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## ***CMCS Informational Bulletin***

**DATE:** May 9, 2024

**FROM:** Daniel Tsai, Deputy Administrator and Director  
Center for Medicaid & CHIP Services

**SUBJECT:** Extension of Temporary Unwinding-Related Flexibilities

The purpose of this Center for Medicaid & CHIP Services (CMCS) Informational Bulletin (CIB) is to announce a further extension of unwinding-related section 1902(e)(14)(A) waivers. In the December 18, 2023 CIB on maintaining children’s coverage, the Centers for Medicare & Medicaid Services (CMS) announced that these waivers would be extended to December 31, 2024.<sup>1</sup> To continue supporting states’ efforts to establish and update income and eligibility determination systems that maximize states’ ability to ensure that eligible individuals retain coverage, CMS is further extending these unwinding-related section 1902(e)(14)(A) waivers through June 30, 2025. This CIB also provides information about how certain other temporary, COVID-19-related flexibilities can be extended through June 30, 2025.

Throughout the COVID-19 Public Health Emergency (PHE) states adopted many flexibilities to respond effectively to issues caused by the pandemic and to comply with conditions for receipt of a temporary 6.2 percentage point Federal Medical Assistance Percentage (FMAP) increase set forth at section 6008 of the Families First Coronavirus Response Act (FFCRA).<sup>2</sup> One of these conditions, the continuous enrollment condition, required states to maintain the enrollment of nearly all Medicaid beneficiaries through March 31, 2023. With the expiration of the continuous enrollment condition, states were required to resume completing renewals, consistent with federal requirements, for all individuals enrolled in their Medicaid programs. This process is often referred to as “unwinding,” and the period over which each state is conducting these renewals is often referred to as the state’s “unwinding period.”

To support states’ efforts to protect continuity of coverage during their unwinding periods, CMS approved the use of certain temporary authorities, including waivers under section 1902(e)(14)(A) of the Social Security Act (the Act), temporary verification plan updates, and

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<sup>1</sup> CMS. (December 18, 2023). Ensuring Eligible Children Maintain Medicaid and Children’s Health Insurance Program Coverage [CMCS Informational Bulletin]. Available at: <https://www.medicare.gov/sites/default/files/2023-12/cib12182023.pdf>.

<sup>2</sup> This provision was originally enacted in Pub. L. 116-127 and amended by the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116-136) and the Consolidated Appropriations Act, 2023 (Pub. L. 117-328). The availability of the temporary FMAP increase expired on December 31, 2023.

temporary Medicaid and CHIP state plan amendments (SPAs).<sup>3,4</sup> Nearly all states were initially expected to complete “unwinding-related” renewals (i.e., the first renewal conducted for each individual enrolled in Medicaid or CHIP at the end of the continuous enrollment condition) by June 2024. However, due to state adoption of strategies to prevent inappropriate disenrollments and other CMS-approved unwinding-related strategies, many states will continue conducting unwinding-related renewals beyond June 2024 for some populations.

Many of the strategies adopted by states during their unwinding periods will continue to be needed to protect beneficiaries while the states implement policy, systems, and operational fixes to address areas of noncompliance with federal renewal requirements that were identified during unwinding. Further, extending flexibilities authorized under section 1902(e)(14)(A) of the Act or otherwise approved by CMS to streamline renewals will enable states to shift limited resources to reduce processing time at application when needed; this will help ensure that eligible applicants have timely access to coverage in accordance with federal regulations at 42 CFR § 435.912. For these reasons, as states continue work to resume regular eligibility and enrollment operations following the end of the continuous enrollment condition, they may need to extend some of these flexibilities or submit requests for new flexibilities.

Information on each type of flexibility is discussed below.

#### **A. Extension of Section 1902(e)(14)(A) Waivers**

To maximize states’ ability to ensure that eligible individuals retain coverage, states may continue to use unwinding-related waiver authority granted under section 1902(e)(14)(A) of the Act through June 30, 2025, provided that the terms and conditions of the original waiver continue to be met. A new request is not needed.

