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Good afternoon, everyone, and thank you for joining today's CMCS All-state Call and Webinar.

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Today's The meeting is being recorded. If you have any objections, please to being recorded, you may disconnect at this time.

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And now I would like to turn it over to Nick Wallace to get us started. Thank you, Nick.

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Jackie, thank you so much. And hi, everybody. My name is Nick Wallace. I'm an advisor in the Office of the Senate Director here at CMCS and welcome to the July All-state Call and I am pleased to turn things over to Anne Marie Costello for some opening remarks, Anne Marie.

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Thanks, They can hi everyone. So glad that you're able to join us today.

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Amy, I think you accidentally went back on the.

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Sorry, yep, I sorry, I see. So I'll start again. Hi, thanks Nick and hi everyone.

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So glad you're able to join us today. For those of you that don't know me, I'm Amory Costello, one of the deputy directors in the Center for Medicaid and Chip Services.

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We're so glad that you could take time out of your busy day to join us for today's meeting.

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We have 2 important topics on today's agenda. First, st we'll provide an overview of the recently published rule implementing section 71 115 of the work in families tax cut legislation.

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Related to health care related taxes. Today's presentation is intended to be a high-level overview of the proposed rule.

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We encourage states to review the proposed rule in full and submit comments to the formal rulemaking process. The comment period remains open until September 21.st

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We'll also discuss Medicaid beneficiary fraud and abuse, including existing federal requirements related to beneficiary sanctions and .

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Preventing fraud waste and abuse remains a priority of the administration and today's presentation is an opportunity to reinforce states responsibilities under existing federal Medicaid law as they identify, investigate and address suspected beneficiary fraud or abuse.

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Chip gears a little bit. Will also please to announce that the overview slide deck that we've been using for discussions related to community engagement is now available on Hey, gov.

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We are hoping that this slide deck will serve as a helpful reference to you as you continue your planning and will continue additional to share additional guidance as it becomes available.

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I think folks will be dropping in the link to the community engagement slide. Deck in the chat as we are talking.

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As always, we appreciate your partnership and engagement and we look forward to today's discussion. With that, I'll turn things back over to Nick to walk through the agenda.

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Nick?

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Amy, thank you so much. And Kate, if we can move to the agenda slide.

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And as Amory mentioned, we have 2 agenda items for today's call. First, st Abby Walker from our financial management group is going to provide an overview of the recently released proposed rule amending the indirect hold harmless threshold of health care related taxes.

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Ab is going to walk us through the statutory background, highlight key proposals in the rule, discuss important implemented implementation timelines and outline next steps for states.

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As a reminder, this is a proposed rule and we encourage states to review the proposal and submit comments through the formal rulemaking process.

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Following Abby's presentation, Jen Sheer from our Children and Adults Health Programs group will discuss medication beneficiary fraud and abuse.

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She'll review the existing federal requirements related to beneficiary fraud investigations, permissible sanctions and penalties, and beneficiary protections under federal Medicaid law, including how these requirements intersect with eligibility and due process.

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As always, we reserve time at the end of these calls for questions. And so if questions come up during either of the presentations, please submit them through the Q&A function and we'll do the best we can to answer as many questions as time allows.

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And with that, I'm pleased to turn things over to Avi Walker for our 1st presentation.

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Great. Thanks so much, Nick. Hi, everyone. Good afternoon.

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So I'm pleased to be able to talk to you today. About our recently proposed rule in implementing section 7, 1115 of the working families tax cut legislation.

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So I will be going through some background of how we got to this proposed rule that is currently out for comment as I Maria and Nick both said I will go over some key proposed changes and as also mentioned I will go over some timeline and next steps for folks.

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Next slide. So background, as maybe some of you are aware on July 4, th 2,000, and 25, public law, 1,900, and 21 was enacted, which CMS refers to as the working families tax cut legislation section 7 1115 of that legislation amended the indirect hold harmless threshold for healthcare related taxes.

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So on July, the 23rd as I mentioned we published the rule the proposed rule that if finalized would implement this section and the public comment period closes on September 21, st 2026.

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Next slide. So currently the threshold for a state's collection of tax revenues generally is no more than 6% of net patient revenue.

