

Changes to Medicaid Under the Public Health Emergency (PHE) Follow-up Webinar Q&A

Does the Medicaid enrollment hold true for a person who moves from one state where they are eligible to another state where they are not eligible?

No, the requirement for continuous enrollment only applies to the state Medicaid agency where the individual was enrolled as of March 18, 2020 or thereafter. The Families First Coronavirus Response Act (FFCRA) allows states to terminate the Medicaid enrollment in the case of beneficiaries that voluntarily disenroll or move out of the state.

Where can I find the statute outlining the illegality of selling a Medigap to someone on Medicaid?

The limitation on selling a Medigap plan to individuals with Medicaid stems from the protection afforded Medicare beneficiaries around duplication of coverage. The Medicare statute, Title 18 of the Social Security Act: https://www.ssa.gov/OP_Home/ssact/title18/1882.htm, confirms that Medicare beneficiaries who are also eligible for Medicaid (Title 19) and the Qualified Medicare Beneficiary (QMB) program do not need Medigap insurance since Medicaid will cover the cost of their health care expenses, and selling of Medigap plans to these individuals is prohibited. As Medicaid expansion also covers an enrollee's health care expenses the duplication of coverage protections would also apply.

As a matter of note, Title 18 of the Social Security Act stipulates that individuals enrolled in Specified Low Income Medicare Beneficiary (SLMB) Qualified Individual (QI) programs may still want and are permitted to purchase a Medigap plan, if they can afford to do so, as the SLMB and QI only pay for the Medicare Part B monthly premium.

Don't folks get a guaranteed issue for Medigap once they come off Medicaid?

Individuals do not have a federal guarantee issue right to a Medigap plan when Medicaid coverage or eligibility is lost or changed. Further, there is nothing in federal law to provide individuals on Medicaid expansion and Medicare with a guarantee issue period for Medigap when the public health emergency ends. States have the flexibility to institute Medigap consumer protections that go further than the minimum federal standards. Three states (CN, MA, NY) require Medigap insurers to offer policies with guaranteed issue rights throughout the year and Maine has a limited open enrollment

period for one month a year. Otherwise, currently only nine states provide guaranteed issue rights for applicants that lose Medicaid eligibility: CA, KS, ME, MT, OR, TN, TX, VT, WI.

If an individual has a Medigap plan and then becomes eligible for Medicaid, the beneficiaries may suspend Medigap for up to two years, which prevents new medical underwriting or pre-existing condition waiting periods upon re-activation of the Medigap plan.

Did the PHE waive the requirements that states had to inform people about a change in their benefits?

The PHE does not waive the requirements for individuals to receive notice about a change in their benefits. States may be provided flexibility with regard to timing of notices delivered to the individuals regarding a change in benefits, given the impact of the PHE on Medicaid offices and their staff.

What may happen to someone who becomes ineligible for an MSP (e.g., taking a job) during and after the PHE?

One of the key provisions of FFCRA is the continuous enrollment for people enrolled in Medicaid on or after March 18, 2020 for the duration of the public health emergency regardless of changes (like increased income) that would otherwise make individuals ineligible. In essence, Medicaid has suspended its regular eligibility renewal and redetermination process during the public health emergency. Therefore, the individual who becomes ineligible for MSP will remain on the program until the end of the public health emergency.

FFCRA allows states to end continuous enrollment only in the case of beneficiaries that voluntarily disenroll, die, or move out of the state.

States may begin coverage terminations effective the end of the month in which the PHE ends. Additionally, states must continue to follow regular program rules that require advance notice and fair hearing opportunities prior to coverage termination.

On a related and important note for Medicare eligibles on Medicaid expansion: The end of the public health emergency and subsequent loss of Medicaid expansion will not automatically trigger a Medicare Part B special enrollment period. Individuals should enroll into Medicare during their Initial Enrollment Period.

As a SHIP counselor, can you give me specific guidance how to assist these Medicare beneficiaries? Where should I refer these beneficiaries for resolution?

The experience of beneficiaries varies greatly among states and counseling must reflect the circumstances in each state. We can recommend that you connect with your state Medicaid office to understand the process from inside the Medicaid organization and secondly to work with counselors across your state to understand and document the issues confronting the Medicare eligibles while eligible and enrolled in Medicaid expansion.

Several SHIPs have developed counselor tip sheets which address the specific issues and concerns arising in their state. A possible framework for a counselor tip sheet is provided below:

- Exploration of the multiple problems that arise for beneficiaries that remain on expansion Medicaid and become eligible for Medicare
- An explanation of how your state is managing/classifying individuals on Medicaid Expansion that become eligible for Medicare
- Explanation of the loss of the Medicaid prescription drug benefit and the process by which Medicaid beneficiaries are being transitioned /auto-enrolled/ not enrolled into the Low-Income Subsidy program (LIS) in your state
- Explanation that the loss of Medicaid is not a guarantee issue situation for Medigap in most states and most clients cannot purchase a Medigap policy while Medicaid is active
- Explanation/direction on how clients can request a voluntary Medicaid termination in your state
- Application options for your state pharmacy assistance program