Eligibility and Enrollment Final Rule

Medicaid and CHIP

Center for Medicaid and CHIP Services

December 1, 2016
Medicaid and Children’s Health Insurance Programs: Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP; Final Rule

• On display at the Federal Register November 21, 2016
• Published November 30, 2016
• Finalizes a subset of provisions included in the notice of proposed rulemaking (78 FR 4594) issued on January 22, 2013
Key Provisions

• Notices
• Appeals
• Medicaid Eligibility Changes under the Affordable Care Act & Other Statutes
• Accessibility for Individuals who are Limited English Proficient
• Verification
• Financial Methodologies
• Medical Support and Payment
• CHIP-specific Provisions
• Electronic Submission of Medicaid and CHIP State Plans
Notices
Content of Eligibility Notices

• Establishes minimum standards for content of eligibility notices (435.917(a))

• Approval notices must include (435.917(b)):
  – Basis and effective date of eligibility
  – Benefits and services available
  – Premium and cost sharing obligations
  – Procedures for reporting changes
  – Appeal rights
  – Non-MAGI eligibility (435.917(c))

• Denial/termination notices must include clear explanation of reason for ineligibility
• Phases in use of single eligibility notices for multiple programs
• Combined eligibility notice to be provided by the last entity to “touch” an application or renewal
• Requires coordinated content for individuals who will not receive a combined notice
Combined Eligibility Notice
(435.1200(h))

Requires use of combined eligibility notices to the extent feasible, taking into account:

• Whether state uses a shared eligibility service with the Marketplace

• Whether FFM is determining or assessing eligibility for Medicaid and CHIP

• Maturity of the eligibility and enrollment systems operated by the state

• Time
Includes, if applicable 435.1200(h)(2-3):

- Status of individual’s eligibility determination for other program
- Impact of eligibility for/enrollment in one program on eligibility for another program
- Status of other household members
Appeals
If an Exchange or other insurance affordability program provides an individual with a combined eligibility notice including determination of Medicaid/CHIP ineligibility, the Exchange or other program/appeals entity will:

• Provide individual with an opportunity to submit a “joint fair hearing request”

• Notify the Medicaid/CHIP agency of any joint fair hearing request to be conducted by agency, and transmit the individual’s electronic account to the agency
Coordination Agreements (435.1200(b))

Requires Medicaid and CHIP agencies to enter into agreements with the Exchange/appeals entity and other programs/appeals entity to:

• Minimize burden on individuals seeking to appeal a denial or determination related to one or more program

• Provide for a combined appeals decision in appropriate situations
Directs Medicaid and CHIP agencies to establish a secure electronic interface through which, when appropriate –

- The Exchange or other program or appeals entity can notify the agency that an individual has submitted a joint fair hearing request
- The individual’s electronic account can be transferred from one program to the other
- The agency can notify the Exchange or other program or appeals entity that an individual has appealed a Medicaid denial; whether Medicaid benefits will be furnished pending a decision; and the outcome of the appeal
• Requires states to establish and maintain an expedited fair hearing process (431.224)

• Establishes a standard for expedited fair hearings:
  – If the agency determines that the standard timeframe permitted for a fair hearing could jeopardize the individual’s life, health or ability to attain, maintain, or regain maximum function (431.224)

• Creates a timeframe for final action:
  – 7 days for eligibility-related matters (431.224, 431.244(f))
  – 3 days for benefit or services related matters (431.224, 431.244(f))
Fair Hearing Request
(431.205, 431.220-431.223)

• Makes fair hearing requests and expedited hearing requests available through all modalities (431.221)
• Requires states to accept any method for withdrawal of a fair hearing request (431.223)
• Clarifies circumstances when an applicant or beneficiary can request a fair hearing (431.220)
• Provides for a fair hearing system that is accessible to individuals who are limited English proficient and individuals with disabilities and that complies with anti-discrimination statutes and regulations (431.205)
Medicaid Eligibility Changes under the Affordable Care Act & Other Statutes
Codifies statutorily-established eligibility groups:

• Former foster care children (42 CFR 435.150)
• Continuous eligibility for hospitalized children (42 CFR 435.172)
• Continuous eligibility for children up to age 19 (42 CFR 435.926)
• Optional eligibility:
  – Individuals needing treatment for breast or cervical cancer (42 CFR 435.213)
  – Individuals needing family planning-limited coverage (42 CFR 435.214 and 435.603)
  – Individuals with tuberculosis (42 CFR 435.215)
  – Independent foster care adolescents (42 CFR 435.226)
  – Presumptive eligibility (42 CFR 435, 1001-1002 and 435.1100-1101)
Streamlines and updates eligibility groups:

