

# THE NATIONAL LAW REVIEW

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## A Rundown of Recent State Action Relating to Medicaid Expansion

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To date, 34 states (including D.C.) have adopted Medicaid expansion. Of the remaining 17 states, some are considering expanding Medicaid. States with recent activity relating to Medicaid expansion include Florida, Idaho, Maine, Missouri, Nebraska, New Hampshire, North Carolina, Utah, and Virginia. Last week, Virginia became the latest state to expand Medicaid and also tied a Medicaid work requirement to the expansion. California is also exploring expanding Medicaid to undocumented adults.

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 33<sup>rd</sup> state (including D.C.) 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, Governor LePage has repeatedly vetoed legislation expanding Medicaid.

[Maine Question 2](#) requires 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 Maine Department of Health and Human Services has 90 days after the effective date to submit a State Plan Amendment to the HHS. The Governor has failed to meet the April 3<sup>rd</sup> State Plan Amendment submission deadline. On April 30, 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." On Thursday May 24, 2018, Kennebec County [Superior Court Justice Michaela Murphy said](#), "Governor Paul LePage's administration has a duty to enforce a voter-passed law." According to local news, Judge Murphy did not indicate when she would issue a ruling.

#### **Virginia**

Introduced March 21, 2018, HB [5001](#) and [5002](#) expand Medicaid eligibility to 138% FPL. The Virginia Department of Medical Assistance is required to submit an amendment to the Medicaid State Plan and 1115 waiver to CMS no later than 45 days upon the passage of the bills from the Senate. Further, the proposed legislation establishes the Training, Education, Employment, and Opportunity Program (TEEOP). TEEOP will be required for all able-bodied working-age adults enrolled in the Medicaid program, ages 19 through 54. TEEOP requirements will gradually escalate, beginning at 20 hours per month, three months after enrollment, and increasing to 80 hours per month,



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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 plan year, they fail to meet the required engagement hours.

On April 17, 2018, HB 5001 and 5002 passed the House and was referred to the Senate. On May 30, 2018, [HB 5001](#) and [5002](#) passed the Senate with substitute, a 23-Y, 17-N vote. Four Republicans crossed party lines to vote with the Democrats. Later that day (May 30, 2018) the House passed the Senate-passed version. Governor Northam is expected to sign the bills. Virginia will be the 2<sup>nd</sup> state under the Trump Administration to expand Medicaid. (Virginia is the 34<sup>th</sup> state to expand Medicaid.)

## **Considering Medicaid Expansion:**

### **Idaho**

Advocates are currently collecting signatures for an initiative that would place a Medicaid expansion measure on the November Ballot. [According to a local grassroots advocacy group](#), Reclaim Idaho, the group turned over more than 60,000 valid signatures to the State Clerk by the May 1, 2018 deadline. On [Thursday May 24, 2018, officials confirmed](#) the proposal passed the signature threshold needed. However, officials stated further review is required before the initiative may be included on the November ballot.

[Reclaim Idaho](#) cites that 62,000 Idaho residents currently do not qualify for Medicaid or exchange subsidies. The state's gubernatorial primary was May 15, 2018, with incumbent Governor Little winning the Republican ticket, and running against Democratic winner, Paulette Jordan, in November. The ballot initiative received mixed reviews from candidates; however, Lt. Governor Little recently stated that he would "adhere to the will of the voters."

### **Nebraska**

Led by [The Fairness Project](#), Nebraska health care associations and advocacy groups are currently collecting signatures for an initiative that would place the Medicaid expansion measure on the November Ballot. [Advocacy groups](#) have until July 6, 2018, to submit the required 85,000 valid signatures. [Governor Ricketts strongly opposes the initiative](#), stating, "Expanding Medicaid in Nebraska is a risky proposition for taxpayers not only because of the expense but also because we cannot trust the federal government's long-term financial commitment to state programs."

### **New Hampshire**

New Hampshire's current version of Medicaid Expansion, the New Hampshire Premium Assistance Program, is set to exhaust at the end of the 2018 fiscal year. [SB 313](#) passed the House Committee on Health, Human Services and Elderly Affairs, with an adopted amendment May 3, 2018; the legislation is currently in the House Finance Committee. On May 10, 2018, the Senate approved SB 313, 16-6. If signed into law, the legislation replaces the New Hampshire Health Protection Program, establishing the Granite Advantage Health Care Program. Under the program, eligible individuals will choose coverage offered by one of the Medicaid contracted managed care organizations.

