

 Viewpoints

ML Strategies Update

Recent State Action Relating to Medicaid Expansion

12.11.2018

As of December 2018, 37 states (including DC) have adopted Medicaid expansion. Of the remaining 14 states, some are considering expanding Medicaid. States with recent activity relating to Medicaid expansion include – Florida, Idaho, Maine, Missouri, Nebraska, New Hampshire, North Carolina, and Utah. States continue to explore different opportunities as it relates to Medicaid expansion. Below we have highlighted recent state grassroots, legislative, and executive action to expand Medicaid.

Approved Medicaid Expansion:

Maine

On November 7, 2017, Maine became the 33rd state (including DC) to expand Medicaid and the first state to do so through a citizen’s initiative. The State legislature has previously voted on Medicaid expansion on five occasions. However, soon-to-be former Governor LePage repeatedly vetoed legislation expanding Medicaid.

On November 7, 2017, Maine residents voted on [Maine Question 2](#), which required the State to provide Medicaid through the State’s MaineCare for the new expansion population. The provision expands Medicaid to persons under the age of 65 with incomes equal to or below 138% FPL. The measure passed with 58.9% of the vote. The Maine Department of Health and Human Services had 90 days after the ballot initiative’s effective date to submit a State Plan Amendment to HHS. The Governor failed to meet the 90 day deadline, so on April 30, 2018, the [Maine Equal Justice Partners filed suit](#) against the State claiming, “the failure to expand Medicaid is harming low-income Mainers who by law should be eligible to receive Medicaid insurance this year.”

Oral arguments in the case were heard in early November 2018, however the legal matter is now in limbo because former Governor LePage lost her reelection bid during the November midterms. The new Governor-elect (and former state Attorney General) Janet Mills, is expected to make Medicaid Expansion a [priority](#) of her new administration.

Virginia

In early June of 2018, Governor Northam signed two bills ([HB 5001](#) and [5002](#)) into law, which expand Medicaid to 138% of FPL. Virginia was the 2nd state under the Trump Administration to expand Medicaid (it is the 34th state to expand Medicaid). The Medicaid expansion was initially passed by the Virginia legislature on the condition that the expansion include a work requirement and other measures. Expansion will go into full effect in January 1, 2019.

On [November 20, 2018](#), the state submitted an 1115 waiver application to CMS, titled Virginia COMPASS (Creating Opportunities for Medicaid Participants to Achieve Self- Sufficiency). The waiver requests the implementation of provisions tied to the Medicaid expansion. Specifically it is requesting approval to implement the work requirements (referred to as Virginia Training, Education, Employment, and Opportunity Program (TEEOP)), along with premiums and cost-sharing requirements for those between 100 and 138% of FPL, rewards for healthy behaviors, and housing support benefits for high-needs enrollees. Under the waiver adults ages 19 to 64 with incomes up to 138 percent of the FPL, who do not otherwise qualify for an exemption, must engage in qualifying work or community engagement activities. The work requirement hours will gradually escalate, beginning at 20 hours per month, three months after enrollment, increasing to 80 hours per month, 12 months after enrollment. With the exception of defined exemptions, enrollees shall be ineligible to receive Medicaid benefits, if during any three months of the year they fail to meet the required engagement hours. CMS is currently reviewing this waiver application. To read more about the Virginia 1115 waiver, [please click here](#).

Ballot Measures Passed in 2018:

Idaho

A ballot initiative to expand Medicaid to 133% of the Federal Poverty Line in Idaho passed with more than [60% of the vote](#) during this year's midterm elections but now it faces [legal battle](#). Proposition 2 (the name of the ballot initiative) has been challenged by the Idaho Freedom Foundation, a think tank that advocates for free markets and reregulation. It will be heard by the Idaho Supreme Court in 2019, with oral arguments starting January 29th, but there is no clear date as to when the court is expected to have a decision.