- Deemed newborn children (42 CFR 435.117)
  - CHIPRA changes for pregnant women receiving emergency Medicaid, CHIP
- Families with eligibility extended due to increased spousal support collection (42 CFR 435.115)
- Children with title IV-E adoption assistance, foster care, or guardianship care (42 CFR 435.145)
- Optional eligibility for:
  - Parents and other caretaker relatives (42 CFR 435.220)
  - Reasonable classifications of individuals under age 21 (42 CFR 435.222)
  - Individuals under age 21 with state adoption assistance agreements (42 CFR 435.227)
  - Targeted low-income children (42 CFR 435.229)
- Medically need parents and other caretaker relatives (42 CFR 435.831)
Mandatory coverage for individuals under age 26 who were:

1. In foster care under the responsibility of the state or Tribe upon attaining either age 18 or a higher age at which foster care ends, and

2. Enrolled in Medicaid under the state’s Medicaid state plan or section 1115 demonstration at that point in time
• Proposed option to cover individuals who were in foster care and enrolled in Medicaid in “any state” not finalized

• Final rule provides state option to cover individuals who were in foster care upon attaining age 18 or a higher age at which foster care ends and enrolled in Medicaid at some point during the period of foster care during which the individual aged out
Verification Process
Verification

• Verification of citizenship and non-citizen status (42 CFR 435.406, 435.407, 435.956, 457.320, 457.380)

• Special circumstances (42 CFR 435.952(c)(3))
• Primacy of electronic verification through FDSH or alternative approved mechanism (435.956(a)(1)(i)(A) and (a)(2)(i))

• CHIPRA changes to citizenship documentation requirement
  – Application to CHIP (457.320(d), 457.380(b))
Reasonable Opportunity Period
(42 CFR 435.956(a)(5) and (b), 457.380(b))

• 90 days for citizenship and non-citizen status
• Benefits provided during ROP to same extent as otherwise-eligible individuals based on attested status
• Simplifies the “paper documentation” process if needed, for example (435.407)
  – Original documents not required (435.407(f))
  – Eliminates hierarchy of preferred documentation
  – State option to use verification by another state or federal agency in certain circumstances (435.407(d))
• Good faith extension for non-citizens only (435.956(b)(2)(ii)(B))
Financial Methodologies
• Clarifies that the methodologies set forth in §435.601 and §435.602 apply only to individuals excepted from MAGI
  – SSI methodologies apply to eligibility based on being over age 64, or having a disability or blindness
  – Limits on attributing, or deeming, the income and resources from other individuals to an applicant or beneficiary
MAGI-like methods for certain medically needy individuals (435.831)

- Permits application of AFDC-based methods or a MAGI-like methodology to determine income eligibility for medically needy children, pregnant woman, parents and other caretaker relatives.
- Methodology adopted cannot violate limitations on deeming or attribution of income from other individuals.
• Clarifies that exception from MAGI-based methodologies for individuals needing long-term services and supports (LTSS) applies when
  – Being institutionalized or receiving LTSS is a condition of eligibility; or
  – The eligibility determination is being made for the purpose of receiving LTSS
  – Individuals eligible under a MAGI-based group are not excepted from the MAGI-based methodologies simply because they require LTSS

• State flexibility for optional family planning group
Medical Support & Payments

- At application, requires that individuals agree to cooperate with child support enforcement.
- Enforcement of requirement to cooperate in pursuing medical child post-enrollment.
- Supports alignment and coordination with other insurance affordability programs.

42 CFR 433.138, 433.145, 433.147, 433.148, 433.152, and 435.610
Accessibility for Individuals who are Limited English Proficient (435.905)

• Language services for limited English proficient individuals to include oral interpretation and written translation (435.905(b)(1))

• Requires taglines indicating availability of language services. (435.905(b)(3))
Many of the Medicaid provisions apply fully or with moderate variation to CHIP:

- Notices
- Coordination involving appeals entities
- Deemed newborns
- Family planning
- Continuous eligibility
- Presumptive eligibility
- Verification
- Language accessibility
- Electronic state plan submission
• Provides framework for electronic state plan amendments

• Implementation plan
  – Electronic templates to be released incrementally
  – States to transition to the new formats
  – CMS to provide additional guidance and technical assistance to help states meet applicable deadlines
Questions?