Additionally, the legislation establishes the Granite Workforce Pilot Program. The pilot program will utilize federal funds available from the TANF program for the purpose of job placement. Granite Workforce eligibility is contingent upon income, not to exceed 138% FPL; parents, or noncustodial parents, ages 18 through 64 with a child 18 and under in the household; and childless adults at least 18 years of age and under 25. New eligible adults the Department of Health and Human Services is required to apply for necessary waivers and state plan amendments to implement the 5-year demonstration program beginning January 1, 2019.

### **North Carolina**

["H.B. 662- Carolina Cares"](#) was introduced April 6, 2017, and referred to the Committee on Health Care Reform; it was last amended April 17, 2017. This bill, "Carolina Cares," governs the components of the Carolina Cares program, outlined in the [State's 1115 waiver amendment](#) submitted November 20, 2017. Under the proposed legislation, the population covered by the Carolina Cares program includes residents not eligible for Medicaid under the current Medicaid program criteria, individuals with a modified gross adjusted income not exceeding 133% FPL, residents not entitled to Medicare Part A or B, and residents between the ages of 19 and 64. Failure to complete premium contributions within 60 days of the due date will result in termination from the program, absent proof of any accepted exemptions.

### **Utah**

Governor Herbert signed [H.B. 472](#) March 27, 2018. The legislation expands Medicaid coverage to include those at or below 100% FPL and not eligible for enrollment in the Medicaid program, with the exception of the Primary Care Network Program. The Department of Health is required to submit a Waiver request to HHS by January 1, 2019. CMS to date has not approved waivers that provide the enhanced match rate unless a state implements the full expansion of 138% FPL. Under H.B. 472 a trigger clause is included that would scale back or sunset Medicaid expansion if the 90% enhanced federal match rates is reduced. The State further maintains the ability to cease new enrollment if the projected expansion costs exceeds the state appropriations for the fiscal year. Additionally, the HB 472 includes a work requirement provision for the new expansion population. (This is in addition to the 1115 waiver amendment Utah has submitted to CMS to include Medicaid work requirements for the non-expansion Medicaid population.)

In the 2018 November primary, Utah residents may vote to expand Medicaid to the ACA's full FPL. The measures would require the State to provide Medicaid to persons under the age of 65 and with incomes below 138% FPL. 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 advocacy group, Utah Decides Healthcare, submitted more than 165,000 valid signatures before the April 6<sup>th</sup> deadline. Utah requires roughly 113,000 valid signatures for the inclusion of ballot initiatives.

The State's Lieutenant Governor announced on May 29, 2018 that there are enough signatures to include the measure on the upcoming November election ballot. As of May 30, 2018, the initiative surpassed the 147,280 valid signatures needed in 26 of the 29 state Senate Districts.

## **Failed Medicaid Expansion:**

### **Florida**

[SJR 1136](#) and [HJR 911](#), Expansion of Medicaid Coverage, were introduced to the Florida House and Senate December 6, 2017. After referral and introduction within respective health subcommittees, SJR 1136 and HJR 911 were indefinitely postponed and withdrawn from consideration March 10, 2018.

### **Missouri**

At the state legislative level, two bills (SB 713 and SB 731) that would expand Medicaid were under consideration. Introduced January 16, 2018, [SB 713](#) would require the state to expand Medicaid to persons under the age of 65 and with incomes equal to or below 138% FPL by January 2019. After referral to the Committee on Seniors, Families, and Children, the proposed legislation ultimately failed on May 18, 2018. During this same period, [SB 731](#) included the same Medicaid expansion language as SB 713; however, the legislation would require the measure to be included on the November 2018 ballot. The legislation failed in committee the same day at SB 713.

Separately, a citizen led initiative, The Missouri Medicaid Expansion Initiative, was filed September 6, 2017. The initiative received signature clearance in October; however, at the time of the May 6, 2018 deadline, signatures for the initiatives had not been filed.

## **Medicaid Expansion to Undocumented:**

### **California**

The California state legislature is considering two sister bills, [SB 974](#) and [AB 2965](#). The proposed bills 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. These individuals would be required to enroll into Medi-Cal managed care health plans. In addition, individuals will be required to pay copayments and premium contributions, to the extent required of otherwise eligible Medi-Cal recipients who are similarly situated.

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 status; of this population, approximately 1.2 million individuals would qualify for benefits through Medi-Cal. Governor Brown has not committed to either proposal, despite approval of [SB 4](#) in 2015; the enacted legislation expands the full scope of Medi-Cal benefits to individuals under 19 years of age whom do not have, or are unable to establish, satisfactory immigration status. Governor Brown is set to leave office later this year.

*\*Nicole Meyerson was the lead contributor to this post.*

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