Section 1902(e)(14)(A) of the Act permits CMS to approve time-limited waivers “as are necessary to ensure that states establish income and eligibility determination systems that protect beneficiaries.” Since April 2022, CMS has granted nearly 400 section 1902(e)(14)(A) waivers to 52 states and territories to support unwinding efforts.<sup>5</sup> All waivers authorized under section 1902(e)(14)(A) of the Act from April 2022 through the date of this CIB are considered “unwinding-related” for the purpose of this CIB. They include, but are not limited to, waivers:

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<sup>3</sup> Some states implemented temporary state plan changes utilizing a Medicaid or CHIP disaster relief state plan template or a CHIP disaster relief activation letter. For example, CMS approved some temporary SPAs to suspend premiums and cost sharing to support state unwinding efforts.

<sup>4</sup> For information on flexibilities discussed in this CIB, see State Health Official Letter (SHO) #22-001 “RE: Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children’s Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency” available at: <https://www.medicaid.gov/sites/default/files/2022-03/sho22001.pdf>.

<sup>5</sup> CMS, “COVID-19 PHE Unwinding Section 1902(e)(14)(A) Waiver Approvals,” March 2024, available at: <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/covid-19-phe-unwinding-section-1902e14a-waiver-approvals/index.html>.

- To increase ex parte renewal rates, like those to renew income eligibility based on financial findings from SNAP or TANF and those suspending the requirement to apply for other benefits;
- To support enrollees with renewal form submission or completion, for example by permitting managed care plans to provide assistance with completing and submitting renewal forms;
- To update beneficiary contact information such as strategies that rely on information from managed care plans, the U.S. Postal Service, or enrollment brokers;
- To facilitate reinstatement of eligible individuals disenrolled for procedural reasons, for example by reinstating eligibility effective on the individual’s prior termination date for individuals who were disenrolled based on a procedural reason and are subsequently redetermined eligible for Medicaid during a 90-day reconsideration period; and
- To address other issues like delaying the resumption of premiums until a beneficiary’s eligibility (and corresponding premium liability) has been redetermined, temporarily simplifying the eligibility determination process for the former foster care children group and extending the timeframe to take final administrative action on certain fair hearing requests.

CMCS currently is reviewing all section 1902(e)(14)(A) waiver strategies to determine which can be implemented on a longstanding basis under other authorities. The “Streamlining the Medicaid, Children’s Health Insurance Program, and Basic Health Program Application, Eligibility Determination, and Renewal Processes” final rule makes changes to §§ 435.608, 435.919, 436.608 and 457.344 so that three such strategies become available when the rule becomes effective on June 3, 2024, and a section 1902(e)(14)(A) waiver will no longer be needed. These three are the strategy to waive the requirement to apply for other benefits to qualify for Medicaid (which is repealed by the final rule) and the strategies to update beneficiary contact information with information from managed care plans and the U.S. Postal Service National Change of Address database and mail forwarding service. These strategies become requirements under the final rule, but states are permitted 12 to 18 months to fully comply with these new requirements.<sup>6</sup>

#### **B. Using an Unwinding-Related Section 1902(e)(14)(A) Waiver Strategy More than Once for a Given Individual**

As states begin to utilize unwinding-related section 1902(e)(14)(A) waiver strategies for more than 12 months, the question arises as to whether a given strategy may be applied to the same individual more than once. With the exception of the “Zero Dollar” and “100% FPL” strategies noted below, the permissibility of doing so depends on whether the conditions and assurances of the waiver continue to be met.

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<sup>6</sup> CMS. “Streamlining the Medicaid, Children’s Health Insurance Program, and Basic Health Program Application, Eligibility Determination, and Renewal Processes” final rule (89 FR 22836) available at: <https://www.federalregister.gov/d/2024-06566>

When the terms of a section 1902(e)(14)(A) waiver approval continue to apply, that waiver authority may be used more than once for the same individual. For example, some states received authority to renew income eligibility for individuals receiving SNAP benefits (the “SNAP strategy”). When using the SNAP strategy to renew an individual’s eligibility, certain conditions and assurances must be met, such as that the individual’s gross income as determined for purposes of SNAP eligibility be no greater than the applicable Medicaid income standard. If a beneficiary was successfully renewed using the SNAP strategy on September 1, 2023, their eligibility may be renewed again using this strategy on September 1, 2024, provided that they continue to receive SNAP benefits, their gross income as determined in their most recent SNAP determination does not exceed the applicable Medicaid income standard, and any other conditions and assurances set forth in the state’s waiver approval are met.