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Now I just said a bunch of words and I know some of you listening today aren't thinking like taxes.

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That's the most exciting topic that I'm going to hear. So let's take a step back for a moment.

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So the taxes we're talking about here are health care related taxes which are also referred to as provider taxes and currently in both statute and regulation there are requirements related to the fact that a tax cannot have a hold harmless arrangement so a state cannot ensure that taxpayers of a health care related tax are held harmless for the cost of that tax.

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For example, by making payments back to that taxpayer that holds them harmless for that. In this context, we're talking about the indirect hold harmless threshold.

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And what that means is in regulation there is a threshold that we determined that if the amount of taxes collected in a state exceeds a certain threshold of the patient revenue meaning the revenue available for paying taxes essentially if it exceeds that threshold which historically has been 6% we're going to assume that there is a method that the taxpayer is being held harmless that they are getting some of their money back.

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This legislation does is it updates. That threshold. So rather than being 6% and I'll also note this threshold, this limit.

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Is also referred to sometimes as the safe harbor threshold. So what the legislation did is it set that threshold equal to the applicable percent of net patient revenue.

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So again, remember I said it's the tax collections relative to the net patient revenue. That's all the revenue available.

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Attributable to taxes that are enacted and imposed as of July for 2025 and I said those terms with emphasis because we're going to be talking a little bit more about them as I go through the key provisions of this rule.

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The legislation also includes a phase-down of those thresholds for most permissible classes for expansion states. So when I say, okay, your tax is now the threshold is the amount that is collected relative to the net patient revenue.

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Let's say that percentage. Instead of being 6% is now 5.7% for the phase down that is going to lower that percentage down over the next fiscal years.

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And we'll talk about that a little bit more on an upcoming slide. Next slide.

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So now we'll be going through some key provisions in the indirect hold of harmless proposed rule. These are not in order of the rule, just in case you're following along at home.

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If you're playing the home game, so will be going slightly out of order. Next slide.

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So I mentioned that I was going to be talking a little bit more about those terms enacted and imposed because those really establish the foundation in the legislation of what taxes are going to be included in that calculation for calculating that threshold.

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That limit on how much a state can collect before. Possibly being subject to penalty for the taxes in that permissible class.

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So in the proposed rule, we are proposing interpretations of these terms enacted and imposed to let states know, hey, if you meet these criteria, the taxes that meet those criteria are going to be included in that calculation.

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So enacted are, and you'll see on the screen, that means the state locality has completed the legislative process necessary to authorize a specific tax structure in effect as of July 4, th 2,025.

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We very much intend this to be enactment the way you might already be thinking of that term. And with a snapshot to July, the 4th has your state legislature acted that's likely what will satisfy that of course you know everything will be on a case-by-case basis and depending what is finalized in the final rule But that is our idea behind that term.

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But I'll note that later legislative or administrative adjustments, including revenue increases, even if they're retroactive, those would not be included.

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So remember I said this sort of snapshot moment has your legislature acted on that date? That will be enacted.

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So. The imposed definition, remember this is an and so attacks must be both enacted and imposed.

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So if your state legislature is acted but a tax has never been imposed, that will not meet the second criteria.

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So we propose an interpretation of that term to say the tax was in effect as of that date, meaning taxpayers were subject to a legally enforceable obligation to pay the tax as of that date.

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So that doesn't necessarily mean collection on that day. It means IA taxpayer, know that for the time period of July, the 4th I owe a tax.

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And this is also where the consideration of a tax is waiver status comes into play. So remember a waiver is required for taxes that are not broad based or uniform and the waiver in order for a tax to be imposed has to be effective to July 4th or earlier.

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Alright, so after we calculate these thresholds, which we discuss more in depth in the rule, obviously a lot more detail about how that calculation is going to occur the time period for the data of that calculation alongside those terms.

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Again, I'm going over the key provisions because there's a lot of technical information in this rule.

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How are we then going to apply those thresholds that we've calculated for you? And what we want to do is we're using we are proposing to use.

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Actual data. For these taxes. So actual data is not instantly available, right? It can take time for states to get the cost reports necessary to talk about the actual data of that patient revenue or it might take time for them to actually collect the taxes and see what the full tax collections are.

