



CMCS Informational Bulletin

DATE: September 4, 2019

FROM: Calder Lynch, Acting Director
Center for Medicaid and CHIP Services

SUBJECT: Additional Temporary 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 Sustaining Excellence in Medicaid Act of 2019 (P.L. 116-39, signed into law on August 8, 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 December 31, 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, extended the ACA provision through March 31, 2019, and the Medicaid Services Investment and Accountability Act (P.L. 116-16) enacted on April 18, 2019, extended the ACA provision through September 30, 2019. CMS informed states of these extensions in CMCS Informational Bulletins (“Temporary Extension of the Affordable Care Act’s Spousal Impoverishment Provision for Married Recipients of Home and Community-Based Services”³ and “Additional Extension of the Spousal Impoverishment Rules for Married Applicants and Recipients of Home and Community-Based Services”⁴).

Until December 31, 2019, states should continue to follow the guidance CMS published in SMDL #15-001 (“Affordable Care Act’s Amendments to the Spousal Impoverishment Statute”⁵) relating to the application of the ACA’s spousal provision.

CMCS is available to provide technical assistance as needed. 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.medicaid.gov/federal-policy-guidance/downloads/cib110918-2.pdf>

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

⁴ <https://www.medicaid.gov/federal-policy-guidance/downloads/cib050819.pdf>

⁵ <https://www.medicaid.gov/federal-policy-guidance/downloads/smd050715.pdf>