



## The Personal Stories of Those Affected by Arkansas' Sec. 1115 Waiver

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On March 5, 2018, the Department of Health and Human Services (HHS) approved Arkansas' request to amend its existing Medicaid expansion waiver ("AR Works Amendment") to impose work requirements on participants, require only online reporting, and limit retroactive eligibility. Because the AR Works Amendment violates numerous provisions of the law and will gravely harm tens of thousands of Arkansans, the National Health Law Program brought a lawsuit challenging the approval on August 14, 2018. Counsel amended this complaint on November 5, 2018 to add plaintiffs to help reflect the injuries suffered by Arkansans under this unlawful approval.<sup>1</sup>

In the first six months of implementation of the AR Works Amendment, more than 18,000 individuals have lost their Medicaid coverage.<sup>2</sup> Early implementation in June-December only affected AR Works beneficiaries who were 30-49 years old. Thousands more are at risk of losing their coverage in the months to come as the state continues to implement the Amendment for 30-49 year-olds and begins to apply the requirements to 19-29 year-olds. The State has estimated that about 69,000 AR Works participants do not have an exemption from the AR Works Amendment requirements identified by its data systems.<sup>3</sup> These individuals and others who have lost employment or experienced life changes are at risk of losing their Medicaid coverage for the remainder of the year if they fail to meet the work requirements.

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<sup>1</sup> For more information on the lawsuit see NHeLP, *Summary of Lawsuit Filed Against HHS Approval of "Arkansas Works" Amendment*, <https://healthlaw.org/resource/summary-of-lawsuit-filed-against-hhs-approval-of-arkansas-works-amendment/>. NHeLP brought the lawsuit together with the Legal Aid of Arkansas and Southern Poverty Law Center.

<sup>2</sup> While all of these individuals were eligible to reapply for Medicaid coverage on January 1, 2019, less than 1,000 have done so (as of January 30, 2019).

<sup>3</sup> Letter from Seema Verma to Gov. Asa Hutchinson, AR Works Amendment Approval – Eligibility and Enrollment Plan 1 (Mar. 5, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/ar-works-ca.pdf>.

The lawsuit was filed on behalf of nine individuals who currently obtain their health care through Medicaid and will suffer serious harms under the AR Works Amendment. They will face new, punitive requirements, including work and reporting obligations. Below are descriptions of how the AR Works Amendment will affect the named plaintiffs:

- Charles Gresham is a 37-year-old man who lives in Harrison, Arkansas, with his fiancé. Mr. Gresham's fiancé works at a fast food restaurant and supports their household on her gross income of about \$1,100 per month. Mr. Gresham has worked most of his life, largely in the food service industry. In 2015 he began having seizures and although he continued to work, he often lost jobs due to issues related to his seizures, including missing work. Mr. Gresham can work and would like to work, but is not working at this time because he has had trouble finding and keeping a job. He needs a flexible schedule because he may not be able to work all day, and he needs time for doctors' appointments. With Medicaid coverage, he has been able to get the treatment and services he needs, including visits with doctors and therapists, as well as his prescription medications for his seizures and other conditions. He currently has an exemption under the Arkansas Works Amendment, but he required multiple forms of help to understand what he needed to do, which is difficult for him as he has been unable to understand what he needed to do to keep his Medicaid before. If he were to lose Medicaid, he would be unable to afford his seizure medications, his seizure disorder would be much worse, and he may suffer irreversible harm or die.
- Adrian McGonigal is a 40-year-old man who lives in Pea Ridge, Arkansas, with his brother. Mr. McGonigal was working full-time when the state terminated his Medicaid coverage under the Arkansas Works Amendment requirements. Although he thought he had reported properly, he had not done what was required. Without his Medicaid coverage, Mr. McGonigal could not get his medications for his COPD, degenerative disc disease, depression, and anxiety disorder. Without his COPD medications, he began to have COPD flare ups that caused him to seek care in the emergency room and miss work. Although he tried to go to work and his employer worked with him, he was ultimately fired under company policies. Mr. McGonigal is now in the process of restoring his Medicaid through a good cause exemption and filing income verification paperwork but he lost his Medicaid and his job. He also has significant hospital bills of over \$4,000 from getting necessary breathing treatments at the hospital after he had his Medicaid terminated.<sup>4</sup> Mr. McGonigal understands from his doctor that he has permanent damage from his recent COPD flare ups. After being without his medications, he also

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<sup>4</sup> PBS News Hour, *With New Work Requirement, Thousands Lose Medicaid Coverage in Arkansas* (Nov. 19, 2018), <https://www.pbs.org/newshour/show/with-new-work-requirement-thousands-lose-medicaid-coverage-in-arkansas>.

now sleeps only two to three hours per night, and has more back pain. Mr. McGonigal believes there is no way that he can continue to work or to be productive without the medical assistance that Medicaid provides. He is unsure how he will keep his coverage now that he no longer has a job and does not know how he will be able to meet the work or reporting requirements.

