

Recent Changes to Medicaid Under the Public Health Emergency

The Centers for Medicare and Medicaid Services (CMS) issued new regulations that may affect some of your clients enrolled in a Medicaid program.

The new rule permits the state to move individuals currently enrolled in the state's Medicaid expansion program and who screened eligible for a Medicare Savings Program (including QMB, SLMB, and QI) to the Medicare Savings Program even if the move results in a reduction of benefits. Importantly, the state is **not** permitted to disenroll individuals enrolled in a state's Medicaid expansion program, upon turning 65, or becoming eligible for Medicare, if the individual does not screen eligible for the Medicare Savings Program.

Background

Earlier this year, states were provided additional Medicaid funds from CMS if the states complied with certain requirements. One such requirement includes continuing Medicaid coverage for individuals who are already enrolled, or became enrolled, in Medicaid as of the beginning of the Public Health Emergency. This is also referred to as Maintenance of Effort.

On November 6, 2020, CMS published a new regulation (an Interim Final Rule with Comment Period or IFR) which allows states to change which Medicaid program individuals are enrolled in, with some limitations. **This change went into effect on November 2, 2020 and continues until the end of the Public Health Emergency.**

The new rule provides for three "tiers" of Medicaid coverage. A single tier can be made up of several different assistance programs. For Tier 1 and Tier 2 coverage, **states are permitted to move beneficiaries (that meet the eligibility requirements) from one program to another if both programs are within the same tier.**

Medicaid Coverage Tiers

Tier 1 is Medicaid coverage with minimum essential coverage (MEC). **Most older adults and people with disabilities are receiving their Medicaid from these programs.**

Tier 1 includes the following programs:

- Medicaid expansion (for individuals under 65)
- Age, blind and disabled (ABD) and
- Medicare Savings Programs (QMB, SLMB QI).

For example, an individual enrolled in Medicaid expansion may be moved to a Medicare Savings Program (QMB, SLMB or QI) when the individual enrolls in Medicare. This change is allowed because the individual remains in a program within Tier 1 of Medicaid coverage.

Tier 2 is Medicaid coverage that is not defined as MEC but is broad enough to provide access to coverage for both COVID-19 testing and treatment. Pregnant or postpartum women in some states are an example of Tier 2 eligibility group.

Tier 3 is coverage that is not MEC and does not cover COVID-19 testing or treatment. Individuals that receive coverage for tuberculosis-related services is an example of a Tier 3

eligibility group. States may not move a beneficiary from one Tier 3 group to another Tier 3 group.

How this affects your clients turning 65 and/or enrolling in Medicare

Under this new rule, the state is permitted to move a beneficiary currently enrolled in the state's Medicaid expansion program and who screened eligible for a Medicare Savings Program (including QMB, SLMB, and QI) to the Medicare Savings Program even if the beneficiary will lose benefits, such as transportation services. However, the state is **not** permitted to disenroll an individual enrolled in a state's Medicaid expansion program if the individual does not screen eligible for the Medicare Savings Program.

Future Action

CMS is accepting public comments on the Interim Final Rule until January 4, 2021. CMS is required to take into consideration all comments received when revising the rule. Information on how to submit comments to CMS can be found here. <https://www.govinfo.gov/content/pkg/FR-2020-11-06/pdf/2020-24332.pdf>

CMS published a fact sheet with more information about these changes in the interim rule, which can be found here. <https://www.medicaid.gov/state-resource-center/downloads/covid-19-tech-factsheet-ifc-433400.pdf>

If you have questions, please contact Leslie Fried at Leslie.Fried@ncoa.org or Ann Kayrish at Ann.Kayrish@ncoa.org.

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