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So what we're, we propose in this rule is a threshold is an interim threshold process that we would use until actual data are available.

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So in this instance, it's the one time that it'll be okay for a state to provide estimates for the data of the tax that was enacted and imposed.

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Taxes is applicable that was enacted and imposed on what this interim threshold is going to do for folks is give an early insight into where your thresholds are going to land and give you an idea of, okay, once I have my final threshold, of course this section of the statue is, effective October, the 1, st 2,026.

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I want to make sure that I'm staying as close to what it's going to eventually be calculated once we have final data.

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So under this proposed process, we would give you that early insight to help you kind of keep the taxes in line as we work toward having actual data available.

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We also propose to apply the new threshold and any applicable statutory phase down on a federal fiscal year basis and we propose to allow states some time to be submitting data to us.

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I'm going to be talking a little bit more later on about reporting requirements. Again, the same concept as calculating that threshold for us enforcing on that threshold, the data that we will similarly take time.

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So we propose to give states time to get in their data on the CMS 64 to tell us about their taxes to tell us about their net patient revenue.

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Before we say, oh, you're above or below this threshold. So again, we're going to calculate the give you an interim threshold to help you monitor.

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We propose then a final threshold based on actual data and then as I'll discuss later we propose some reporting requirements that you will have time to get your actual ongoing data in to confirm compliance.

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So I mentioned the new reporting requirements. There are a couple we propose a couple one-time reporting requirements.

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So there's there's 2 1-time requirements. I know we we make things so easy on ourselves.

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The 1st being what I talked about that interim reporting. So I already mentioned how there you can states can submit estimates for this to give them a sense of what their threshold is going to be on an interim basis.

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So that would be the best available tax and net patient revenue. But this is also going to be the time period where we look at enacted and imposed.

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Because that's not information that's waiting on tax collections or waiting on that patient revenue. We'll know back on July 4th for this tax had your legislature enacted it was this tax imposed was it in effect was there an obligation on states I'm sorry on taxpayers then the second one-time reporting that we propose is the final final reporting threshold.

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Reporting window. So for that, as I said, that's 1 we're going to require actual data for taxes and that patient revenue.

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For the relevant time period, which will be the state fiscal year that contains July 4, th 2,025, finalized as proposed.

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And then we will calculate the thresholds that will become permanent and sort of replace that 6% figure that I

mentioned before subject to any phase down.

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So the ongoing reporting requirements, this is the, I mentioned the CMS, 64, this is where there's going to be an update to the tax information we're collecting from states currently.

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It's aggregated information and in order to have oversight of this requirement, but also to help states ensure that they are maintained keeping within this threshold.

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We're proposing to update those reporting requirements. And let me pause a second and say why I mentioned helping states make sure they're under this threshold because obviously the concept of the threshold already existed and there's going to be states who are accustomed to that.

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However, there are states that have been working with taxes that live well under that 6% figure that's currently in regulations.

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But once this threshold is calculated, suddenly lot of your taxes are gonna be right at that threshold because that threshold was calculated based on where your taxes are at.

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We want to be sure we're able to help support states who are going to be right at that threshold level to ensure they're not going over to ensure they have processes in place because there isn't that cushion or to provide them.

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Cushion if that's how they want to approach being in that space. So, we propose that states must report additional data on taxes quarterly and by tax along with net patient revenue data.

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Would be at the permissible class level. So the net patient revenue is for the full permissible class.

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And by that I mean the permissible classes lift listed at 42 CFR 4 33 56 A like inpatient hospital services outpatient hospital services services of NCOs those permissible classes are your net patient revenue data.

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States would also be required to report what the taxes are used to finance if finalized as proposed and we're updating the we're proposing to update the CMS 64 11 to facilitate that reporting to make it very easy on stage to provide us this additional information.

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So there are a couple provisions in this rule that I want to cover that are associated with this legislation but are not directly mentioned in them.

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So some folks might be familiar with what we refer to internally in CMS as the 75 75 test.

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That's actually a secondary test, secondary, I should say, to the indirect hold harmless test that currently exists in regulation.

