

# Bloomberg Law®

## Conservative Group Goes State by State for Medicaid Work Rules

Shira Stein

November 21, 2019

When Idaho’s Legislature voted to expand Medicaid coverage for people in the state, a key debate involved whether to require some recipients to work to receive benefits.

Republicans, who favored the requirement, gained a key ally—the “Opportunity Solutions Project,” a little-known new group with opaque funding. While Republicans found the organization’s suggestions on how to make “workfare” a success useful, opponents of the idea felt very differently.

Liz Woodruff, assistant director of programs at Idaho Voices for Children, said the group shared “misinformation on how work reporting requirements worked” and what Idaho voters wanted. Idaho Voices for Children is a nonprofit that advocates at the state level for policies that help families and children.

In Idaho, the group also found some sympathetic legislators who were “willing to carry the water” on work requirements, Idaho House Assistant Minority Leader Ilana Rubel, a Democrat, said.

While state Republicans obviously reject such a negative characterization, Rep. John Vander Woude said he did find the group helpful in crafting the work requirement language in the legislation.

The final version of the bill expanding Medicaid included the work requirements that the Opportunity Solutions Project wanted.

Idaho is just one of many states that are trying to require some of their residents to work to receive Medicaid benefits. The Trump administration is heavily pushing for work requirements, but courts have been striking them down. Billions of dollars in aid are at stake, and thousands of people could lose their insurance.

### **Organization Has Been Key Player**

Opportunities Solutions is the Florida-based 501(c)(4) social welfare arm of the Foundation for Government Accountability (FGA), which has become one of the most vocal and active critics of expansion of Medicaid and other social programs in the states. The foundation has pushed lawmakers to avoid expanding Medicaid, supported work requirements for able-bodied adults to

stay on Medicaid, and advocated for cracking down on Medicaid fraud by increasing information checks for beneficiaries.

Researchers on both ends of the policy spectrum agree: The organization has been key nationwide in pushing for conditions on Medicaid recipients, and according to its website, has won some significant victories.

Typically, organizations that push for similar Medicaid policies focus on their own states, like the Buckeye Institute in Ohio, the Idaho Freedom Foundation, and the Beacon Center of Tennessee. But the FGA is active in many states.

The Florida nonprofit's website says its goal is to stop "dysfunctional welfare that traps people in dependency" and use work to "restore dignity and self-sufficiency, and to empower them to take control of their futures."

The group declined an interview request but did provide a statement from its CEO, Tarren Bragdon, who said the group is "committed to helping able-bodied adults get back on the path to independence through work while maintaining the integrity and long-term sustainability of welfare programs for those who truly need them."

Because the group is a nonprofit, it is not required to say who funds it. A Bloomberg Law analysis identified a handful of donors—chief among them Donors Trust, a pass-through nonprofit that allows mostly right-wing donors to back pro-libertarian causes without revealing who they are.

## **Medicaid Changes**

Big changes in Medicaid started after the Affordable Care Act was signed into law in 2010. The health-care law allows states to receive more federal funding when they expand Medicaid eligibility to people just above the poverty level, and 36 states have taken advantage of the provision. The law also allows states to change how they implement their expansions.

The Florida nonprofit has been pushing back hard against these expansions. It tends to be most active in more conservative states, said Joan Alker, executive director of the Georgetown University Center for Children and Families. There is no other group in the Medicare space that rivals its impact as far as opposing the changes, she added.

The Georgetown Center for Children and Families is one of the leading policy development and research centers focused on health policy for children, in particular Medicaid, the ACA, and the Children's Health Insurance Program.

Woodruff, of Idaho Voices for Children, accuses the foundation of "dropping into states, interfering in what the people in that state want, and creating really bad public policy that's more about ideology and politics," than what state voters want. It is "destructive" to state Medicaid policies, she added.

Not everyone agrees. Michael Cannon, director of health policy studies at the libertarian Cato Institute, for one, is an admirer.

## **Praise for the Group**

“No one is doing better work on Medicaid in the states,” both in trying to stop states from expanding Medicaid and in trying to prevent fraud in the program,” he said. The Florida group has “been the one on the ground doing the legwork” to show states that haven’t yet expanded Medicaid what’s happened in states that have, Cannon said.

The group’s website says it has “achieved 168 state policy reforms in 37 states, ultimately meaning that 6.4 million individuals will move off welfare.” The foundation’s 2018 report pointed to liaisons in 30 states where the group has seen federal and local victories. The report also touted the foundation’s partnerships with more than 270 state policymakers and 25 governors.

The organization pointed to its successes in implementing a program in 15 states that rewards patients for choosing high-value, low-cost care. The foundation got 10 states to allow groups of small businesses to form health insurance plans for their employees.

Advocates in Oklahoma and Missouri are working on getting Medicaid expansion on the ballot, and expansion in Kansas is awaiting action in the legislature. But expansion advocates say that the cookie-cutter policies the FGA rolls out don’t always make sense and can be contradictory.

For example, the foundation pushed state legislators to pass the HOPE Act in Oklahoma. The law requires the state to verify information for people on Medicaid on a quarterly basis.

