

Sept. 6, 2019: Judicial Advocacy Update

Court again blocks Medicaid work requirements, this time in New Hampshire

New Hampshire becomes the third state—joining Kentucky and Arkansas—that a federal court in Washington, D.C., has blocked from mandating that residents work a minimum number of hours a month to qualify for the state's expanded Medicaid program.

The ruling from the U.S. District Court for the District of Columbia is a win for patients and physicians. The AMA filed an amicus brief in the case, *Philbrick v. Azar*, arguing that pinning eligibility for New Hampshire's Granite Advantage plan to work requirements would cause thousands to be disenrolled from the state's recently expanded Medicaid program, leading to worse health outcomes for them and their families. The state argued that the requirement would incentivize people to work.

"The New Hampshire system will not meaningfully 'encourage' beneficiaries to 'attain or retain financial independence.' Thinly veiled threats, or 'incentives,' will not help beneficiaries enter the workforce or obtain steadier employment," the AMA brief told the court. "Thousands of Medicaid beneficiaries cannot work as a medical matter, face serious difficulties in finding employment or work too inconsistently to meet the work requirement. Holding health care coverage hostage will only exacerbate these problems."

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Striking caps on liability damages will fuel medical cost growth

If the Supreme Court of Tennessee eliminates caps state legislators placed on noneconomic damages, doctors say patients and physicians in the Volunteer State will face a future in which health care costs are even higher and physicians are likelier to leave the state or avoid high-risk procedures.

The state's highest court is considering a case, *McClay v. Airport Management Services LLC*, that will determine whether limiting noneconomic damages in personal injury cases is constitutional. The Litigation Center of the American Medical Association joined the Tennessee Medical Association and

several other organizations in filing an amicus brief urging the court to keep limits in place because they are "effective" and "critical" in the medical liability arena.

"They lead to lower insurance premiums, higher physician supply, improved patient access to care, lower defensive medicine and health care costs and lower claim severity and frequency," the AMA Litigation Center brief tells the court. "Placing reasonable constraints on the subjective portion of awards is critical for ensuring that adequate, affordable health care is available to the public at large, particularly in states such as Tennessee that have significant rural areas where health care can be scarce."

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