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Almost no one has ever used the secondary prom, but what it did in effect was allowed a state if they were able to meet this requirement to exceed that 6% of net patient revenue threshold that is currently in regulation.

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So to pass that second fewer than 75% of taxpayers in the class must receive 75% or Or, I'm sorry, there is a typo on that slide or less of their total talk, tax cost back in order to pass that prom.

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So if. Put it a better way if 75% of taxpayers or more receive 75% or more of their payment back, they don't pass that second prom.

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So that wrong like I said it's been in place a long time but with almost no utilization and so what we're proposing is to just get rid of that prom.

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It's just going to be straightforward. Here's your threshold test. Here's what that means for you.

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Here's your number going forward. So we propose discontinuing that test as not to exceed that threshold, which again it was a difficult problem to meet.

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Next slide. We are also proposing to add a new permissible class. So I mentioned before the permissible classes listed at 42 CFR 4 33 56 a currently there are taxes on health insurers that generally we found can be considered health care related taxes.

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But the services of health insurers are not recognized as a permissible class under current regulation. So what we're proposing to do is to add services of health insurers as a permissible class, acknowledging that they are health care related taxes and then bringing those taxes into the healthcare related tax and related regulations and requirements.

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Sphere. And we also propose in the rule to apply the same indirect hold homeless threshold requirements that apply to the other permissible classes under 7, 1115 to this new permissible class as well.

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Next slide. Alright, then some additional proposals that are in this world. I just want to note we have a definition section where we're proposing to define expansion.

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And non-expansion state as they are defined in the statute. So those terms have come up in different statutes.

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They pop up in regulations in different places. So we're essentially proposing to codify the version that is applicable to this section.

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And then we are also proposing to a definition for net patient revenue, which is not intended to change in any way what that has meant over time.

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It's just intended to codify that as a standalone definition. And of course we have some reorganization of existing regulations, again not intending to change anything.

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But then the last bullet on this slide that I want to make sure I highlight for folks because the reason we're proposing this change is to make sure states are aware.

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We're adding clarifying updates, proposing to add clarifying updates to our regulations around penalties because the penalty for violating a requirement related to taxes is that full tax amount gets deducted from expenditures before the calculation of FFP and in the indirect hold harmless violation, we're looking at all taxes in a permissible class.

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So there isn't 1 particular class. So if you violate the indirect hold harmless threshold, all that tax revenue is going to be subject to penalty potentially.

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For exceeding that threshold. So we wanted to make sure states were aware that that is how that would function in this case.

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So that is what that, proposal is. Next slide. Alright, next I'm going to talk about some timeline and some next steps.

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All right, so as has been mentioned, but I'm going to emphasize at several points and I think I'm even going to do it again in this very presentation.

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The comment period closes September 21, st 2,026. The section 71115 is effective October 1, st 2,026.

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The proposed rule contains dates and example timelines that may need to shift to depending on the timing of a final rule will of course update as appropriate for that so when you're looking through the ruling you see certain dates and and you may be thinking like oh that doesn't seem to align with the timing of me sitting down looking at this proposed rule.

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Of course, we are mindful of that fact. And I also note the threshold phase down that I mentioned before begins October 1, st 2,027 it says fiscal year 28 in the statute so that's October 1st 27.th

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So you're a state sitting there wondering, well, what can I be doing right now, you know, apart from submitting the comment that, by September 21st as Abby told me several times is the deadline, what can I be doing?

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So you can begin gathering tax data and documentation. We know that sometimes this can live in different places. The person sitting here listening to me talk might not be the person who knows taxes.

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So get together, get your tax data together, refer back to at the end of last year, CMS made a request for tax data to be submitted alongside the CMS 64 process go back and look at those those notes but what you submitted for that get that together see if we reached out to you about how to correct something in that data that'll really help you.

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Be ready to start thinking about the tax data that we're eventually going to need. Once a final rule is out and then ensure you're working with your local governments.

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There are. And then ensure you're working with your local governments. There are locality, health related taxes, but our local governments.

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There are local locality health related taxes, but our interactions are very often with the state level. There are locality health related taxes, but our interactions are very often with the state level. Make sure you're collaborating.

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Make sure you're working because we're going to need all that data eventually. And then consider how you'll address instances where attacks it seems the threshold.