## **No Backlog?**

The HOPE Act was intended to disqualify people who weren’t supposed to be on Medicaid, said Carly Putnam, policy director of the Oklahoma Policy Institute. However, Oklahoma has never had a backlog and has the lowest Medicaid improper payment rate of all states evaluated by the federal government, she added.

The Oklahoma Policy Institute is a nonpartisan state-based think tank focused on “equitable and fiscally responsible policies,”

Focusing on fraud sounds reasonable, Alker, of the Georgetown Center for Children and Families, said, but there’s no evidence of widespread beneficiary fraud in Medicaid—most fraud in the program, in fact, is perpetrated by providers.

Bragdon said the FGA is focused “on ensuring only those who actually qualify are on the program,” otherwise “the truly needy will pay the price.”

The HOPE Act also didn’t seem to make sense because the bill included changes around taking into account people’s overall assets, which the ACA made no longer valid, and checking to verify death records, which the state was already doing, Putnam said.

The foundation’s concern is that increasing Medicaid enrollment is “increasing the financial burden on taxpayers while taking away these resources for those for whom the program was initially intended.”

## **In Other States**

The foundation provides research that supports its policy proposals. For example, it conducted a poll in Arkansas asking questions like whether voters “support or oppose efforts to fight welfare fraud by conducting more audits of the state’s welfare programs.” The group was accused of “push polling,” where questions are phrased in such a way to receive a desired answer. FGA denies the practice.

FGA’s arguments for work requirements were also used in Kansas when Democratic Gov. Laura Kelly was pushing for Medicaid expansion, Adam Searing, a research professor at the Georgetown Center for Children and Families, said.

In the only state that has had work requirements take effect, Arkansas, 18,000 people lost Medicaid coverage in seven months, according to a New England Journal of Medicine study.

Work requirements are costly and complicated to administer due to the need to develop or adapt eligibility and enrollment systems, educate beneficiaries, and train staff. Millions of dollars in federal funds are likely being spent inappropriately on state administrative costs related to implementing Medicaid work requirements, according to an October report by the Government Accountability Office.

A 2019 New England Journal of Medicine study found that confusion and lack of awareness about the reporting requirements were common among Medicaid beneficiaries. Lack of internet access contributed to reporting issues, although the state added a telephone option seven months into the program.

Opponents of work requirements also say that proponents are confusing causation and correlation. They point to studies that say those who work are healthier, but that means only that those who work are able to do so because they were healthy in the first place.

## **Striking a Balance**

Work requirements are a way to limit government’s role in the provision of charitable health care, Cannon said. It’s trying to strike a balance between helping the needy and encouraging people to help themselves.

Childless, able-bodied adults who received Medicaid through expansions are “good candidates for getting a job and contributing to the Medicaid program, as well as drawing from it,” Cannon said.

Work requirements also touch a nerve with voters who may be unhappy with hearing that people who are able to work are receiving government benefits and not being required to work, Cannon said.

Work rules have been struck down three times in Arkansas, Kentucky, and New Hampshire by Judge James Boasberg of the U.S. District Court for the District of Columbia. All three rulings have been appealed and a decision from the U.S. District Court of Appeals for the D.C. Circuit is expected in the coming weeks on the Kentucky and Arkansas appeals.



The other five identified donors contributed a fraction of the amounts given by the top three, but they share the big givers' free-market, conservative roots. The State Policy Network and the Roe Foundation, which were founded by the same person, gave \$173,150 and \$115,000, respectively. The Adolph Coors Foundation gave \$150,000 over three years. The Atlas Economic Research Foundation gave \$115,194.

One exception is the Smeed Memorial Foundation, which gave the FGA a one-time grant of \$50,000 in 2015. It was started by Idaho businessman Ralph Smeed, who died in 2010, for organizations that do work in Idaho.

The foundation's chairman, Rick Coffman, said his group turned down later applications for grants from FGA because it felt the foundation was too political.

It's difficult to parse how much of the FGA money has gone to Medicaid efforts. The Opportunity Solutions Project has spent \$1.64 million from 2015 to 2017 on the "restore self-sufficiency project" that advocated for policymakers to reduce the number of people on welfare. The group has spent \$228,378 in that time on "real access to health care" to advocate for states that haven't expanded Medicaid to continue to refuse to do so.

### **Still Battling in Idaho**

Back in Idaho, Vander Woude, the Republican state lawmaker, generally agrees with the Opportunity Solutions Project and downplays its influence.

He said he had two conversations with its representatives while drafting his work requirement bill. He said the Opportunity Solutions Project representatives were knowledgeable about what other states were doing and what didn't work.

The work requirements he proposed failed to make it through committee, but when the Medicaid bill went through the amendment process on the floor of the House, they were added back in.

The bill was signed into law April 9 by Gov. Brad Little (R). The state still needs to get federal approval from the Centers for Medicare & Medicaid Services before the work requirements can go into effect. The state has said the expanded eligibility will take effect Jan. 1 no matter what.

If approved, Idaho's work requirement would require working-age, able-bodied adults who would be newly eligible for benefits to work, look for work, volunteer, or engage in training at least 20 hours per week in order to receive Medicaid.

Some Republican colleagues told Rubel, the state House assistant minority leader, that the nonprofit "came in and changed everything."