



Changes to Medicaid under the Public Health Emergency

PRESENTERS:

Leslie Fried, NCOA

*Judith Bendersky, WA Office of Insurance
Commissioner*

Ann Kayrish, NCOA

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Today's Panelist



Leslie Fried

**National Council on
Aging, Director for the
Center for Benefits
Access**



**Judith Bendersky,
MPH, CHES**

**Certified Resource
Specialist in Aging/
Disabilities**

**WA State Office of
Insurance Commissioner**



Ann Kayrish

**National Council on Aging,
Senior Program Manager for
Medicare**

Agenda

1. Background /current guidance

2. Unintended consequences

3 Discussion of Impact

4. Next Steps

5. Questions and answers

Background

Medicaid Maintenance of Effort
Protections



March 2020: Congress Passed Families First

- 6.2% increase in Federal Medical Assistance Percentage (FMAP) for state Medicaid programs
- To qualify, Families First stipulated the enhanced FMAP is contingent on states maintaining four requirements:
 1. Eligibility: Maintain eligibility standards, methodologies, or procedures that are no more restrictive than what the state had in place as of January 1, 2020;
 2. Premiums: Not charge premiums that exceed those that were in place as of January 1, 2020;
 3. COVID-19 Cost-Sharing: No cost-sharing for testing, services, and treatments—including vaccines, specialized equipment, and therapies—related to COVID-19; and
 4. Continuous Coverage: No termination of individuals on Medicaid for those enrolled in the program as of the beginning of the emergency period, or who become enrolled during the emergency period, unless the individual voluntarily terminates eligibility or is no longer a resident of the state.
- CMS previously interpreted these eligibility protections to include benefits and cost sharing

Prior to CMS Nov. 6th Interim Final Rule, CMS Interpretation of Families First

Issue	Key Guidance	Implication	Date of Guidance
Benefits	<p>“[W]hile states may increase the level of assistance provided to a beneficiary who experiences a change in circumstances, such as moving the individual to another eligibility group which provides additional benefits, states may not reduce benefits for any beneficiary enrolled in Medicaid on or after March 18, 2020, through the end of the month in which the emergency period ends, and still qualify for increased FMAP.”</p>	<p>Current benefits cannot be cut during the PHE, or the state will not get FMAP increase</p>	<p>April 13, 2020</p>
Benefits	<p>“States must maintain the eligibility, and benefits, of all individuals who are enrolled or determined eligible for Medicaid as of March 18, 2020, through the end of the month in which the public health emergency ends”</p>	<p>Current benefits cannot be cut during the PHE, or the state will not get FMAP increase</p>	<p>June 30, 2020</p>
Cost-Sharing	<p>“A state is not eligible for the temporary FMAP increase ...if it reduces the medical assistance for which a beneficiary is eligible. Because an increase in cost-sharing reduces the amount of medical assistance for which an individual is eligible, a state is not eligible for the enhanced FMAP if it increases cost sharing for individuals”</p>	<p>Cost-sharing is considered a reduction in medical assistance</p>	<p>June 30, 2020</p>

Current Guidance

Nov. 6th Interim Final Rule



New CMS Interim Final Rule

- On November 6, 2020, CMS published a new regulation (an Interim Final Rule with Comment Period or IFR)
 - The IFR went into effect last year on November 2nd
 - The IFR changes the previous CMS interpretation of Families First, including around maintenance of effort (MOE) protections
 - States may now:
 1. Remove optional benefits, such as oral health or home health care
 2. Increase cost sharing
 3. Limit coverage with New Tiers (will cover in detail)
 4. Terminate coverage if “not validly enrolled” due to fraud, abuse, or agency error
- ❖ Comment period on the IFR is closed and comments being reviewed by CMS

New Rule Provides Three tiers of Medicaid Coverage

- A single tier can be made up of several different assistance programs
- Under 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
- State are permitted 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
- The state is **not** permitted to disenroll individuals enrolled in a state's Medicaid expansion program upon turning 65 if the individual does not screen eligible for the Medicare Savings Program

Summary of New Coverage Tiers

Tier 1

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

Includes: 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

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

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.

Other Implications of New Guidance on Tiering

- Beneficiaries enrolled in 1915(c) home and community-based service waivers could be moved to Medicaid expansion coverage, which can come with increased cost-sharing requirements and fewer benefits, leading them to not get needed services
- Reports from various states that beneficiaries are having their coverage changed without receiving advanced notification or no notification. This is causing confusion among beneficiaries and caregivers across the country
- Reports that beneficiaries have been denied payment for drugs at their pharmacy and denied transportation services because they were moved from Medicaid expansion to the Medicare Savings Program without notification

Unintended Implications of Maintenance of Effort

- Beneficiaries enrolled in Medicaid expansion when becoming eligible for Medicare may be
 - Unable to utilize Medigap guaranteed issue protections since a person on Medicaid cannot purchase Medigap
 - If ineligible for Qualified Medicare Beneficiary when PHE ends, may not have Medigap guaranteed issue protections
 - ACL, CMS, NCOA and others are researching federal administrative and/or legislative remedies to this problem

Unintended Implications of Maintenance of Effort - continued

- Reports from various states that beneficiaries who remain in Medicaid expansion and enroll in Medicare are not being deemed eligible for Extra Help/LIS

See CMS State Buy-In Manual – Chapter 1.4 et seq

- Individuals miss their Initial Enrollment Period (IEP) because of their extended Medicaid Expansion and do not understand that they should also enroll in Medicare