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You know, obviously the proposed rule that we're discussing here is subject to comment and finalization, but of course the statute is still in effect.

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So if you are not accustomed to thinking in this space of this indirect hold farmless threshold, we encourage you to start thinking about that.

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So that you'll be prepared for working, with your taxes being right at that threshold as I mentioned before.

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All right, so in conclusion, please submit questions or comments on the proposed rule via the Federal Register.

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And once again, that comment period closes on September, the 21, st 2,026.

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And now I will turn things over to Jen Sheer for the next presentation.

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Thank you so much. That was very informative. Hi everybody. My name is Jen Sheer.

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I'm with the Division of Medicaid Eligibility Policy and I'm here as you heard earlier to discuss Medicaid beneficiary fraud and abuse.

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I'm talking a bit about sanctions and penalties. Next slide.

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Before we start talking about sanctions and penalties, I want to go over some important definitions and program requirements.

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So let's start with the definitions. 1st up is fraud, which is defined in federal regulations as and intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.

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It includes any act that constitutes fraud under applicable federal or state law. Our second definition is for abuse.

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Which in the context of beneficiaries is defined as Beneficiary practices that result in unnecessary costs to the Medicaid program.

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Now, state practices, what do states have to do about Medicaid beneficiary fraud abuse? So.

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States must have a couple of key things. So first, st methods and criteria to identify suspected fraud cases. Next, methods to investigate these cases that do not infring on the legal rights of persons involved and afford those persons due process of law.

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And states must have procedures to refer suspected fraud to law enforcement. Now, what happens when a state receives and a complaint or an allegation of Medicaid beneficiary for fraud or abuse?

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1st thing that they have to do is they need to conduct a preliminary investigation. During this preliminary investigation, the state Medicaid agency will.

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And if there is a sufficient basis. To either refer the alleged fraud to law enforcement. Or to conduct a fuller investigation of the alleged abuse.

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This full investigation must continue. Until it can be resolved. With either a warning letter to the beneficiary or some other sanction provided for under the state plan.

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Next slide, please.

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If we jump ahead, one slide by mistake.

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No, we lost her audio, Jim. There you are.

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Oh, okay. So I'm back. Okay, my apologies. Can you please go, there we go, this is the, this is the slide.

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My apologies. So now we're going to talk a little bit about the permissible penalties and sanctions.

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So let's assume that a benefit that the state. Conducted the preliminary investigation. Found enough information to support allegation of fraud and they referred that suspected fraud to law enforcement.

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The case moves forward law enforcement. What penalties can be applied? And in case of the fraud, the beneficiaries may be subject to criminals.

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And several penalties for fraud or liable for civil damages due to fraud. Individuals who are convicted of fraud in either state or federal court would be subject to the penalties imposed by that court.

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Similarly, in a civil proceeding, an individual may be found liable via court judgment or may settle voluntarily.

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And just again, as I know you've heard me say it a few times, but I'll say it at least once more, states must refer suspected beneficiary fraud to law enforcement.

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Now the other topic abuse. So. What happens when The state conducts that full investigation and it results in a determination that a beneficiary committed abuse of the Medicaid program.

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In this case, the state can impose administrative sanctions. And these include. Or excuse me, these are a warning letter.

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A fine if it's in the approved Medicaid state plan. And other sanctions if approved in the Medicaid state plan.

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This is when I want to remind states that sanctions for abuse cannot conflict with other federal statutory or regulatory requirements.

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Next slide.

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So we're talking about permissible penalties and sanctions. That's suggests there are some impermeable ones and there are.

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So, in general. Barring a few exceptions, which we'll talk about in a moment.

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States cannot financially recoup funds from beneficiaries. Who committed fraud or abuse. The reason for that is recruitment of funds effectively functions as a retroactive termination of ability.

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Which violates the Medicaid beneficiaries due process rights, including advanced notice of termination and for hearing rights.

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And it violates these rights under Supreme Court case law, federal statute and regulation. The another sanction that states generally cannot apply to beneficiaries who committed driver abuse is a lockout from Medicaid.

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And this is because this would violate. Certain statutory requirements. As states are well aware, you must allow all individuals to apply for Medicaid and furnish benefits to eligible individuals with reasonable promptness and in accordance with the approved state plan.

