Mandatory Continuous Eligibility for Children in Medicaid and CHIP
Frequently Asked Questions
October 27, 2023

Q1. On or after January 1, 2024, can states terminate CHIP coverage during a continuous eligibility (CE) period due to non-payment of premiums?

A1. No. Sections 1902(e)(12) and 2107(e)(1)(K) of the Social Security Act (the Act), as modified by Section 5112 of the Consolidated Appropriations Act, 2023 (CAA, 2023), provide for limited exceptions to the requirement that all states provide 12 months of continuous eligibility for children regardless of any changes in circumstances that otherwise would result in loss of coverage. These exceptions include the child turning age 19, no longer being a state resident or, in the case of a child enrolled in a separate CHIP, becoming eligible for Medicaid. There is not an exception to CE for non-payment of premiums. Thus, the existing regulatory option at 42 CFR § 457.342(b) for states operating a separate CHIP to consider non-payment of premiums as an exception to CE will end on December 31, 2023, and states will not be permitted to terminate the Medicaid or CHIP eligibility of a child under age 19 during a CE period for non-payment of premiums. We note that states do not have the option to terminate a child's Medicaid eligibility during a CE period under current Medicaid CE regulations at 42 CFR § 435.926.

We recognize that the State Health Official (SHO) Letter we issued on September 29, 2023, *Section 5112 Requirement for all States to Provide Continuous Eligibility to Children in Medicaid and CHIP under the Consolidated Appropriations Act, 2023,* provides for three exceptions to CE that are included in the current regulations at 42 CFR § 435.926(d), incorporated by cross reference in the CHIP regulations at 42 CFR § 457.342(a), but which are not identified in Section 5112 of the CAA, 2023. Specifically, under the SHO, states may terminate coverage of an individual under age 19 before the end of their 12-month CE period if: 1) the child dies, 2) the child or their representative requests disenrollment or 3) the agency determines that eligibility was erroneously granted at the most recent determination, redetermination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative. These three exceptions, which permit states to terminate coverage for a child who is deceased, who no longer wants to receive coverage, or who did not actually meet the eligibility requirements at their last determination, do not undermine the CE mandate in section 5112 of the CAA, 2023, and are important to protecting program integrity.

States will continue to have the option to institute an enrollment fee in CHIP and require payment of the enrollment fee prior to enrollment. States also will continue to have the option to require payment of the first month's premium prior to enrolling a child who is determined eligible at application.

States that have already adopted CE for children and treat nonpayment of premiums as an exception to CE in CHIP will need to submit a CHIP SPA as outlined in Section IV of SHO Letter #23-004.

Q2. If a state or managed care entity covers unpaid premium amounts for a child whose coverage must be maintained during a CE period despite nonpayment of premiums, can the state receive FFP (Federal financial participation) for such amounts?

A2. No. CMS cannot provide FFP for unpaid premiums covered by the state or any other entity, including managed care entities. Existing requirements at 42 CFR § 447.56(e)(1) and 457.224(a)(1) exclude FFP for any cost sharing amounts, including premiums, that beneficiaries are expected to pay, and are unchanged by the CAA, 2023.

Currently, some states or managed care entities choose to absorb the costs of unpaid premiums so that a child can remain enrolled even if the state would otherwise terminate coverage due to non-payment of premiums. Any such payment of premiums of by states or managed care entities continues to be ineligible for FFP.