



January 25, 2024

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2447-IFC
P.O. Box 8016
Baltimore, MD 21244

Re: CMS Enforcement of State Compliance with Reporting and Federal Medicaid Renewal Requirements

To Whom It May Concern:

The Primary Care Development Corporation (PCDC) appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) interim final rule regarding new reporting requirements for states for Medicaid eligibility and renewal.

As background, PCDC is a national non-profit organization and community development entity founded and based in New York City. Our mission is to strengthen communities and build health equity through strategic primary care investment, expertise, and advocacy. Over the past three decades, PCDC has leveraged more than \$1.7 billion to finance over 250 primary care projects. Across the country, these strategic community investments have built the capacity to provide 4.8 million primary care visits annually, created or preserved nearly 20,000 jobs in low-income communities, and transformed more than 2.8 million square feet of space into fully functioning primary care and integrated behavioral health practices. Our staff have also trained and coached thousands of health workers to deliver superior patient-centered care. Over 30 years, PCDC's work has impacted more than 62 million primary care patients across 45 states as well as the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

High-quality, integrated, patient-centered primary care saves lives, leads to better individual and community health, and is central to health equity. Primary care is the foundation of our health care system and is key to prevention, early detection, and treatment of diseases like diabetes, hypertension, and depression.

PCDC is dedicated to expanding affordable and equitable access to high-quality primary care for people across the country. As advocates, technical assistance providers, and non-profit CDE investors in high-quality primary care, PCDC is supportive of this interim final rule that is intended to protect eligible individuals' access to Medicaid and Children's Health Insurance Program (CHIP) coverage. Expanding eligibility for Medicaid coverage has been proven to lead to better health care access and outcomes.¹ We believe that this interim rule has the potential to ensure that all eligible people can maintain their Medicaid coverage, which would result in increased access to vital primary care. Therefore, we have focused our comments on areas that relate most directly to increasing access and the improvement of the quality of care.

Benefits of Medicaid Coverage

Thirteen years after the passage of the ACA, research shows that expanding Medicaid coverage has led to “better access to health care[;] better health outcomes, including fewer premature deaths[; and] more financial security and opportunities for economic mobility.”² As of August 2023, almost 90 million Americans were covered through Medicaid and CHIP.³ This coverage ensures that a large portion of the population has access to primary care.

Medicaid also covers a diverse population. Of the 90 million who are enrolled in Medicaid and CHIP, over 60% identify as people of color,⁴ nearly half are children,⁵ and almost a quarter are nonelderly adults who report having a disability.⁶ Moreover, nearly a quarter of the total population who live in rural areas are enrolled in Medicaid.⁷

Medicaid Disenrollment and Churn

During the COVID-19 pandemic and the resulting public health emergency (PHE), the Families First Coronavirus Response Act provided additional federal support to Medicaid programs, allowing all Medicaid beneficiaries to be continuously enrolled in Medicaid during the PHE, regardless of their eligibility status. At the end of the PHE, states were able to begin an unwinding process and institute new eligibility restrictions.

Since the end of the PHE and the expiration of the Medicaid continuous coverage requirement, over 13 million individuals have been disenrolled from Medicaid and CHIP,⁸ 73% of whom have lost coverage due to procedural reasons.⁹ Of these 13 million, approximately 3.25 million are children.¹⁰ Disenrollment policies have varied from state to state, resulting in a wide variation across the country. For example, the highest disenrollment rate was in Texas, with 62% disenrolled, and the smallest in Maine, with 10% disenrolled.¹¹

Regardless of the disenrollment rate, many of the new disenrollment policies states have instituted have caused higher instances of “churn” – a serious problem that disrupts the continuity of primary and preventative care for already underserved populations. Prior to the PHE, many of those covered by Medicaid lost coverage regularly due to administrative requirements, brief and transient ineligibility, and even mistakes. As a result, these beneficiaries were required go through the enrollment process again to receive coverage, commonly called “churn.”

Experts both within and outside of the federal government have recognized the significant and inequitable impact that eligibility churn has on low-income populations, and in particular on people of color and those with less education, who are most likely to experience greater income volatility.¹² A 2021 report from the Assistant Secretary for Planning and Education noted that “people who experience churning or coverage disruptions are more likely to delay care, receive less preventative care, refill prescriptions less often, and have more emergency department visits.”¹³ Coverage interruptions also result in higher administrative costs for states, providers, and health plans, requiring many of them to hire workers and spend time on eligibility assistance and verification that could be avoided.¹⁴

Moreover, churning caused by unnecessary administrative burdens can even dissuade those who would otherwise be eligible for Medicaid and CHIP from enrolling.¹⁵ It is estimated that more than 7 million people who could qualify for Medicaid are not enrolled in any health insurance

coverage,¹⁶ largely due to administrative burdens with enrollment. Underserved communities are also disproportionately affected by this, with rates of churn higher for Black, Hispanic, and American Indian and Alaska Native (AIAN) beneficiaries.¹⁷

In addition, given how critical it is for children to stay covered by insurance and the high likelihood of their ongoing eligibility under either CHIP or Medicaid, it is deeply concerning that experts have estimated that as many as 6.7 million children, or over 3 million more than those who already have lost their coverage, could experience a period of uninsurance as a consequence of unwinding from the end of the PHE.¹⁸