We will permit states to use two section 1902(e)(14)(A) waivers more than once for the same individual even when certain conditions of the initial waiver approval are not met. Specifically, we will permit continued use of the section 1902(e)(14)(A) waivers through which states completed an *ex parte* income determination without having requested additional income information or documentation for individuals (1) whose most recent income determination prior to the beginning of the state’s unwinding period was no earlier than March 2019 and was based on verified income at or below zero dollars or 100 percent of the federal poverty level (FPL) (the “Zero Dollar” and “100% FPL” strategies); and (2) for whom the state checked appropriate electronic data sources, and no information was returned.

The Zero Dollar and 100% FPL waiver strategies were originally designed to permit a single *ex parte* renewal based on verified information from the individual’s most recent income determination combined with use of all available electronic income data sources. However, CMS believes the ability to complete a second *ex parte* renewal for such individuals when electronic data sources are utilized and no information is returned continues to be critical as states work to address the continuing challenges in timely processing eligibility and enrollment actions. Therefore, states may continue to use these strategies for individuals who are due for a renewal through June 30, 2025, without regard to whether the strategies have been previously used, as long as the state meets the following conditions:

- Prior to using the Zero Dollar and/or the 100% FPL strategies for a second or subsequent renewal for any specific individual, the state must take steps to confirm continued state residency, for example by conducting a utilization review. CMS is available to provide technical assistance on strategies to verify continued state residency.
- The state must check financial data sources in accordance with its verification plan. If no information is returned, the state may consider income verified.
- The state must take appropriate steps to review the non-financial components of eligibility consistent with the state’s existing policies and procedures outlined in the state’s verification plan implementing §§ 435.916 and 435.956.

- The state must notify individuals whose eligibility is renewed using this strategy that they must inform the agency if any of the information relied upon by the state in completing the renewal is inaccurate, consistent with § 435.916(a)(2)(ii).

CMS will send each state with an approved section 1902(e)(14)(A) waiver authorizing use of the Zero Dollar and/or 100% FPL strategies an addendum to its existing waiver. This addendum will contain all of the conditions for using either or both of these strategies a second time for a given individual. States will need to notify CMS that they accept the conditions described in the addendum in order to use either of these strategies a second time for a given individual. States will not need to submit a new waiver request.

### **C. Extension of Other Flexibilities**

#### ***Verification Plan Addendums***

States may continue to utilize temporary verification policies and procedures, which are currently scheduled to sunset at or before the end of the state’s unwinding period, through June 30, 2025.

All states are required to maintain a verification plan describing the verification policies and procedures adopted by their state.<sup>7</sup> Many states submitted a Medicaid and CHIP MAGI-Based Disaster Relief Verification Plan Addendum (hereafter “Verification Plan Addendum”) to capture temporary verification policy and procedure changes effective during the COVID-19 PHE.<sup>8</sup> Some states extended these changes through the unwinding period by either changing the end date of an existing Verification Plan Addendum or submitting an unwinding-specific Verification Plan Addendum.

CMS has determined that Verification Plan Addendums may be extended through June 30, 2025 in order to aid in states’ efforts to protect beneficiaries while work related to and resulting from unwinding continues. Consistent with CMS’ authority to request that states send us their verification plan, states that wish to modify or sunset such Addendums prior to that date should notify CMS of their plan to do so. Therefore, unless the state wants to end such temporary policies at an earlier date, it does not need to take any action to continue utilizing these temporary verification policies and procedures through June 30, 2025. However, states should update their own records to clearly document the extension and maintain a copy of this guidance to ensure accurate recordkeeping of these flexibilities for auditing and other purposes. To modify or sunset an existing Verification Plan Addendum prior to June 30, 2025, please reach out to your Medicaid state lead.

States may elect to make temporary verification policy and procedure changes permanent for MAGI-based eligibility determinations by updating and submitting their Medicaid and CHIP

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<sup>7</sup> 42 CFR § 435.945(j)

<sup>8</sup> CMS, “Medicaid/CHIP Eligibility Verification Plans,” available at <https://www.medicaid.gov/medicaid/eligibility/medicaidchip-eligibility-verification-plans/index.html>.