- Anna Book is a 38-year-old woman who lives in Little Rock, Arkansas. She has been homeless for most of the last eight years. Ms. Book began working as a dishwasher at a restaurant in July 2018 for about 24 hours per week, which puts her close to the 80-hour monthly requirement. Ms. Book's wages cover her rent, child support, and basic necessities. Prior to her dishwashing job, Ms. Book had been unemployed for two years. Her previous employment includes being a manager of a fast food restaurant. For several months, she has been experiencing a respiratory condition that makes it difficult for her to breathe. With Medicaid coverage through Arkansas Works, Ms. Book was able to see a doctor and obtain prescription medications. Because the condition persists and could develop into pneumonia, she will continue to seek treatment. In the past, Ms. Book also used Medicaid to cover surgery and overnight hospitalization to treat a tooth abscess. In August 2018, she had to miss work when she was sick, which nearly caused her to fall below the requirements under Arkansas Works Amendment. Ms. Book relies on a pastor — the same one who helped her enroll online in Arkansas Works when she was homeless — to document her work hours online. She visits his church each month to report her hours but transportation is difficult, and it is a challenge to maintain the check-ins with the pastor. While Ms. Book hopes to keep her dishwashing job, she is uncertain how long it will last. Even if she is working, she fears that unforeseen circumstances will cause her to dip below 80 hours a month. She thinks the work requirement is harmful to her and, based on her conversations with others, that the requirements are hurting homeless individuals who are worse off than she is.
- Russell Cook is a 26-year-old man who lives in Little Rock, Arkansas. He is currently homeless and lives in a camp when he cannot stay with a family member. He has been homeless several other times in his life. When he moved to Little Rock in November 2016, Mr. Cook began working as a landscaper. He could not work on days when it had rained or even recently rained because yards were too wet. As a result, he worked only 40 to 50 hours in rainy months. In months with better weather, he would work full-time. Mr. Cook is currently unemployed. He lost his job as a landscaper in August 2018, when the foreclosure of his apartment complex and a family emergency forced him to move to De Queen, Arkansas. Unable to find work in De Queen, he returned to Little Rock in October 2018 but was not able to get his landscaping job back. His former boss informed him that no positions would be available for at least a few months. Mr. Cook

has no other job prospects. Mr. Cook has primarily used Medicaid coverage to access dental care for several cavities and damage to the roots and nerves of his teeth. In September 2018, Mr. Cook was in the hospital for four days for treatment for a torn Achilles tendon and microfracture to his ankle sustained in an accident. Without Medicaid, Mr. Cook will go without the dental care he needs, including the removal of a wisdom tooth that is lacerating his mouth. He will miss general check-ups and evaluation for his low weight. Even if he can get his landscaping job back, that job does not provide a steady 80 hours of work per month throughout the year. It is difficult for Mr. Cook to find other work because he has no home, phone number, or clean clothing. The loss of health insurance could be catastrophic for Mr. Cook, as he is presently living on the streets, where deteriorating health can have especially severe consequences.

- Veronica Watson is a 36-year-old woman who lives in Moro, Arkansas. Since 2013, Ms. Watson's primary job has been cleaning motel rooms and homes. Most recently, she found only three hours of work per week. She briefly worked on a factory assembly line, leaving after one month because she lacked the physical strength to perform the job. Though she returned to the same factory as a janitor in June and July 2018, she ultimately could not afford the 90-mile roundtrip commute. In late August, Ms. Watson started working at a shirt factory under a three-month probationary period. Ms. Watson suffers from gastroesophageal reflux disease, which causes burning and sharp pains in her chest. The uncertainty around the work requirement causes Ms. Watson stress. She worries that she will lose Medicaid coverage if she is not able to maintain her job at the shirt factory. Without insurance, Ms. Watson will not get regular check-ups, general medical care, and the treatment she needs for her gastroesophageal reflux disease, including the daily medication necessary to manage her condition so she can work and live a normal life.
- Cesar Ardon is a 40-year-old man who lives in Siloam Springs, Arkansas. Mr. Ardon worked as a welder for 15 years until he had a tumor surgery in May 2017. Currently, Mr. Ardon works in construction as a self-employed handyman doing mostly outdoor work. His income and hours fluctuate greatly from month to month based on the type of work he gets and the weather. With Medicaid, he is able to get treatment and care, as well as annual check-ups. In 2017, Medicaid covered a major operation to remove a baseball-sized tumor on his side. He also receives treatment and monitoring for other medical conditions, such as high cholesterol, carpal tunnel syndrome, arthritis, and vision issues. In March 2018, Mr. Ardon received a notice stating he would have to work at least 80 hours a month, beginning in June, to keep Medicaid coverage. Mr. Ardon has had trouble reporting his work through the website and does not expect to be able to get 80 hours of work every month, such that he will be able to meet the requirements.