Impact of Medicaid changes under the PHE on states and Medicare beneficiaries



Impact on clients

- Conflicting information and notification failures
- Medigap plan sale prohibitions
- Failure to deem all eligible individuals into Extra Help
- Reduced benefits under Medicaid expansion



Overview of organizational impact

- Long standing protocols and scripts no longer applicable
- Advising clients to discontinue richer benefits
- Restricting Medicaid to Medicare transition to selected staff/counselors
- Referring clients back to Medicaid to confirm benefits



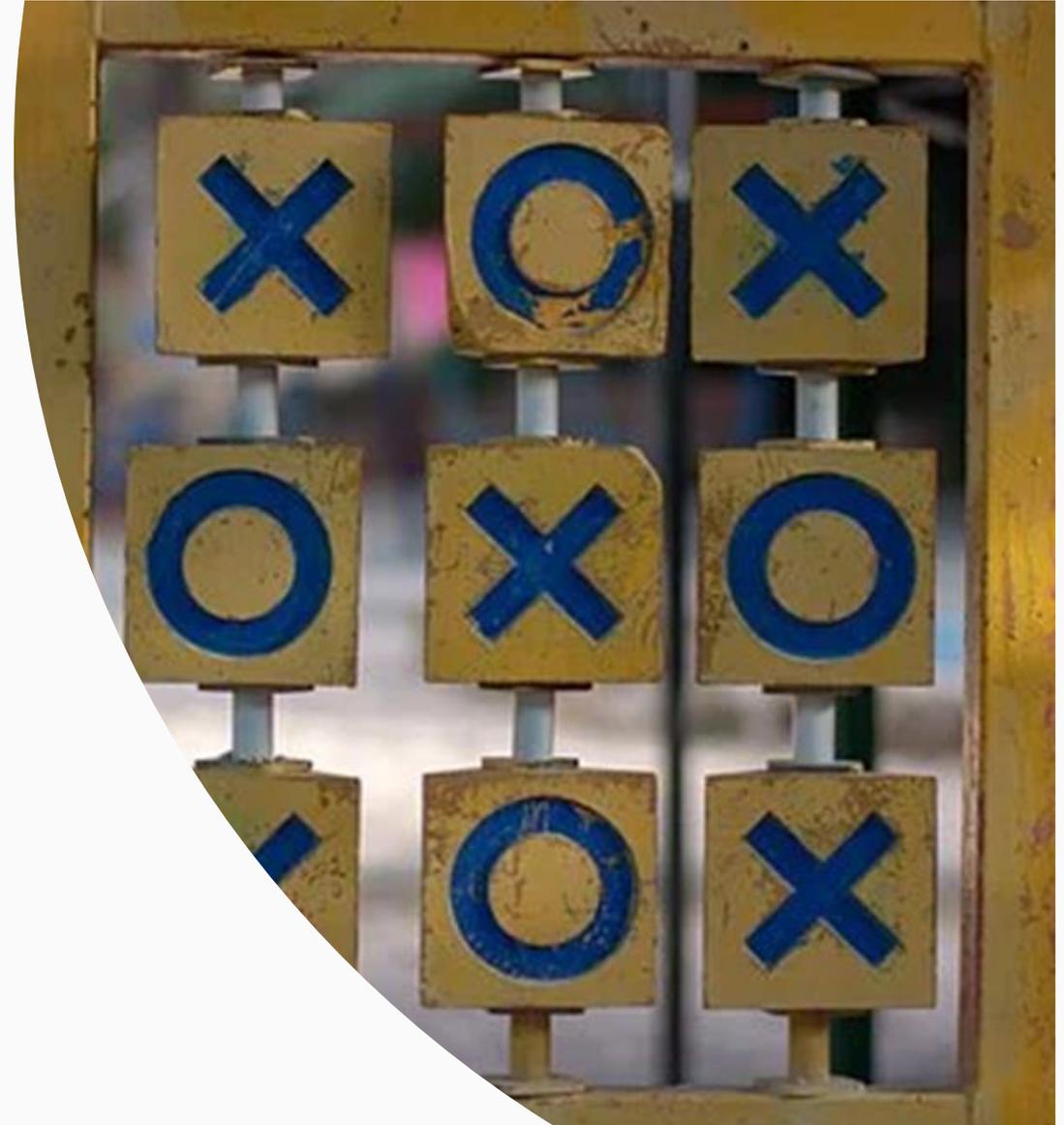
Proactive Partnerships



- Connect and meet with state and local Medicaid agencies
- Seek to understand the current Medicaid protocols and customer service experience
- Prepare complete casework which documents the problem areas and share findings with Medicaid staff
- Connect with other local advocacy organizations

Think Strategically

- Reinforce partnership
- Understand the problem



Recognize common goals



Next Steps

- Stay Tuned: ACL, CMS, NCOA and others are researching federal administrative and/or legislative remedies to this problem. We will keep you informed of any developments.
- Connect with ACL, CMS and your Medicaid agency if beneficiaries who remain in Medicaid expansion and enroll in Medicare are not being deemed eligible for Extra Help/LIS. Use this opportunity to connect with your Medicaid agency.

Questions or Comments



Raise hand feature

Type questions into the chat

Webinar recording & slides will be available at:
<https://ncoa.org/article/changes-to-medicaid-following-the-public-health-emergency>

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