
CMCS Informational Bulletin

DATE: February 8, 2019

FROM: Timothy B. Hill, Deputy Center Director
Center for Medicaid and CHIP Services

SUBJECT: Temporary Extension of the Affordable Care Act’s Spousal Impoverishment Provision for Married Recipients of Home and Community-Based Services

The purpose of this CMCS Informational Bulletin is to advise you that the recently enacted Medicaid Extenders Act of 2019 (P.L. 116-3) modifies section 2404 of the Patient Protection and Affordable Care Act (ACA) to require that state Medicaid agencies apply the spousal impoverishment rules to married applicants and beneficiaries eligible for home and community-based services (HCBS) through **March 31, 2019**.¹

On November 9, 2018, the Centers for Medicare & Medicaid Services (CMS) published a separate CMCS Informational Bulletin (the November bulletin) advising stakeholders that the ACA’s spousal impoverishment-related provision was set to expire on December 31, 2018 (“Sunset of Section 2404 of the Affordable Care Act, Relating to the Spousal Impoverishment Rules for Certain Home and Community-Based Services Applicants and Recipient”).² CMS instructed states in the November bulletin that, if the provision were to expire, eligibility redeterminations and post-eligibility treatment-of-income (PETI) recalculations would be necessary for many married individuals receiving HCBS. States that have completed redeterminations for married HCBS recipients and informed any such beneficiaries that (due to the expiration of the ACA provision) they are no longer eligible for Medicaid or will have their PETI calculation modified should revise their decisions and immediately inform these individuals that they remain eligible for Medicaid or that their PETI calculation will not change. Unless the ACA provision is further extended, however, states will need to conduct redeterminations and recalculations, upon the new March 31, 2019 expiration, in accordance with the instructions in the November bulletin.

The Medicaid Extenders Act of 2019 did not modify the terms of the ACA spousal impoverishment-related provision beyond the extension of its sunset date. States should therefore continue to follow the guidance CMS published in SMDL #15-001 through March 31, 2019.³ Section 3(b) of the Medicaid Extenders Act of 2019, however, contains a “rule of construction” provision relating to the manner in which the spousal impoverishment rules should be construed pertaining to a state’s application of income or resource disregards for married individuals receiving certain HCBS. CMS is presently reviewing this provision and will provide additional guidance to states after completing its review. If you have any questions, please contact Gene Coffey at Gene.Coffey@cms.hhs.gov.

¹ Section 3(a) of the law contains the extension.

² <https://www.medicare.gov/federal-policy-Guidance/index.html?sl=yes&fcf=49978#.XFCpGeHHUUQ.link>

³ <https://www.medicare.gov/federal-policy-guidance/downloads/smd050715.pdf>