Mr. Ardon worries about getting sick, being unable to work, and losing access to health care.

- Marisol Ardon is a 45-year-old woman who lives in Siloam Springs, Arkansas, with her adult daughter. Ms. Ardon previously worked answering phones and connecting people to social service agencies and other community resources. Ms. Ardon has several medical conditions that need to be treated and monitored. She has a hernia in her abdomen, thyroid problems, asthma, anxiety attacks, and chronic back pain. Her back pain is associated with a 25-pound non-cancerous tumor that she had removed from her midsection in July 2017. Ms. Ardon uses her Medicaid coverage for four daily medications, regular visits with her primary care doctor and specialists, and annual checkups. Ms. Ardon has not worked since her health issues caused her to quit work in or about March 2017. She does not currently have income from work and relies on her adult daughter to pay rent and other household expenses. Because she was concerned about whether she would keep her health coverage under these work requirements, Ms. Ardon began to have multiple panic attacks a day throughout July and August 2018. Because her health has not improved, she tried to go online to file for an exemption to the work requirements, but she could not log onto the website or see her account. Ultimately she filed for a short-term exemption, but she is very worried that she will lose her Medicaid and not be able to get the care she needs for her health conditions.
- Treda Robinson is a 42-year-old woman who lives in Searcy, Arkansas. Ms. Robinson has iron deficiency anemia that causes her to have fatigue, weakness, and heavy menstrual bleeding. Medicaid covers all of her treatments, medications, and annual check-ups. Complications from her iron deficiency anemia forced Ms. Robinson to leave her job as a data entry clerk at the end of 2015. Since April 2016, she has worked as a scoring assessment rater for an educational testing company. This job permits her to work from home and earn an income even when anemia leaves her too weak to leave home. Ms. Robinson's work hours vary according to the volume of work available, which she often only knows about the day before the work is assigned. Recently, she has been able to work 80 hours per month, but the inevitable fluctuation in hours means there is no guarantee that she will complete 80 hours of work every single month. Because her anemia often makes her too weak to leave her home, she has found it difficult to sometimes do activities and because she needs work from home employment, her ability to find or get other jobs is limited. Without Medicaid, Ms. Robinson will not be able to afford to treat her health conditions. If she is not able to take her daily anemia medication, she will not be able to work at all. Untreated, her anemia could progress into a life-threatening condition.

- Jamie Deyo is a 38-year-old woman who lives in Lonoke, Arkansas, with her parents. Ms. Deyo's last regular job was at a daycare in 2011. Thereafter, she was a stay-at home spouse until her divorce in 2014. She is currently unemployed. In 2013, Ms. Deyo seriously injured her back in a car accident. Ms. Deyo did not have health insurance before enrolling in Medicaid with the assistance of her insurance company, Ambetter, in 2017. Before enrolling in Medicaid, she incurred over \$30,000 in medical debt and often went without health care when she needed it. Ms. Deyo has several medical conditions that must be monitored and treated. She has a broken screw in her back that interferes with a nerve. She also has fibromyalgia and rheumatoid arthritis. Ms. Deyo's Medicaid coverage has allowed her to obtain treatment through visits to a primary care physician, a physical therapist, and a surgeon. On September 17, 2018, Ms. Deyo went to the pharmacy to fill her three prescriptions and was told that her coverage had ended and she left without most of her medications, although her parents helped her pay \$108 for one. She had lost her Medicaid due to noncompliance with work requirements but had not received any information because of a wrong address and was granted a "good cause" exception. However, between September 1 and October 8, 2018, Ms. Deyo had no active health insurance. She could not fill any prescriptions and suffered more pain and slept less as a result. She had to miss an appointment with the back surgeon, who would not see her without insurance, thus delaying her possible back surgery. She has also struggled navigating the system required by the Arkansas Works Amendment. Because Ms. Deyo cannot currently work or volunteer, she worries it is only a matter of time before she loses her Medicaid coverage again as a result of the work requirement. Experiencing two months without insurance has only heightened this fear. Without access to her doctors and medications, Ms. Deyo has little hope she will recover and work again.

In addition to these individuals, the AR Works Amendment will harm tens of thousands of Arkansans across the state including parents, grandparents, caregivers, home health aides and childcare workers, housekeepers and custodians, retired workers and students. All of these individuals need primary, preventive and potentially emergency care including check-ups, diabetes treatment, mental health services, blood pressure monitoring and treatment, and vision and dental services. The AR Works Amendment has already resulted in the loss of coverage for more than 18,000 individuals, resulting in both poorer health and economic status for themselves, their families, and their communities.