MAGI-based verification plan to CMS. To make permanent changes to verification policies and procedures for non-MAGI determinations, states should update their internal manuals and records reflecting their verification policies for non-MAGI populations.

### ***Regulatory Exception to Timely Determinations***

A state may continue to use the timeliness exception to delay procedural disenrollments for renewals initiated through June 30, 2025 if it continues to meet the conditions set forth in the regulations at § 435.912(e), even if the concurrence provided by CMS for the state to use that exception is set to expire at the end of the state's unwinding period.

The exception to timely determinations of eligibility at § 435.912(e) permits a state to exceed the timeliness standard when there is an administrative or other emergency beyond the agency's control. As states began to work through the large volume of renewals during unwinding, many states reported that each month they were disenrolling a large percentage of individuals because they did not return a renewal form or other information needed by the state to process their renewal, even though many of these beneficiaries likely otherwise continue to meet all eligibility requirements. CMS determined that the unprecedented volume of renewals following resumption of routine operations warranted states' use of the timeliness exception at 42 CFR 435.912(e) to delay procedural disenrollments while they conducted targeted outreach to encourage beneficiaries to return the renewal form.

At least 15 states utilized the timeliness ***exception to delay procedural disenrollments for one or more months during unwinding while they conducted targeted renewal outreach to impacted beneficiaries.***<sup>9</sup> Delaying procedural disenrollments meant that these states will continue to conduct "unwinding-related" renewals beyond the end of their official unwinding period. In addition, an increasing number of states are beginning to experience significant application backlogs, as eligibility workers have been stretched by the need to work through large volumes of renewals and as many individuals who were disenrolled reapply. CMS believes that due to the persistence of the unprecedented volume of renewals faced by these states, they continue to experience an administrative emergency beyond their control within the meaning of 42 CFR 435.912(e)(2), and that they are likely to continue to do so into the first half of 2025. Therefore, CMS is extending through June 30, 2025 the concurrences we previously provided to states that delayed procedural disenrollments. These states do not need to submit a new concurrence request but should document in their own records the circumstances that necessitate continued delay of procedural disenrollments and maintain a copy of this guidance to ensure accurate recordkeeping of these flexibilities for auditing and other purposes.

If a state seeks to newly begin using the exception to the timeliness standards in 42 CFR 435.912, CMS strongly recommends that the state seek CMS concurrence to use the exception.

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<sup>9</sup> CMS, "State Option to Delay Procedural Disenrollments," December 2023, available at <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/state-option-to-delay-procedural-disenrollments/index.html>

### ***Other Authorities***

Some states are still utilizing flexibilities authorized through Medicaid and CHIP disaster relief SPAs and section 1115 demonstrations. For example, some states submitted a disaster relief activation letter (DRAL) to temporarily suspend the imposition of premiums for separate CHIP enrollees. These temporary flexibilities will sunset according to the end date indicated in the approval package or DRAL, unless the state takes action to modify or extend the flexibility.

Temporary Medicaid disaster relief SPA flexibilities can be implemented as regular, continuing state plan changes by submitting a new non-disaster-relief SPA to amend the relevant state plan section. Some CHIP flexibilities, such as those delaying renewals, can only be temporary. Other CHIP flexibilities, like the temporary suspension of premiums, can also be implemented on a continuing basis by submitting a regular CHIP SPA. For more information, please contact your Medicaid state lead or CHIP project officer and copy the CMS Unwinding TA mailbox at [CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov).

For more information about the section 1115 demonstration application process, or extension of an unwinding-related flexibility allowed for in an 1115 demonstration, please contact your CMS section 1115 project officer or refer to the “1115 Application Process” webpage on [Medicaid.gov](https://www.medicaid.gov).<sup>10</sup>

### **D. State Actions**

#### ***Do I need to contact CMS to adopt the extension(s) available for section 1902(e)(14)(A) waivers and Verification Plan Addendums through June 30, 2025?***

No. As discussed above, CMS is extending the expiration dates through June 30, 2025 for all unwinding-related section 1902(e)(14)(A) waivers (as described in this CIB), so long as the state meets the conditions and assurances of the approved authority.<sup>11</sup> States do not need to submit a request for an extension to CMS. States may also continue using temporary verification policies and procedures reflected in the state’s unwinding-related Verification Plan Addendum, which are currently scheduled to sunset at or before the end of the state’s unwinding period, through June 30, 2025, without notifying CMS. However, we recommend that states document these effective date changes in their records and maintain a copy of this guidance to ensure accurate recordkeeping of these flexibilities for auditing and other purposes. Any questions or concerns about continued use of a specific waiver or verification policy can be directed to the CMS unwinding mailbox ([CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov)).