Governor-elect and former Idaho Lieutenant Governor Brad Little, who overtook Democrat Paulette Jordan in the November gubernatorial race, was not a proponent of the initiative, however he stated during the election cycle that he would "adhere to the will of the voters." According to [Forbes](#), 69,000 new individuals in Idaho should gain coverage when the initiative goes into effect. This will lower the uninsured rate in the state by almost 5%.

Nebraska

This fall, [The Fairness Project](#) led a successful campaign expand Medicaid in Nebraska. The ballot measure, titled Nebraska Initiative 427, passed with 54% of the vote. Governor Ricketts, who won reelection in November, [strongly opposed the initiative](#) during the election cycle. The initiative now requires the state to expand Medicaid to 138% of the federal poverty line. It also requires the Nebraska Department of Health and Human Services to file a state expansion plan with CMS by April 1, 2019.

Utah

On March 27, 2018 Governor Herbert signed [H.B. 472](#) into law. The legislation expands Medicaid coverage to include those at or below 95% FPL and not eligible for enrollment in the Medicaid program, with the exception of the Primary Care Network Program. Additionally, the HB 472 includes a work requirement provision for the new expansion population. In the 2018 November primary, Utah residents voted to expand Medicaid to the ACA's full FPL. The measure requires the State to provide Medicaid to persons under the age of 65 and with incomes below 138% FPL. The state will submit a request to CMS for the full 138% expansion in the coming months. (A [waiver](#) to implement the bill's provisions, such as work requirements and expanding coverage to those earning up to 95% of the federal poverty level, was submitted to CMS in June 2018 and is still under review by CMS.) To finance the State's portion of the costs associated with expanding Medicaid, the initiative increases the sales tax to 4.85%, currently set at 4.7%. The successful expansion will go into effect on April 1, 2019.

Ballot Measures Failed in 2018:

Montana

This November, Montana [failed](#) to pass a ballot initiative (I-185) that would have continued funding their Medicaid expansion beyond 2019. Expansion first took effect in 2016 after CMS approved a Medicaid expansion waiver. The ballot measure would have added a \$2 tax on cigarettes and would have taxed other tobacco products, including e-cigarettes. Tobacco companies spent over \$17 million dollars during the election season to prevent the initiative from succeeding. This is over double what those who favored the initiative were able to raise. Unless state lawmakers move to continue funding for the expansion, it will expire, making Montana the first state to undo an ACA expansion.

Additional Movement on Expansion:

California

Earlier this year, the California legislature considered two sister bills that would expand the full scope of Medi-Cal benefits to undocumented adults over the age of 19 who, with the exception of their immigration status, would otherwise be eligible for Medicaid benefits. The bills were effectively shelved without a full committee vote after the passage of a budget that did not account for the potential cost of the initiatives.

On December 3rd, state Assembly Member Joaquin Arambula introduced a [new bill](#), AB-4, with the same ambitions. Given the former support for expanding the benefit to undocumented adults, it is possible that the bill will end up on Governor-elect Gavin Newsom's desk, where he may feel [pressure](#) to uphold his campaign promises of a universal health system in California.

The [Legislature's Analyst Office](#) (LAO) estimates the total net state cost of expanding coverage is approximately \$3 billion for 2018-2019. Approximately 3 million individuals living in California remain uninsured. The same report details nearly 60% of those uninsured lack legal statuses; of this population, approximately 1.2 million individuals would qualify for benefits through Medi-Cal.

North Carolina

North Carolina introduced a bill, "[H.B. 662, titled Carolina Cares](#)," on April 6, 2017, that would expand coverage to residents not currently eligible for Medicaid with annual incomes up to 133% FPL. It also includes a provision that terminates enrollment if individuals fail to complete premium contributions within 60 days of their due date and would also include work requirements. The bill is still being considered. The state submitted a corresponding 1115 waiver amendment request that includes the provisions outlined in the Carolina Cares bill on November 20, 2017. CMS approved portions of the waiver on October 24, 2018, but did not approve waiver requests outlined in the Carolina Care bill (i.e., work requirements and premiums) since the state does not have legislative authority to implement these provisions.

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