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There are, however, some exceptions. We're gonna start with recruitment. The permissible exception.

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So whenever recruitment is allowed from a beneficiary. Are leans placed on a beneficiaries property.

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Prior to death pursuant to the judgment of a court that Medicaid benefits benefits, excuse me, were incorrectly paid.

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The second one is a state recovery proceedings for incorrectly paid Medicaid benefits. And the 3rd one. Is benefits.

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Provided pending the outcome. Of a fair hearing. So those are the exceptions for recruitment. Now there is more, there, there is an exception for lockout as well.

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And that for individuals. Who are charged in federal court under section 1128 capital B paragraph A of the act.

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So section 1128, capital B. Paradap A of the Social Security Act. Allows the state to lock out an otherwise eligible individual for up to one year after conviction of fraud and federal court.

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There are some requirements. This penalty cannot affect the Medicaid eligibility of any other person for regardless of the relationship between the individuals.

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Section 1128 b of the x does not authorize out lockouts for state for convictions. Or for simple judgment.

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Next slide, please.

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So, you may be asking yourself, okay, so those are penalties, those are sanctions, but what does this mean for eligibility?

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If I find, if I receive information suggesting somebody committed a beneficiary committed fraud or abuse. What does that mean?

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So states. State meditate agencies cannot automatically terminate the eligibility of a beneficiary who is either suspected of or has been determined to have committed fraud or abuse.

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Instead, states have to treat this information that led you to suspect broader abuse as a possible change in circumstance.

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And then conduct a full redetermination. Of the individual of the beneficiary on all bases. If that redetermination results.

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In a determination that the beneficiaries ineligible for Medicaid on all bases, the state must then provide advanced notice including fear hearing rights.

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Prior to terminating the individual's Medicaid eligibility. We do want to note that in cases of suspected beneficiary fraud, not abuse, only fraud, the period of advance notice can be shortened from 10 days down to 5 if the Medicaid agency has verified facts.

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Indicating possible for odd through independent sources. Next slide, please.

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As some of you may be aware, back on December 5th of 2024 CMS published a state Medicaid director's letter number 24 dash 0 0 5 which addressed similar information about beneficiary fraud abuse and the permissible and impermissible sanctions and penalties.

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This letter was rescinded by CMS on May 1st of 2025. I want to note that the recision of this letter does not change the underlying constitutional principles or federal laws governing sanctions and penalties.

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For Medicaid beneficiary, eligibility related fraud, or abuse. State Medicaid agencies should consult with their legal counsel on court orders, criminal or simple penalties, or administrative penalties that they are concerned may be inconsistent with federal Medicaid statute and regulation.

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And with that, I'm going to say both next slide and pass things back to Nick. Thank you.

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Jen, thank you so much. And want to say a thank you to both Jen and to Abby for your very informative and helpful and very engaging presentations.

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Both of you are really good at taking very wonky subjects and explaining it really really well. So thank you both.

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We are now ready to transition to our Q&A portion of the call. We have a few questions already teed up for our panelists.

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But if there are others, feel free to put them into the Q&A function. Just want to remind folks that the While our team is gonna try to answer as many questions as we can on the call, it's possible that we don't have the right subject matter experts.

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So we're gonna gear the Q&A portion of this call to these 2 presentations. But that doesn't mean you shouldn't submit your questions.

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They're really helpful for us as we're thinking about future guidance and conversations with states. We are hard at work at issuing more guidance on a lot of the Private provisions of the Working Families Tax Cut legislation.

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And for now, we're going to focus on the 2 topics for today. And Abby, we have a couple for you first.st

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Cms released a dear colleague letter on section 7, 1115 in November of 2,025.

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What changed between that letter and this proposed rule?

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That's a really great question, Nick. I bet someone very smart wrote that. So yes, we did release a dear colleague letter about this section of the working family tax cut legislation and in that we discussed our initial interpretations of the terms enacted and imposed.

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And that's the main difference I want to highlight now in the proposed rule that we have shifted that interpretation, namely that in that in that dear colleague letter that we were going to, we had initially indicated that the tax waiver status had to be approved as of July, the 4, th 2,025 under our proposals in this proposed rule.

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The waiver has to be effective. To July 4, th 2025 or earlier, but it didn't need to be approved by then.

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So that means later approvals, but with that earlier effective date can be included in what is considered imposed, which is which is also a shift but a more minor one from it was previously housed under our interpretation of enacted and it's now proposed under our interpretation of imposed.

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So that that's the main difference that you'll see there is that shift in our view of the tax waiver status for what's included.

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Thanks, Abby. While we have you, we've got a couple more for you. What's included in these new reporting requirements?

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Yeah, so I did mention some new reporting requirements and it might have sounded like I was talking about a lot.

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So, I just want to recap briefly the the different types of reporting requirements and then talk a little bit more about those ongoing reporting requirements.

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So the one time reporting requirements, remember I said there's 2, there's the interim where we're going to get some estimated tax level information to give you initial interim threshold calculations and also establish that enacted and imposed, then we have the final one-time reporting where we're going to calculate those actual thresholds in that ongoing reporting in the CMS 64 what we propose is to collect the tax

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information, the permissible class, the net patient revenue on a quarterly basis and also what taxes are financing.

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So we are proposing updates to the CMS, 64 to collect that information on a quarterly basis.

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Thanks, Abby.

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How can a state confirm if a tax that the state imposes on health insurers is the type of tax addressed by this rule and the new permissible class.

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Great. So of course we are in the rule making process. We're just proposing this new permissible class.

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So until we have a finalized rule and if we finalize as proposed, that is one we could make an official determination on whether a tax that is on health insurers or health insurers as well as some others would qualify under that new permissible class, but I understand that it can feel like a long time to wait for states that are wondering or that are currently making decisions about their taxes.

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You are of course welcome as you always are to reach out to us at tax waiver at CMS.

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Dot com for questions related to your existing taxes. But of course we'll. Like I said, have to defer official determinations about how attack stands under that new permissible class until we have a finalized provision related to that.

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Thanks, Abby. We have one more that just came in from you. A question of states are to provide tax revenues and net patient revenue in a state fiscal year format question.

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State programs run on a calendar year. Do we need to shift to a fiscal year format for CMS?

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So no, you will the idea is that you will not have to shift but I wanna make sure we're talking about the right time period so there is the time period for which we will calculate thresholds and then the ongoing application of the threshold.

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So for the calculation of the threshold, we are proposing that that will be the state fiscal year that contains the July 4, th 2,025.

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So that would mean the 4 quarters of the state fiscal year. So what a state could potentially do and of course where we do mention in the rule that will of course examine everything on a state by state on a case by case basis, I should say.

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But what essentially a state could do is look at the applicable quarters for, okay, here's the taxes for this quarter, here's the taxes for this quarter, the tax has cycled over from this one calendar year to the next.

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We you would pull the applicable quarters, we'd make the determination about the taxes that apply in those instances.

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And that's how we would be able to work with the calendar year tax as opposed to the state fiscal year.

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In cases like that under what we're proposing in the rule referring now to the application of that and the reporting if that was what you were referring to is a similar type of thing.

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So because we're proposing quarterly reporting of these taxes, although we have this monitoring and reporting on a federal fiscal year basis in that instance because of that quarterly reporting we're able to extract the 4 quarters of the federal federal fiscal year, whereas a state might have reported for the the 4 quarters of the calendar year, but nevertheless that so they they would need to monitor for those time periods and as phase downs happen or adjustments

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to taxes are needed. State would need to account for that. And so let's say for example under what we're proposing in this rule a state has an annual collection on attacks and it's for the calendar year in order to report quarterly on that tax.

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The state could divide that annual tax into 4 quarters. Report it for those 4 quarters and then we would have the applicable quarters of data to pull and use for that monitoring and that compliance oversight.

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I hope that answers your question.

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Thanks, Abby. And it looks like more than one person had that question. So I'm glad we were able to address it.

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Jen, we're gonna shift you. First, st can you provide additional clarity on what the state agency can do if it believes an individual has intentionally provided false information that affects that individuals medicate eligibility.

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Sure, I'm happy to do so. So. Federal regulations address the steps the state has to take when a state believes there's potential fraud.

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These regulations require that the state Medicaid agency 1st conduct a pre-limiting and preliminary investigation when it receives a complaint of Medicaid fraud.

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If the findings from that preliminary investigation give the agency reason to believe that an incident of Medicaid beneficiary eligibility related fraud has occurred the state must refer that case as you've heard me say before the state must refer alleged beneficiary fraud to an appropriate law enforcement agency.

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Now, it's a little bit different if the state believes that a beneficiary has abused the Medicaid program.

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And the preliminary investigation supports. That, allegation of abuse. In that case, the Medicaid agency must conduct a full investigation of the abuse.

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This investigation must continue until appropriate legal action is initiated. Maybe you're investigating abuse and it turns out it's actually fraud and so then you refer to law enforcement.

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Happy or the other option. So until legal action is initiated until the case is dropped due to insufficient evidence.

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It may be that you think there's that there's an allegation of fraud and the full investigation doesn't support that.

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But if it's supported, then the investigation continues until the matter is resolved between the agency and the beneficiary.

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This resolution can involve any a warning letter to the beneficiary or imposing other sanctions provided for under the state plan.

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And as discussed at the end, while states cannot automatically terminate eligibility when a beneficiary is suspected of or is determined to have committed fraud or abuse.

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State must treat the information that led it to suspect fraud or abuse. As a possible change in circumstances and conduct a full redetermination of eligibility on all bases.

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If the individual is no longer eligible, then the state must provide advanced notice and fair hearing rights. Prior to the termination.

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In cases of suspected fraud that advanced notice periods can be shortened from 10 days down to 5. In cases of suspected abuse, it stands at 10 days just like with any other action.

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Thanks, Nick.

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Thanks, Jen. And I think this is going to be our last question. Jen, also for you, I understand that we can't recover overpayments in cases of beneficiary fraud.

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But what about for agency errors?

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Got it. So the same statues and regulations that we discussed today that prohibit recovery of funds from beneficiaries.

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In instances of fraud or abuse. Also prohibit recovery for instances of agency error. Similar.

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There's a lot of similarities here, but agency error once it's identified should be treated as a possible change in circumstances.

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Which as we all know You have to go through the full redetermination process for that individual.

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It's important that states keep in mind that agency error can never be attributed to the beneficiaries that the agency makes a mistake.

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That the agency's mistake not something on the part of the beneficiary. I do want to note that state Medicaid agency errors.

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Do not fall into the scope of the definitions we discussed earlier for fraud or for abuse. And therefore cannot be treated as beneficiaries for water abuse.

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Jen, thank you so much and both of you. Thank you so much. I think we will be begin the process of wrapping up this call.

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So thank you to both of you and for all of you for joining for today's discussion. The slides from today's call will be posted on Medicaid.

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Dot com in just a couple of days. And before we wrap just a couple of quick announcements, the 1st is a bittersweet one for myself to announce that this is going to be my final all state call as your CMCS facilitator.

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I will be transitioning away from my role from CMCS to another opportunity outside the agency. And it has been a pleasure working and learning from you all over the past year.

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And I really want to thank you all for your partnership. And while I'm certainly going to be miss working with you, but maybe crossing past with some of you in my new role, I'm excited to pass the baton to my colleague, Katie Schultz, who I might ask just to come on camera and wave hello.

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Folks might know Katie has been beside me behind the scenes helping to plan these calls for the last year.

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And so while it's going to be her 1st time hosting, she's certainly no stranger to the all state calls.

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And so you all will be in great hands. So thank you, Katie. And then also wanted to announce to folks that we know that, leave schedules are very busy in the month of August and so we are going to cancel August all-state call and reconvene in September and you should be on the lookout for more information about the September schedule and the schedule for the rest of the year.

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And in the meantime, if you have a additional questions, please reach out to your state leads and contact us.

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Have additional questions, please reach out to your state leads and contact us. Please reach out to your state leads and contact us.

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Have a wonderful rest of the summer and moderator. And contact us. Have a wonderful rest of the summer and moderator. You can now adjourn the call.

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Thanks everybody.

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Thank you so much for attending today's CM CS call. You may now disconnect.