, subject to appeal to the U.S. Supreme Court, did not overturn policy guidance issued by the Centers for Medicare and Medicaid Services (CMS) authorizing the waivers, did not find Medicaid work requirements illegal or unconstitutional, and will not stop CMS from continuing to approve Medicaid work requirements in other states.



## Did the Court conclude that Medicaid work requirements are illegal?

The Court did not rule that Medicaid work requirements are illegal. Instead, the Court determined that CMS did not follow APA rulemaking steps necessary to approve the waivers. A previous Court's ruling, which was under appeal in this case, expressly stated that it was "not suggesting" that Medicaid work requirement waivers are inherently unlawful.



## Will CMS continue to approve Medicaid work requirements in other states?

Yes. In fact, shortly after the Court issued its decisions last year that ultimately resulted in this appeal, CMS Administrator Seema Verma announced that the administration would "continue to defend" these efforts and "vigorously support" these state waivers. Shortly thereafter, CMS approved work requirement requests from Arizona, South Carolina, and Utah. This decision from the DC Circuit does not change that.



## What did the ruling mean and how did the Court come to this conclusion?

This ruling by the DC Circuit means that Arkansas' waiver is paused pending further review by CMS or an appeal. The Court decided that CMS did not "adequately analyze" the waivers' impact on coverage levels, and focuses primarily on the Secretary's approval letter. While acknowledging that the Medicaid statute expressly authorizes waivers "that would result in an impact on eligibility," the lower Court claimed CMS did not fully explain how the waivers would further the objectives of Medicaid in an appropriate balance with the eligibility impact. Specifically, CMS did not publish a revised impact analysis as the components of the waivers changed during negotiations. Although it is clear CMS reviewed these and other factors in its approvals, the Court refused to consider any evidence not specifically included in the waiver's approval letters.



### **Were these cases about Medicaid work requirements specifically?**

The decision is not about Medicaid work requirements specifically, but about the waiver approval process itself. This waiver included many other components outside of the work requirement. The lower Court indicated that it would not review whether specific components—such as Medicaid work requirements—would promote Medicaid’s statutory objectives, but whether the entire waiver as a whole would promote those objectives.



### **Do these decisions block work requirements in other states?**

Absolutely not. The Court’s decisions only pauses the existing Arkansas waiver. The decision did not overturn CMS’s official guidance on the issue and did not vacate any of the other nearly dozen approved Medicaid work requirement waivers.



### **Can this decision be appealed?**

Yes, this decision can be appealed to the U.S. Supreme Court.