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<sup>10</sup> CMS, “1115 Application Process,” available at: <https://www.medicaid.gov/medicaid/section-1115-demonstrations/1115-application-process/index.html>.

<sup>11</sup> As described in Section B of this CIB, CMS will permit states to use the Zero Dollar and 100% FPL section 1902(e)(14)(A) waiver strategies more than once for the same individual even when certain conditions of the initial waiver approval are not met.



***Do I need to contact CMS to continue to utilize the timeliness exception to delay procedural disenrollments through June 30, 2025?***

No. States do not need to submit a new concurrence request to continue using the timeliness exception to delay procedural disenrollments for renewals initiated through June 30, 2025, if they continue to meet the conditions set forth in the regulations at § 435.912(e) for using that exception. However, if states are considering use of this exception for the first time, CMS strongly recommends that they seek CMS concurrence before implementation. States can send an email requesting new concurrence to the CMS unwinding mailbox ([CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov)).

***Can I end one of the authorities described in this CIB prior to the scheduled end date?***

Yes. States may sunset any authority described in this CIB prior to the scheduled end date announced through this guidance. To sunset a flexibility early, please contact your Medicaid state lead, CHIP project officer, or section 1115 project officer to ensure that the end date is properly documented in both state and CMS records. Please copy the CMS Unwinding TA mailbox at [CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov) with any change requests.

***Can I request approval from CMS to implement a new flexibility during the extension period?***

Yes. States may continue to request section 1902(e)(14)(A) waiver authority to implement a new waiver, seek new concurrence for exercise of the timeliness exception per § 435.912(e), or make new changes to the state's Verification Plan Addendum through June 30, 2025. See [Medicaid.gov/unwinding](https://www.medicaid.gov/unwinding) for information on available waiver strategies.<sup>12</sup> and SHO letter #22-001 for details on many of the available flexibilities.<sup>13</sup> Some flexibilities, like new section 1902(e)(14)(A) waivers, remain available beyond June 30, 2025 as well. If your state is interested in requesting approval for a new flexibility, please contact your Medicaid state lead or CHIP project officer and copy the CMS Unwinding TA mailbox at [CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov).

**E. Closing**

CMS is committed to supporting state efforts help eligible individuals renew and maintain coverage, as states continue to make necessary changes to ensure compliance with federal

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<sup>12</sup> CMS, "COVID-19 PHE Unwinding Section 1902(e)(14)(A) Waiver Approvals," March 2023, available at <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/covid-19-phe-unwinding-section-1902e14a-waiver-approvals/index.html>.

Additionally, the December 18, 2023 CIB on maintaining children's coverage includes strategies that states can adopt in order to promote continuity of coverage.

<sup>13</sup> CMS. (March 3, 2022). *Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency* [State Health Official Letter #22-001]. Available at <https://www.medicaid.gov/sites/default/files/2022-03/sho22001.pdf>.



renewal requirements and return to timely processing of eligibility and enrollment actions. As such, we are extending the following flexibilities through June 30, 2025:

- Unwinding-related waivers approved under section 1902(e)(14)(A) of the Act;
- Temporary changes to verification policies and procedures submitted through a Verification Plan Addendum; and
- Use of the exception to delay procedural disenrollments if the state continues to meet the conditions described in § 435.912(e).

CMS will continue to monitor states' activities to ensure that eligible individuals have access to the coverage to which they are entitled. For additional information and resources, states are encouraged to review guidance and other information available at [Medicaid.gov/Unwinding](https://www.Medicaid.gov/Unwinding). States may also submit questions and request technical assistance by contacting their Medicaid state lead or CHIP project officer or by emailing [CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov).