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>>Jennifer Jaques, Webinar Producer: I would now like to turn the call over to Jennifer Ryan, the Deputy Director for Policy in the Children and Adults Health Program Group in CMCS. Jennifer, you have the floor.

>>Jennifer Ryan: Thanks very much and good afternoon, everyone. Thanks for joining us today for our final webinar in our series related to the eligibility and enrollment final rules for Medicaid and CHIP.

Today we're gonna do kind of a final rule wrap up to go over some of the issues that we thought would be of interest to you but didn't quite fit logically into some of the big topic areas we've presented so far. Today we'll be going over the process that we've established for streamlining and simplifying the eligibility grouping and talking a little bit about residency rules and also accessibility for individuals who have language issues and also individuals with disabilities and then also some of the impact on the Children's Health Insurance Program.

Our two speakers today are Christine Gerhardt, who is the Technical Director in the Division of Eligibility Enrollment and Outreach here in our Children and Adults Health Programs Group. And also Sarah Lichtmann Spector, who is one of our senior policy analysts in the Division of Eligibility, Enrollment and Outreach. I will turn it over to Chris to begin the presentation. Thanks Chris.

>> Christine Gerhardt: Thank you.

Good afternoon. As Jen mentioned, this afternoon a couple of the topics we'll talk about are the expansion of Medicaid eligibility groups as well as some changes that we made in our final rule that allow for the consolidation of certain eligibility groups.

I'll begin with the expansion. The Affordable Care Act expands Medicaid eligibility for most adults under the age of 65 whose income is up to 133 percent of the federal poverty level by adding a new mandatory Adult eligibility group. The Affordable Care Act also provides states with the option for coverage of individuals who are above 133 percent of the FPL. Our final eligibility rule published in the Federal Register of March 23rd simplified eligibility by consolidating certain existing eligibility categories and all of these changes are effective January 1st, 2014.

Individuals with a modified adjusted gross income, and for those of you who have been participating in all of these calls, we have had calls describing what modified adjusted gross income or the MAGI methodology

is, and you can find those slides as background on the web site. So for individuals whose MAGI income is up to 133 percent of federal poverty level, after deducting a single general disregard of 5 percent federal poverty level, in other words, there will be no additional disregards applied to this group, income cannot exceed the 133 percent.

This group includes individuals who are aged 19-64, including children aged 19 and 20 but does not include anyone under 19 or anyone over 65. Also, to be in this new group, individuals may not be pregnant, they may not be Medicare eligible, and they may not otherwise be eligible for or enrolled in any mandatory Medicaid groups.

There is a requirement in the Affordable Care Act regarding this group that says that you cannot find an adult eligible in this group if that person is actually a parent or a caretaker relative who's living with an uninsured child. The purpose of this rule, the goal of that rule, is not to find a reason to make an adult ineligible, but it's really to ensure that in a household you don't have an eligible adult with medical coverage and yet have a child in the household who doesn't have at least the minimum essential coverage. Minimum essential coverage is defined in the Internal Revenue code and in their regulations.

Next I want to talk a little about the new optional Medicaid eligibility group for individuals who have income above 133 percent of the federal poverty level. Through the Affordable Care Act, states now have the option to provide coverage for individuals above 133 percent. The state can establish the income level that they are going to use and there's no maximum standard for this group.

The one condition on this is that individuals with higher incomes may not be covered before individuals with lower incomes. And this is not a new concept. The goal, again, being that we do not want to create gaps in the states' eligibility plans, so if you're gonna set a high income level then everyone has to be eligible up to that income level.

The new optional group in some ways is similar to the Adults group. It's similar in that individuals in this group must be under age 65 and it's also similar in that individuals in this group cannot otherwise be eligible for and enrolled in a mandatory Medicaid eligibility group.

However, there are differences between this group and the Adults group. And let me go over some of those differences.

For people in this optional coverage group, they may be pregnant. They may be Medicare eligible. And, in addition to not being eligible or enrolled under a mandatory Medicaid group, they also cannot be eligible under an optional Medicaid group.

And the determination of whether they're eligible for that optional group – mandatory or optional group is really based on the information that's apparent from the application. States don't have to go into a lengthy determination when they're determining eligibility for this group. They don't have to explore every possible eligibility group before putting a person in there. And, if I can just give a brief example regarding that, as an example, there might be a person who has a disability but there's nothing on the application form that would indicate that. In such a case, the state's not obligated to go through and test them for disability to find out whether they qualify for a mandatory or optional group. The state can simply base their decision about eligibility for this group on the information that is apparent on the application form.

Individuals may also enroll in this group even if they appear to be eligible as medically needy. In other words, the state need not pursue a spend-down before certification in this group.

And states may not limit coverage under this group to certain target populations. However, states may elect to phase in coverage of this group by population or income limits. And so when I say phase in, I want to emphasize this means the phase in plan is time limited; it's for a specific period of time. The phases have to eventually lead to complete coverage of this eligibility group; and any state that wants to do this has to submit a phase in plan and that has to be approved here at CMS.

And, again, for this optional group, a parent or the caretaker relative living with a child is not eligible into this group unless the child's also enrolled in Medicaid, CHIP or other minimum essential coverage.

Jen, at this point do we want to stop for any questions on the new expansion group or the optional group?

>>Jennifer Ryan: Yes, thanks, Chris.

So I've got a number of questions that have come in, but I invite you to also submit your questions while we're posing a couple of these questions to Chris and we'll try to address them a little now before we continue with the presentation.

Chris, section 435.119(c) says that in order for a parent or caretaker to be eligible under the Adult category, their dependent children must also be in receipt of Medicaid or CHIP. Can you explain that policy and just, you know, elicit how that works?

>> Christine Gerhardt: Yes. What we don't want to do is to have families split up and have the adults in the family or the adults in the household be eligible for Medicaid where there is a child in the household who has neither Medicaid nor CHIP nor any other minimum essential coverage. So

the emphasis here is on insuring that all eligible children have minimum essential coverage.

So an adult could be enrolled in this group when their child's not on Medicaid or CHIP if that child otherwise has coverage. For example, that child might have, you know, full private health insurance through an absent parent or through some other means. That would be acceptable.

But if the child is fully uninsured that parent cannot be enrolled in this particular eligibility group. Instead, the state would probably look to see if the parent and child could be enrolled in Medicaid.

>>Jennifer Ryan: And, just a quick follow-up on that, can this requirement to get insurance for your children apply only to the new Adult group or is it applied more broadly under the Affordable Care Act?

>> Christine Gerhardt: So, let me specify this kind of nuance. Again, it's not a requirement to get insurance for your children. It's a prohibition on breaking up a household and, as I see it, more a prohibition on breaking up the household into an expansion group individual or an optional eligibility group individual and leaving a child uninsured. Okay. It's more about that than it is about forcing someone to buy insurance.

>>Jennifer Ryan: Sure. But is that requirement limited to the VIII group or is it more broadly applied to other categories? For example, does it apply to the optional Adult group?

>> Christine Gerhardt: It does. It applies to both the optional group and mandatory group.

>>Jennifer Ryan: Great.

This is, I think, a pretty easy one. If a woman is a mother who is also pregnant, should she be considered for eligibility under the parent caretaker category or under the pregnant woman category?

>> Christine Gerhardt: Maybe we'll talk about that after we talk after we go through the eligibility group consolidation section where we talk about pregnant women and families.

>>Jennifer Ryan: Yup. Okay, that makes sense.

And then I'll just try to answer this question regarding whether there's any kind of compilation or material from CMS right now that lists all the different options that are available under the regs that states can select for the 2014 expansion which is something we've heard a few times and certainly understand the interest in that so we are developing some kind of matrix document that will hopefully lay out all the options and explain some of the different benefits and FMAP's associated with those different populations so more to come on that.

Great. Chris, why don't we continue with the presentation at this point?

>> Christine Gerhardt: Sure.

Next I'd like to talk about our final rule, which streamlined and consolidated many mandatory and optional eligibility groups into 3 categories. And those 3 categories are parents and caretaker relatives, pregnant women, and children under age 19.

I want to say that with this consolidation, the mandatory groups in the statute are unchanged. No eligibility groups, mandatory or optional, were removed from the statute by the Affordable Care Act. So this consolidation takes place as a result of our final rule.

The coverage requirement for low income families, including parents and other caretaker relatives, pregnant women, and minor or dependent children, remains in place. The definitions for 1931 eligibility also remain in place; the definitions of dependent child and caretaker relative - there's been no statutory change there and we do quote these definitions in our slides. Parents and other caretaker relatives and, if any, a parent/caretaker relative spouse and at a state option the partner of any adult caretaker or the parent caretaker relative can be included under this, this eligibility group.

MAGI-based household income for this group must be at or below the state's approved income standard. A state certifies the income standards they're going to apply to this group. However, there are minimum and maximum standards that are specified in the final rule. And, as for all MAGI groups, there's no resource test for this group.

Next we'll talk about pregnant women. Coverage for pregnant women includes the period during the pregnancy and also the 60 day postpartum period. MAGI-based household income needs to be at a limit that is determined by the state and is included in the state plan, approved in the state plan, and the state must establish a MAGI standard again between a minimum and a maximum that are specified in the final rule.

So this pregnant women group consolidation is one of the more substantial because it consolidates 6 groups, 6 different ways to cover a pregnant woman, into one. It consolidates the 1931 low income families for pregnant women who are in their third trimester with no other dependent children; qualified pregnant women; mandatory poverty level related pregnant women; optional pregnant women financially eligible for AFDC; optional pregnant women who would be financially eligible for AFDC if not institutionalized; and, optional poverty level related pregnant women.

The states still retain a lot of flexibility with respect to the benefits that they provide to pregnant women. They can provide full coverage for all mandatory and optional services covered under the Medicaid state plan to

all the pregnant women, or they can provide that level of coverage only to a woman whose income does not exceed a specified standard.

States also have the option to cover enhanced pregnancy related services for pregnant women. And pregnancy related services are defined at 42 CFR 440.210(a)(2), which is noted in your slide. And it essentially defines pregnancy related services as those services that might complicate a pregnancy or that are necessary for the health of the woman or the fetus and this also includes prenatal care, delivery, postpartum care, and family planning services.

And next we'll talk about the new group for children under age 19. This includes infants and children under 19 whose MAGI-based household income is at or below the applicable income standard for this group for children under one, children 1 to 5, or children 6 to 18.

This increases the income standard for mandatory poverty related children in the 6 to 18-year-old eligible group from 100 percent of the poverty level to 133 percent of the federal poverty level.

States will establish the standard for each age group of children under age 19; and, again, you need to check the final rule for the minimum and maximum standards for those groups.

I'm reminding everyone that the maintenance of effort requirements are in effect for children until September 30th, 2019, whereas for adults, maintenance of effort ceases when the states have fully operational Exchanges in their states which we're presuming will be January 1st, 2014.

So, again, for the children under age 19, 7 groups are being consolidated into one. These include the 1931 low income families, qualified children, mandatory poverty level related infants, mandatory poverty related children 1 to 5, and the children 6 to 18, optional children who would be financially eligible for AFDC if not institutionalized and optional poverty level related infants.

And so, Jen, that's the pregnant women and the families so maybe we want to stop and ask for Q's, questions about the consolidated groups.

>>Jennifer Ryan: Yes, that would be great. Let's go back to the one that I asked a little earlier, just to answer that one. So if a woman is a mother and also pregnant will she be considered under the parent caretaker category or under the pregnant woman category?

>>Christine Gerhardt: She is a mother?

>>Jennifer Ryan: So she has children and then she is also pregnant.

>>Christine Gerhardt: Uh-huh, she can be considered really under the – she would (voice in background) – what, under the mandatory? (inaudible) – I'm going turn it over to Mary Corddry for a moment.

>>Mary Corrdry, CMS Health Insurance Specialist: She would be looked at under the group for parents because often that can be richer coverage.

>>Jennifer Ryan: Okay. Great. Coverage for pregnant women in some states is just limited to pregnancy-related services so it would be more beneficial for her to be in that other category. Great, okay.

And, Chris, just getting back to the – the earlier part of your presentation, the optional coverage for individuals above 133 percent of the federal poverty level, can you just go over what the examples of the acceptable groups that can be eligible? Acceptable populations that can be eligible under that group. It's going to refer back to – tell me what number slide it is when you get there – slide 5?

>>Christine Gerhardt: Really 6, on the individuals who can be in here.

So these are individuals who are under 65 and there's no minimum age level. These individuals can be pregnant, they don't have to be, but they can be. They can be Medicare eligible, not a requirement but they could be and they wouldn't be excluded from this group. And they have to be individuals who are not otherwise eligible and enrolled in any mandatory or optional group in the state based on the information that's available on the application.

>>Jennifer Ryan: Right, and just to confirm, the states set the upper income limits for that group.

>>Christine Gerhardt: They do.

>>Jennifer Ryan: There is no upper income limit included in our rules. Right?

>>Christine Gerhardt: That's right.

>>Jennifer Ryan: They can go as high as they choose.

>>Christine Gerhardt: So they'll set that limit and, of course, that would be included when they submit their state plan amendment for that.

>>Jennifer Ryan: Right. Great.

Okay, here's another one. If a state now uses a more liberal methodology for parents under 1931 will some of these parents need to switch from traditional Medicaid to the new Adult group because MAGI groups like parents can no longer use the more liberal methodology? What's the interaction between 1931 and the new MAGI group?

>>Mary Corrdry: Well, where the rule talks about the minimum and the maximum it sets for each eligibility group and that's based on the state's current limits for those groups. And they have to revise those limits the state has now to have it mean the same under MAGI. So it is really the same kind of a limit but it's just in the terms of a MAGI. So no one should lose eligibility under those groups based on MAGI.

>>Christine Gerhardt: Nor would they be forced into one of these other groups.

>>Mary Corrdry: Right.

>>Christine Gerhardt: So if the parent would continue to be eligible and continue to be eligible in the parent caretaker relative group, and they would not be forced to go into either the – under 133 percent group or the optional group for people over 133 percent.

>>Jennifer Ryan: Okay.

So here's a question from a state. We cover pregnant women with incomes up to 185 percent of the FPL, but we apply numerous disregards to get those women to 185 percent. Under MAGI, can we continue to apply those disregards or can we only use the 5 percent?

>>Christine Gerhardt: Under MAGI, you can only use the 5 percent income. The other disregards should be taken into account in some respect when your income levels are converted for MAGI.

>>Jennifer Ryan: Great.

And one more. Do the new consolidated groups for parents and caretaker relatives trump the single standard requirements? The citation here is 1902(a)(2)(B) that would otherwise be required for the 1931(b) group?

>>Christine Gerhardt: That might be one that we'll need to look into.

>>Jennifer Ryan: Okay, we'll come back on that one.

A couple more coming in here. Can you just restate our policy currently about treatment of a woman who enrolls in the new Adult group just as an individual but then becomes pregnant while she's in the Adult group. What is she to do, can she stay in that coverage or does she need to change eligibility care categories?

>>Christine Gerhardt: You know, she – how can I say this – we don't have a way once someone is enrolled in that group, we, or course, don't have a way of knowing if the individual is pregnant or not unless she reports it. It is possible that benefits in the pregnant women's group might be better or more appropriate to her condition than those in the Adults group. So certainly she could change to the pregnant woman group if she finds that she's pregnant in the Adult group, I'll mention that that coverage is limited to benchmark benefits. Whereas, you know, depending on the particular state - some states their benchmark benefits will be identical to their mandatory and optional state plan services and therefore a woman might have no advantage to switching, particularly since the pregnant woman coverage would end, you know, 60 days postpartum. So it's gonna really depend on circumstances and at this point I don't think that we have hammered out any specific rules. Certainly we haven't made any rules

around that. I don't think we've hammered down any specific policies around that.

>>Jennifer Ryan: Great.

Okay, I think we'll stop there. Let's turn it back to Chris for a couple comments here about CHIP.

>>Christine Gerhardt: ACA does require a new eligibility group for the CHIP program as a protection for children who become ineligible for Medicaid as a result of the elimination of income disregards. These children are treated as targeted low income children and need to be provided health assistance. This applies to children who were covered in Medicaid on December 31st, 2013, and as they come up for Medicaid renewal either by March 31st, 2014, or their next scheduled renewal, whichever one is later, and if the only reason that they are being determined no longer eligible for Medicaid is the loss of income disregards, these children would continue to be covered in this new CHIP group. The majority of children we think will still be eligible for Medicaid because of the 5 percent disregard and also because of the conversion methodologies that we're – we'll go through when we convert state income standards to MAGI standards.

Other children are gonna be found eligible under the state's separate CHIP program anywhere – anyway where states have those programs. But if there are children who fall into the category of losing their Medicaid because of the loss of disregards, then the state must put them in a separate CHIP program.

The separate CHIP can either be an existing program in the state or a program created just for this population that's Medicaid look-alike program. The only CHIP exclusion that applies to this population, according to statute, is if the child has access to public employee coverage unless the state has elected the option to cover such children in CHIP or if they're in an institution.

The same protection does not apply to children enrolled in CHIP who might lose their CHIP eligibility as a result of eliminating disregards. So when that child comes up for renewal in CHIP, they would need to meet all the CHIP eligibility requirements in order to stay enrolled. Otherwise the child would need to be assessed for eligibility under the Exchange or possibly Medicaid if their income has dropped. We do plan to issue further guidance on how states can implement this particular provision.

Do we have any questions on this provision?

>>Jennifer Ryan: We do have a couple of questions.

Let me just toss this one out. The first question is can you just confirm what matching rates states will get for this slice of coverage for this new separate CHIP program where a Medicaid match is a CHIP match.

>>Christine Gerhardt: I'll turn that to Linda Nablo.

>>Jennifer Ryan: Linda Nablo is with us. She's the Director of our Division of Children's Health Insurance Programs. So...Linda?

>>Linda Nablo: Thanks Jen.

The statute makes them a targeted low income child so I think it's pretty clear they should get the CHIP match at that point.

>>Jennifer Ryan: Right. The enhanced match for that. Linda, if you want to just say a little bit about what happens with...So if the children move into a separate CHIP program, are they subject to the premiums? Can they be subject to premiums and any other of the elements of a separate CHIP program? What are the parameters around states' decisions to establish that separate program? Can they do it in the usual way? Do they have lots of flexibility?

>>Linda Nablo: Well, a couple answers to that question. The only exclusion to being CHIP eligible or being considered a targeted low income child that the statute refers to is, as Chris said, the exclusion of having access to public employee coverage or being a child who's institutionalized. So those two things would keep a child, who met all the other requirements that Chris just went over, from going into CHIP.

But other exclusions that are traditional in the CHIP program, such as having other health insurance, would not keep children out of this program, at least for that one year that they would get into the CHIP program.

Also, once they're in the CHIP program, there's nothing to prevent the state from applying all other requirements such as premiums. They'll get CHIP benefits if that's the way the state designs the program. We will pay CHIP premiums, et cetera. If they fail to pay premiums their coverage could be terminated just like any other targeted low income child but – so they can get in, I guess, to the program they would bypass some traditional CHIP exclusions, but once in the program they're treated as any other CHIP child.

>>Jennifer Ryan: On the flip side, if the state decided they wanted to make a program that looks exactly like their Medicaid program, they can apply all those same Medicaid benefits.

>>Linda Nablo: Absolutely. Certainly states who are at this point pure Medicaid expansion states in CHIP would probably not want to create a separate CHIP with premiums and different benefits for what was probably going to be a very small population. I would imagine for those states it

makes sense to create a - technically a separate CHIP program but that looks exactly like Medicaid. It will maintain continuity of care for the kids, be less confusing for the families and probably much easier for the state to administer as well.

>>Jennifer Ryan: Great.

One more question on this, let me just read it directly. So in cases where the state sets up this separate system, how will states know that the reason the child lost eligibility was because of disregards without setting up, without continuing to run their current eligibility system rules? Won't states have to run two systems in order to accomplish this?

>>Linda Nablo: (laughter) I'm not surprised you got that question.

I think we will be addressing that in future guidance. We've got a lot of work to do, I think, on determining what size we think this population is going to be and if we think there are options we can give states for how to sort of work around this issue. But, it is true that for the year 2014, kids will continue to come up for renewal and they will have to be assessed whether or not they meet these - the protections, whether their criterion affords them this particular protection throughout 2014.

When the last kid comes up for renewal, which will probably be December 21, 2014, then that requirement will go away; but, we will be working with states to figure out if there are ways we can offer options for states to not have to maintain that system.

>>Jennifer Ryan: And one more just kind of specific question. So what about children who lose Medicaid coverage due to changes that are not related to income disregards? What if they lose coverage due to some other change in their income?

>>Linda Nablo: Well, I think one example might be for a state that doesn't count step-parent income and will be counting step-parent income in 2014 and so some children will be losing Medicaid for this reason. The statute's very specific: this protection only applies to children who lose their Medicaid eligibility because of income disregards, not because of a change in household composition or whose income we count or how we count income, but only as a loss of disregards. So once again I think that's gonna limit the size of this population.

>>Jennifer Ryan: Great. Thanks, Linda.

Okay, let's keep - Oh, it's actually time for Sarah Spector to jump in and begin her presentation.

>>Sarah Spector: Thanks Jen.

So I'm gonna talk today first about state residency rules and step back and talk about our policy goals here when we were thinking through this policy.

Really, the first and foremost was to align our state residency rules with the definitions in the Affordable Care Act with the Exchanges as well as with CHIP to really ensure that there are no gaps in coverage here between Medicaid, CHIP and the Exchanges with respect to the residency policy as much as we could.

With that said, another goal was really to limit our policy changes with respect to the state Medicaid residency rules. You will see there's some wording and a few different changes here or there, but the thrust of the policy really is the same and has not, has not changed.

With that said, what is the new definition itself? The two main sections of the definitions still are broken out by adults and children; adults being those 21 and over and children being those under age 21.

So that adults are a state resident in a state where the individual is living and intends to reside, including without a fixed address, or has entered the state with a job commitment or seeking a job.

For children, a child is a state resident where that individual resides also including without a fixed address or the state of residency of the individual's parent; there emphasizing that a child can be a state resident on his or her own because of where they reside or following the residency of the parents. And with respect to students, just a note. Our rule is silent in our regulation text with respect to students. We have retained the flexibility, as is permissible under our current rules, that states can decide what their residency policy is for students.

Another note is that for emancipated or married children we've retained the rule as we have currently that those children follow the rules of adults.

So those things that changed...with respect to adults ages 21 and over, we deleted the phrase, "permanently and for an indefinite period." We changed the term "remain" to "reside" which interestingly was, is actually closer both to the Medicaid statute in 1902 as well as the term that's used in the Affordable Care Act. And we added to clarify an adult as a state resident regardless of whether they have a fixed address, which is also actually currently a statutory provision in the Medicaid Act.

With respect to children under the age of 21, we did a few things. We streamlined those provisions combining two distinct provisions that used to be one for children with Medicaid based on a disability and one with children with Medicaid without that disability. And we combined those consolidating them into one streamlined definition that we just talked through, that an individual resides in a state.

In doing so, we removed an old reference to an AFDC regulation. So we felt we didn't need that any longer and indeed clarified, as I mentioned

earlier, that a child's residency does not have to be, may not be solely based on the residency of a parent; that a child could be a resident of a state on his or her own regardless of the state of residence of a parent. Indeed, there, to make it consistent with adults, we also clarified that an individual may be a state resident regardless of whether he or she has a fixed address.

One more note about one difference that we responded to between the proposed rule and the final rule was that we had removed in our proposed rule some of the phrase, "living in the state" and, indeed, that was done really to clean it up and felt like extra words. We got quite a number of comments both from states and others. Did we really mean that an individual didn't have to be living in the state to be a state resident? And we've indeed put it back. So the current regulations in that respect should look the same as -- our final rule should look the same as our current rules with respect to that requirement that an individual be living in the state.

So who is not affected by these proposed changes? A number of our state residency rules that have specific definitions for specific subpopulations have not changed; includes individuals living in institutions, individuals receiving IV-E assistance either foster care or adoption assistance, persons who don't have the capacity to express intent, as well as some of the portions of the current CHIP definition are the same.

A couple clarifications. One is that we reversed two of the paragraph headers. If you are confused and are looking for 403(h) and 403(i). One references adults and one references children and they are still there, but that was a non-substantive change.

Another was that we actually put some new regulation text into the sections around adult and children clarifying indeed that these specific populations where they come up the definitions are the same and should be retained and are not overridden by the other policies, more general policies, for adults and children.

So I just wanted to say a word about residency verification because it's hard to talk about the residency definition and standard itself without talking about verification. So I thought that would be useful, although those of you that have been participating in our webinars consistently, this was covered and in a little bit more detail, actually, in our verification webinar a few weeks ago. And anybody wanting to get more information - those slides and transcripts - it is on the web site that we provide.

But to go over it here briefly our rules specifically permit self-attestation as is permitted today, but it is explicitly stated. Indeed, the verification rules around using electronic data sources first and requesting additional

information from the individual with respect to residency follow the rest of our verification rules and those are the same with respect to many of the other verification, many of the other eligibility criterias. Individuals must not be required to provide additional information or documentation unless that information cannot be obtained electronically or is not reasonably compatible with attested information. And we specifically note in our regulation that evidence of immigration status cannot be used to determine that an individual is not a state resident, which does not prevent an individual from presenting such evidence to prove that they may be a state resident if indeed the information perhaps, for example, has an address of residence in the particular state at hand.

So I thought it would be useful to do two scenarios and to put a little bit of more context and flesh on the rules and then I'll take a break for questions. The first is John. He is living and working in State A and he intends to continue to do so. He is married to Sally and they have two children and they all live together in the same household.

They file an application for Medicaid in State A. So John and Sally are residents of State A and they continue to intend to reside in the state and, indeed, their children are also residents in State A. They can be residents in two different ways, should the state wish to look at it in two ways, both because they reside in the state but also that they follow their parents because their parents are state residents.

Scenario 2: Ted is 25 and he lives in State A but works in State B. Each day he drives from State A and goes to State B to go to work and he files an application for Medicaid in State B. Is he a Medicaid – will he be eligible for Medicaid as a state resident in State B? The answer's no. Ted will not be a resident of State B as he must live in State B in order to be a state resident, unless there is some very narrow exceptions. And one might be, not in this scenario, but some other scenarios, where a state has a temporary absence policy and perhaps an individual is living temporarily in another state but could be a resident under the home state, under the state's rules.

So let me stop there and pause for any questions.

>>Jennifer Ryan: Great. Thanks, Sarah, that was very informative.

The first question is related to the supplemental security income program. Does SSI use the Medicaid residence rules for children who are over age 18 and up to age 21 since SSI would consider those individuals to be adults? I'm not sure that has --.

>>Christine Gerhardt: You know, SSI does not use Medicaid rules; Medicaid for the aged, blind and disabled categories uses the SSI rules.

>>Jennifer Ryan: Okay.

>>Christine Gerhardt: So just clarifying that. So with that in mind I'm not sure...

>>Jennifer Ryan: Yeah...

>>Sarah Spector: I think, we don't incorporate SSI rules so I think, the rules for individuals in Medicaid, you want to look to our state residency rules. Individuals who receive SSI may be eligible for Medicaid based on the fact that they are receiving SSI in accordance with those specific rules around individual eligibility on the basis of SSI, but that's distinct from state residency rules should be looked at for the Medicaid program.

>>Jennifer Ryan: Okay, what if a child is institutionalized in one state but their parents live in another state and file taxes in that state? What state does the child apply for Medicaid in?

>>Sarah Spector: So our institutional residency rules are complex and they did not change (laughter). They are the same today as they were yesterday.

>>Jennifer Ryan: Okay, that's helpful.

>>Sarah Spector: And I think I would want to take that one back and look at it closely.

>>Jennifer Ryan: Okay, great.

And here's another one that I think you can answer. I'll try to get to one you can answer (laughter). An individual is present on a student visa, how would they now be treated under the residency rules?

>>Sarah Spector: Right. So there you're intersecting a few different things that we talked about today. One question is whether or not the state - what the state's policy is with respect to students regardless of the fact that this particular student in question happens to be a foreign student.

So the first question for the state is what is your policy because you would want to treat a U.S. citizen student and a foreign student equitably.

The second piece of the question is around use of the immigration status document. And there we talked about not using the immigration document by itself as evidence that the individual is not a state resident; but indeed could be a reason to go into the rest of the verification rules to perhaps request further documentation and establish whether or not the individual's a state resident depending on the rest of the variables.

>>Jennifer Ryan: Okay.

And, finally, if – what if an individual files income taxes in State A but is in a nursing home in State B, for whatever reason, and is preparing to file for Medicaid, again what state are they considered to be living in?

>>Sarah Spector: That's the same question as before about the person who lives in an institution and would follow the institutional rules and I think we should look at those questions carefully and get back on that.

>>Jennifer Ryan: We are kind of right now working on compiling some of the questions that have come in that didn't get answered through the course of these webinar and Q and A calls. And we will be posting a series of questions and answers on our Medicaid.gov web site at some point after this series is over. I can't promise that we'll get them all answered but we are going to at least try to do an initial batch of those Q and A's in the near future.

Okay, I had one more.

Okay, I'm going to try again.

What if a visa states that a person entered the country for medical treatment only and we can't use that information to prove – so that information cannot be used to disqualify someone from being a state resident, is that the policy related to --. You want me to try reading that again?

>>Sarah Spector: That's interesting. I don't know that there is such a visa, but if there is a visa – that is right, that the immigration evidence itself would not be a basis by itself but might trigger a state to want to explore and get additional information from that individual to establish whether or not he or she is a state resident.

So, flipping that on its head, an individual who has a status called temporary protected status that will have an expiration date because the Department of Homeland Security issues those yearly and renews it yearly, that temporary protected status often is renewed year in and year out and take the example from El Salvador has been renewed every year for the last 10 or 12 years. So that – a fact that a visa or a status may in and of itself be temporary may or may not go to whether or not an individual is a state resident. Those people who are here for more than 12 years have their children here in school and are residents and paying taxes and doing all sorts of other things that states might use regularly to establish state residency. So that the visa by itself is not the lone reason to disqualify someone from being a state resident.

>>Jennifer Ryan: And I remember one of the issues being during the proposed rule, the issue of what if someone is in the process of taking a new job and is moving from one state to another but hasn't started the job yet, what's the rule on that?

>>Sarah Spector: Good question. There we got a lot of comments and it was interesting. We've actually – those rules have been the same and are

the same as our current rules. The provision in our final rule is the same as what's in our current rule that says an individual can be a state resident if they are seeking employment in that state, whether or not they actually have that confirmed employment. But they do have to be living in the state, which is, if you harken back to scenario 2, it can't be someone who's just going from State A to State B and just looking and then going back to State A.

>>Jennifer Ryan: Great. Can you just – I'll just ask you this – restate the student policy again, the student residency rule?

>>Sarah Spector: States have flexibility as to how they want to have their own student policy. We do not specify it in our regulation text.

>>Jennifer Ryan: Okay. I'm sorry. More questions are coming in as I speak here.

Okay, great.

Linda, I wanted to ask you one other clarifying question about CHIP.

>>Linda Nablo: Okay.

>>Jennifer Ryan: See what other questions on residency may be coming in here – related to the use of the – well, the crowd-out provision in CHIP, Linda

>>Linda Nablo: Crowd-out or public employees?

>>Jennifer Ryan: Crowd-out and public employees, too. (laughter) We had a question: when an individual or a child is going through the process of enrolling in CHIP, are they permitted to drop other coverage to enroll in CHIP?

>>Linda Nablo: I'm sorry, would you say that again? That wasn't what I expected you to ask me.

>>Jennifer Ryan: Ok. I'm sorry. Basically two questions - A child is interested in applying and enrolling in CHIP. Are they allowed to have other insurance coverage and drop that coverage and still be eligible for CHIP?

>>Linda Nablo: This regulation doesn't speak about changing anything about the crowd-out provisions in CHIP. States have their policies, some of them have waiting periods imposed, et cetera, and nothing in this rule addresses that or changes that.

>>Jennifer Ryan: Uh-huh, right. Thank you.

And the maintenance of effort requirements for children remains in place until...?

>>Linda Nablo: Until September 30, 2019, which just says you cannot have any more restrictive eligibility methodologies for Medicaid or CHIP

than you had in place when the Affordable Care Act was enacted March 23rd, 2010.

>>Jennifer Ryan: Great and that applies to all groups of children.

>>Linda Nablo: All groups of children in CHIP and in Medicaid; no more restrictive eligibility requirements.

>>Jennifer Ryan: Right. And so effectively the minimum income standard for children in 2014 will be the income standard that was in place at that time, right?

>>Linda Nablo: Yes.

>>Jennifer Ryan: So if the state had CHIP coverage up to 250 percent of the poverty level, their new mandatory minimum coverage level is 250 percent of the federal poverty level.

>>Linda Nablo: That's correct. That's correct.

>>Jennifer Ryan: Thank you. And, does that apply to pregnant women enrolled in CHIP?

>>Linda Nablo: No, it's just the children. Pregnant women would be the adult maintenance effort requirement which expires when the Exchanges --

>>Jennifer Ryan: Go operational.

>>Linda Nablo: Come online.

It would apply to those states who offer coverage from conception to birth because those are targeted low income children, but if you are covering the pregnant woman herself, that would not apply.

>>Jennifer Ryan: Great. Okay, a couple of other just kind of miscellaneous questions that are still flowing in here.

What will be the process required to eliminate the deprivation requirement for the parent and caretaker group? Would it just be a state plan amendment to indicate a change in their policy?

>>Jennifer Ryan: So if a state wanted to eliminate the deprivation requirement for the parent and caretaker group, they would just submit a SPA and indicate they want to take it away.

>>Christine Gerhardt: Yes.

>>Jennifer Ryan: Yes. Okay.

And then can you say a little, Chris, about the interaction between medically needy programs and MAGI.

>> Christine Gerhardt: This rule doesn't really address the medically needy programs and the statute doesn't address the medically needy programs and how they'll interrelate. This is a policy area that we are delving into right now and so we really are still exploring that and don't have a policy yet on how the medically needy will interact with these new eligibility groups.

>>Jennifer Ryan: Okay.

And so in a state where the parent and caretaker relative eligibility limit is less than 133 percent of the poverty level today, wouldn't that parent or caretaker relative become eligible for the Adult group in 2014? So would they switch over to the Adult group?

>>Christine Gerhardt: If they're eligible in a mandatory group now or on January 1st, 2014, they're eligible in a mandatory group, then they are not eligible in the new group.

>>Jennifer Ryan: Right, and therefore they're not newly eligible for enhanced Federal matching funds for that population.

Here's a question for Sarah, going back to residency. What's the relationship between the residency rules and the definition of legally residing for non-immigrants?

>>Sarah Spector: So, there are a few questions here about the intersection – the lawfully residing definition is one that's related specifically to an option in CHIPRA under 214 that states may cover lawfully residing children and pregnant women. When we provided guidance for that option, we said, and this hasn't changed with our new residency rules, that that's a two-part test, that an individual must be lawfully present, and we defined what that meant, and an individual must be a state resident. And those two things together determine whether an individual is lawfully residing.

>>Jennifer Ryan: Thank you, that was helpful.

Here is a residency kind of verification question. If an individual – if a state permits self-attestation of their residency, is there any verification that is required for that or is the state permitted to accept self-attestation?

>>Sarah Spector: They are permitted to accept self-attestation.

>>Jennifer Ryan: Okay.

Chris, what's the FMAP for the optional coverage group for individuals above 133? Is that 100 percent FMAP or is that regular FMAP?

>>Christine Gerhardt: No, it's not the 100 percent; it would be the regular FMAP.

>>Jennifer Ryan: Great.

Chris, can you just say a little about the other change related to MAGI, which is the elimination of resource tests going forward in 2014 for the MAGI population, are asset tests in play any more?

>>Christine Gerhardt: They are not. Any group that's using MAGI does not have an asset test.

>>Jennifer Ryan: Okay, and then try this question. Can a child be determined ineligible based on their step-parent income being counted and can this happen before 2019 even though the MOE requirement is in place? What specifically does MOE cover?

>>Linda Nablo: The scheduled rule - I would say that change is a federal requirement and therefore MOE doesn't apply in that case.

>>Jennifer Ryan: Okay, Great. So the change in step-parent income counting, which doesn't take effect, though, until 2014, right?

>> Linda Nablo: Right.

>>Jennifer Ryan: Would trump --.

>> Linda Nablo: Between 2014 and 2019, states would be able to – should – would have to implement that MAGI methodology and that would not be subject under the maintenance of effort.

>>Jennifer Ryan: Right. And their income will be converted at that point to MAGI so if a child does lose eligibility through that process, they would go to the Exchange more than likely.

>> Linda Nablo: Yes

>>Jennifer Ryan: Right. Okay

>> Linda Nablo: If they were a CHIP child. If they were a Medicaid child, they might go to CHIP.

>>Jennifer Ryan: Or they might go to CHIP, right.

Okay, Sarah, back to you. So if a foreign student is otherwise eligible for Medicaid such as because they're pregnant and satisfies the state residency requirements, can a foreign student be considered eligible as legally residing?

>>Sarah Spector: So that's the question that we just talked through. That's specifically relevant to states that have elected this option to cover individuals who are lawfully residing children or pregnant women and should the state have elected to do so, they may be.

>>Jennifer Ryan: Got it. Okay.

>>Linda Nablo: I need to clarify something.

>>Jennifer Ryan: Linda, I think you wanted to jump in and clarify something that we said earlier about the – this is getting back to the need to create a separate CHIP program for children who lose Medicaid eligibility due to application of disregards. There's been a couple questions have come in related to whether or not the exclusion for children of state employees, public employees, still applies to kids in this separate CHIP program.

>>Linda Nablo: Right, I would like to clarify that as well as I think the answer I probably just gave to the last question, when I think about the context of this call, I think maybe I understand what the person who submitted the question was really getting at and I probably didn't address it in my answer.

I just want to point out to people that the statute itself, 2101(f) of the Affordable Care Act, says that these children will be treated as targeted low income children and will be given child health assistance. And the phrase in the statute says, “unless the child is excluded under paragraph (2) of that section.” And paragraph (2) of that section has to do with having access to public employee coverage or being institutionalized. They very specifically called out that exclusion.

So in our regulations we say, access to public employee coverage or being in an institution does preclude a child from getting this protection and being able to be put into this new CHIP category. But that’s the only exclusion that applies because it’s the only one Congress called out very specifically. So the fact the child may have other health insurance, which normally is a barrier to CHIP enrollment, and I think that’s maybe what the earlier questioning was getting at, is not mentioned in the language of the statute as precluding this child from being treated as a targeted low income child. So our interpretation is that that does not bar a child from going into this new group, at least until their next CHIP renewal. If they have other health insurance when that renewal comes up, then they have to meet all CHIP requirements and they would no longer be CHIP eligible if they still had that insurance.

I hope that clarifies it.

>>Jennifer Ryan: Thank you, I think that helped.

>>Linda Nablo: Thank you.

>>Jennifer Ryan: Sarah, one more question for you. So it again kind of concerns about the students and their floating between states as they go to school in different states than their parents. So what -- is there something in the regulations that prevents a student from sort of not being a resident of either state?

>>Sarah Spector: So the way we developed our policy was to be able to retain, as I said, we are silent in our regulation text with respect to students permitting states the flexibility to decide where they are a state resident.

There are two things that are going to help address that issue. One is that with respect to the Exchange policy - and we work closely with our colleagues at CCIIO in our two policies to ensure there wouldn’t be gaps-- the Exchange policy permits a parent to - where the child may live, where an individual in the tax household may live in a different state to decide whether that individual would be a state - would be a state resident either in the state that the parents live or the other state that the student lives. So that will be one wrap around possibility dependent on the individual and the household income that makes it possible for individuals to, for the

Exchange to have a policy, a more flexible policy around state residents, around state residency.

With respect to Medicaid programs specifically of course states have a, have their own temporary absence policies. And so they can also decide how and when they want to decide that students may be residents of the household of the parents or determined in another state.

>>Jennifer Ryan: Great.

Kind of go back to a couple bigger picture eligibility questions. So in a household, if someone in a household is ineligible for MAGI eligibility for Medicaid in the month of the application, say due to the fact that they received a lump sum payment, but then the following month they would be eligible because the lump sum doesn't count or isn't applied, are they clear to come back and apply again or can the state recalculate their eligibility in that following month?

>>Christine Gerhardt: You know, I don't think there's been any changes with respect to how states, you know, make their decisions on their applications. Many states right now will determine eligibility for the current month as well as the on-going month and so these rules do not address that and there's been no change in policy regarding that.

>>Jennifer Ryan: Great.

And I think this is a pretty straight forward one. Are individuals who are above the age 65 but are currently caring for a minor child, are they eligible to be – are they able to be eligible under the MAGI group?

>>Christine Gerhardt: This is the aged caretaker relative.

>> Mary Corrdry: Well they're in the parent group.

>>Christine Gerhardt: So they would be under the MAGI methodology, as a caretaker relative.

>>Jennifer Ryan: Right. So that's one of the situations where someone over 65 can be eligible under MAGI.

>>Christine Gerhardt: Yes.

>>Jennifer Ryan: Okay, great.

Okay, I think we have pretty much gotten through most of the questions we've received here. If we haven't answered your question, it's most likely because we aren't able to at this time. So thanks for your patience on that.

Here I see a couple more coming in.

So Sarah, when self attestation is accepted by a state for purposes of residency, what are we going to do in terms of PERM? Does PERM apply now to an application of self-attestation of residency?

>>Sarah Spector: So PERM's rules, my understanding and I'm not the PERM expert, but PERM's rules are supposed to follow the program rules

and we explicitly permit self-attestation for residency. So I know we are working with our sisters in PERM to make all of that work on the ground but there – but that is an acceptable policy and there shouldn't be any disallowance for that reason.

>>Jennifer Ryan: Right.

>>Christine Gerhardt: And furthermore, in the verification regulations there is a requirement that each state have a verification plan and that verification plan is for the state's own protection. So if, within the verification plan the state said we're using self-attestation for the following factors and they use self-attestation for the following factors, that would protect them against PERM errors. So that's why there is that requirement for that verification plan.

>>Jennifer Ryan: Great. And, finally, there's a few questions that have come in on medically needy that we're not quite ready to answer yet. So I want to thank you for your questions and know we are working on future guidance both through Q's and A's; but, we're also working on yet another proposed rule that will address some of the additional issues related to Affordable Care Act implementation for the state Medicaid program.

So, with that, unless anybody in my little team here has any other comments? On my gosh. We forgot about accessibility. Look at that, we have another slide to go through.

>>Sarah Spector: I didn't forget. (laughter)

>>Jennifer Ryan: I got so wrapped up in the comments, in the questions that I forgot about the slides. Apologies. Sarah, go ahead with accessibility.

>>Sarah Spector: All right. Just a few words on accessibility. Thanks, Jen.

So there are provisions in the rule to address accessibility for two populations, as Jen mentioned; individuals who are limited English proficient as well as individuals with disabilities. They provide that information must use plain language, be provided in a timely manner and at no cost to the individual.

