



CMCS Informational Bulletin

DATE: May 8, 2019

FROM: Chris Traylor, Deputy Administrator and Director
Center for Medicaid & CHIP Services

SUBJECT: **Additional Extension of the Spousal Impoverishment Rules for Married Applicants and Recipients of Home and Community-Based Services**

The purpose of this CMCS Informational Bulletin is to advise you that the recently enacted Medicaid Services Investment and Accountability Act of 2019 (P.L. 116-16, signed into law on April 18, 2019) 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 **September 30, 2019**.¹

On November 9, 2018, the Centers for Medicare & Medicaid Services (CMS) published a CMCS Informational 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 The bulletin provided instructions on how states should proceed if the ACA's provision expired.

The Medicaid Extenders Act of 2019 (P.L. 116-3) enacted on January 24, 2019, temporarily extended the ACA provision through March 31, 2019. CMS informed states of this extension in another CMCS Informational Bulletin ("Temporary Extension of the Affordable Care Act's Spousal Impoverishment Provision for Married Recipients of Home and Community-Based Services").³ We advised states in the February bulletin that they should revise any adverse eligibility actions or post-eligibility treatment-of-income (PETI) calculations made against any Medicaid beneficiaries as a direct result of the lapse in the spousal impoverishment provision.

With enactment of the Medicaid Services Investment and Accountability Act, states should again revise any adverse eligibility actions or PETI calculations that were made between April 1st and April 18th on the basis of the lapse in the spousal impoverishment provision. States should also inform affected individuals that they remain eligible for Medicaid or that their PETI calculations will be as they were as of March 31, 2019. Until September 30, 2019, states should continue to follow the guidance CMS published in SMDL #15-001 relating to the application of the ACA's spousal provision.

If you have any questions, please contact Gene Coffey at Gene.Coffey@cms.hhs.gov.

¹ Section 2(a) of the law contains the extension.

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

³ <https://www.medicare.gov/federal-policy-guidance/downloads/cib020819.pdf>