For individuals who are limited English proficient it provides that accessibility to this information must be provided through providing language services. And with respect to people with disabilities that accessibility must be provided through providing auxiliary aids and services in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

So, with respect to what must be accessible, program information as defined in our rules, which includes specifically the single streamlined

application, the other alternative applications and forms as well as the renewal forms, assistance that is provided online by telephone or in person, as well as web sites, interactive kiosks and other types of information systems that are going to be used by the state for information and enrollment activities. And this, too, is an area where we are working on future guidance and is forthcoming.

>>Jennifer Ryan: Thanks, Sarah. Yeah, we wanted to make sure that we spent a few minutes, although I almost missed it, going over these provisions in the final rule just because I think we feel they're very important and significant and wanted to make sure that it was clear that our goals of promoting accessibility, both in terms of language and access for individuals with disabilities, is a key element of our goal and also our work forthcoming both with our colleagues across the federal government and then also in future guidance, as Sarah said.

So we keep getting questions about what future guidance we're going to be providing and unfortunately I don't have that list available to share at this point. But please be assured that we'll continue to release information hopefully on a very regular basis. We are hoping to put out what we're calling operational bulletins which will be further more detailed technical guidance kind of further explaining the policies in the final rule. So please do stay tuned. Those will come out through the distribution lists that we have available and I'm sure many of you are already on those lists. So you should be receiving those through informational bulletins that we release periodically and of course posted on Medicaid.gov.

There was one more question that I was gonna just ask. Does child support still count as income in terms of determining eligibility for Medicaid? Child Medicaid. MAGI.

>>Mary Corddry: I wonder, MAGI, no.

>>Jennifer Ryan: Okay, great.

Then we have one further clarification about the covering – not enrolling the parents in coverage if the child isn't enrolled.

>>Christine Gerhardt: Okay.

>>Jennifer Ryan: So can we just say that policy one more time? Why don't I just ask you to say it rather than try to pose it as a question. Can you explain that policy one more time?

>>Christine Gerhardt: Okay. One more time, the policy is that one thing that could keep an otherwise eligible person from being eligible under the new mandatory expansion group or keep them out of the optional expansion group if state's choose to have that, one factor that could keep a person out is if that person is a parent or caretaker relative living with a

child who does not have minimum essential coverage. So you have a child in your home and your child has -- does not have minimum essential coverage, they are not in Medicaid, they are not in CHIP, they are not in any private insurance, they have no insurance coverage or at least none that meets that definition of minimum essential coverage, which is found in the IRS rule. So you have an uninsured child and an uninsured parent, that parent or caretaker relative cannot enroll in one of, in the new mandatory group or in the optional group as long as that child is uninsured.

>>Jennifer Ryan: Great.

>>Christine Gerhardt: So they need to either apply for both themselves and their child as a caretaker relative and a child, as a family, or if they need to somehow enroll the child in other minimum essential coverage.

>>Jennifer Ryan: Great, thank you.

I'm going to ask a question and I don't know the answer to it, which is probably not a good idea; but, Chris, have we stated publicly whether or not the MAGI methodology will be used for determining eligibility for individuals coming through the emergency Medicaid category?

>>Christine Gerhardt: You know, emergency Medicaid -- I assume you mean emergency Medicaid for immigrants.

>>Jennifer Ryan: Yes.

>>Christine Gerhardt: Yeah. The -- it probably will because, you know, that category is really -- uses the methodology of the group that the individual would otherwise be eligible for but for their immigration status, okay. So if they would be eligible in a MAGI group but for their immigration status, then, yes, you would use MAGI. If they would be eligible as an aged person then you would use the ABD rules.

>>Jennifer Ryan: Okay, that's helpful, thank you.

One further clarification on the parents not enrolling unless the child is covered. What if the child is undocumented and not able to enroll in coverage?

>>Christine Gerhardt: There is no exception for that.

>>Jennifer Ryan: Right. Okay.

>>Mary Corddry: They can get private coverage.

>>Christine Gerhardt: They could get private coverage, sure.

>>Jennifer Ryan: Linda, another question just about the creation of a separate CHIP program for those kids that lose eligibility, due to the disregards, how long is that requirement in place for? Is it indefinite or is it time limited?

>>Linda Nablo: No, it's very time limited. First of all, again, it only applies to those kids who are covered on Medicaid on December 31, 2013 and

come up for renewal in 2014. So it's not -- determining whether or not they are eligible is not an on-going process beyond that one year.

Then when they get put into this new CHIP group when they come up for renewal, which for most kids will be 12 months later, when they come up for renewal they must meet all CHIP eligibility criteria because they don't get this protection in CHIP.

So I would say the longest this program would need to be in existence in the CHIP side would be December 31st, 2015. Because the last kid who could get in through this program would probably have their renewal on December 31st, 2014, and assuming they got 12 months of coverage it would end at December 31st, 2015. So it's a very time-limited group.

>>Jennifer Ryan: Great.

And just before we close today, there's a question here about the current status of the RAND study that's taking place right now related to helping states think through the FMAP methodology for determining the appropriate matching rate for individuals who are gonna be newly eligible in 2014 and then also working through some of the process for doing that MAGI income conversion methodology. So I just wanted to give everyone a little update there.

So there's currently a 10-state pilot taking place where states are working directly with RAND and sharing data. And RAND and we at CMS are learning a lot from that process and from the data that's being submitted and it's helping us kind of refine our thinking about the options that were included in the proposed rule related to FMAP.

That final rule will come out some time later this year, we expect. And we are very much kind of ramping up our work to begin the process of talking with, more intensively first, with the 10 states, but then also more broadly starting to share information and try to start providing technical assistance for all 50 states as soon as we can, really. We'll try to start sharing information and getting some of the tools out there that might be needed to start thinking through how these eligibility groups will need to be converted, things like that. So stay tuned for that. But we anticipate that there'll be additional guidance and more of our technical assistance available at some point this summer. Hopefully that's helpful in answering questions.

I think at this point I'm gonna close and thank everyone for joining us today for our webinar. It's been a really great series. We've been thrilled with all of the participation and great questions, very thoughtful questions. I want to thank the members of our very high level expert team here who did yeoman's work in creating this final rule and has continued their efforts to

make sure that everyone understands it. So I want to thank everyone publicly. It's been really an amazing team to work with here at CMS.

So with that, I will close our webinar for today and note that, as always, the transcript and other materials will be posted on Medicaid.gov on the State Resource Center.

So thanks, everyone, for joining us today. Have a good afternoon.