Interim rule

PCDC supports CMS's interim final rule and urges the agency to make it permanent. This rule clarifies that CMS will impose penalties against a state's Medicaid program if they are non-compliant with specific reporting procedures when they take action to disenroll Medicaid participants. These penalties include suspending a state's Medicaid disenrollment process, imposing civil monetary penalties, and requiring that states submit a corrective action plan.¹⁹ CMS's interim rule has recent precedent. Since redeterminations began in April 2023, CMS has taken various actions to ensure that those eligible were not unfairly removed from Medicaid rolls and PCDC has been supportive of these actions. Agency actions have included a June 2023 letter HHS Secretary Xavier Becerra sent to all state governors urging them to take action to prevent procedural disenrollments and a subsequent letter sent in August 2023 to each state to identify problematic disenrollment procedures. More substantive action was taken in September 2023, as CMS called for 30 states to stop their procedural disenrollments after almost 500,000 people were inappropriately removed from Medicaid and the Children's Health Insurance Program due to issues with the automatic renewal system.²⁰ Later, the nine states with the highest rates of children dropped from Medicaid were sent another letter in December 2023 urging them to use already standing federal rules to get families back on coverage. This includes allowing states to use enrollee information they have to auto-renew coverage.²¹

To bolster the previous actions by CMS and HHS, this rule imposes new penalties for these types of violations. The most notable of these penalties is the suspension of the Medicaid disenrollment process. This penalty, to be used when states have engaged in disenrollment in violation of CMS policy, will prevent churn and encourage continuous coverage among Medicaid recipients.

In addition, CMS may also seek to reduce a state's Federal Medical Assistance Percentage (FMAP) if a state fails to comply with the new reporting requirements. This could be a very effective deterrent for states who have thus far disenrolled Medicaid beneficiaries quickly and broadly, due in many cases to procedural error. For example, while CMS gave states 12 months²² to carefully engage in their disenrollment processes, Arkansas instead opted to undertake disenrollment over the course of only six months and led the nation at that time with over 400,000 people disenrolled,²³ with more than 31,000 disenrolled for procedural reasons in July 2023 alone.²⁴ Arkansas maintains the second highest disenrolled rate at 59%²⁵. Notably, Arkansas has one of the highest FMAPs in the nation with a percentage of over 71%.²⁶ This interim final rule will hopefully result in a slower and more deliberate process in the future to avoid facing the potential consequences.

To promote transparency and hold states accountable for adhering to redetermination requirements, the rule also requires that states submit to CMS a report on the activities of the State relating to eligibility redeterminations conducted between April 1 and June 30, 2024. The new reporting requirements will also allow CMS to collect the necessary data to monitor each state's unwinding process and its effect on population disenrollment. This data will result in CMS and outside observers having the ability to analyze each state's enrollment practices, accurately determine how they are affecting eligible populations' ability to access lifesaving care and hold states accountable for any potentially impermissible or problematic practices in their Medicaid enrollment policies.

Conclusion

PCDC applauds any effort to increase access to care and to ensure that patients do not lose their coverage. Once again, PCDC thanks CMS for the opportunity to comment on CMS's attempts to improve access to care and address health equity, access, and transparency for Medicaid beneficiaries.

We would be happy to follow up on any of these key points if more information would be useful – feel free to reach out to our Director of Policy, Jordan Goldberg, at jgoldberg@pcdc.org or (212) 437-3947, for any further information.

Sincerely,

Louise Cohen
Chief Executive Officer
Primary Care Development Corporation

¹ Center for Budget and Policy Priorities, *The Far-Reaching Benefits of the Affordable Care Act's Medicaid Expansion*, Oct. 21, 2020, <https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid-expansion> (last visited Jan. 25, 2024).

² *Id.*

³ Medicaid.Gov, *August 2023 Medicaid & CHIP Enrollment Data Highlights*, Database, <https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html> (last visited Jan. 25, 2024).

⁴ Macpac, *Racial and Ethnic Disparities in Medicaid: An Annotated Bibliography*, April 2021, available at <https://www.macpac.gov/wp-content/uploads/2021/04/Racial-and-Ethnic-Disparities-in-Medicaid-An-Annotated-Bibliography.pdf>.

⁵ Center for Budget and Policy Priorities, *The Far-Reaching Benefits of the Affordable Care Act's Medicaid Expansion*, Oct. 21, 2020, <https://www.cbpp.org/research/health/chart-book-the-far-reaching-benefits-of-the-affordable-care-acts-medicaid-expansion> (last visited Jan. 25, 2024).

⁶ Mary Beth Musumeci and Kendal Ortega. *People with Disabilities Are At Risk of Losing Medicaid Coverage Without the ACA Expansion*. KFF. found at: <https://www.kff.org/medicaid/issue-brief/people-with-disabilities-are-at-risk-of-losing-medicaid-coverage-without-the-aca-expansion/> (last visited Dec 2023).

⁷ Macpac, *Medicaid and Rural Health*, April 2021, available at <https://www.macpac.gov/wp-content/uploads/2021/04/Medicaid-and-Rural-Health.pdf>.

⁸ KFF, Database, *Medicaid Enrollment and Unwinding Tracker* <https://www.kff.org/report-section/medicaid-enrollment-and-unwinding-tracker-overview/> (last visited Jan. 25, 2024).

⁹ Julian Polaris & Kaylee O'Connor, *New CMS Rule on Medicaid Unwinding Clarifies CMS Enforcement Authorities and State Reporting Requirements*, State Health Values & Strategies, Dec. 8, 2023, <https://www.shvs.org/new-cms-rule-on-medicaid-unwinding-clarifies-cms-enforcement-authorities-and-state-reporting-requirements/> (last visited Jan. 25, 2024).

¹⁰ Georgetown University Center for Children and Families, *How many children are losing Medicaid?*, <https://ccf.georgetown.edu/2023/09/27/how-many-children-are-losing-medicaid/> (last viewed Jan. 25, 2024).

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- ¹¹ KFF, Database, *Medicaid Enrollment and Unwinding Tracker* <https://www.kff.org/report-section/medicaid-enrollment-and-unwinding-tracker-overview/> (last visited Jan. 25, 2024).
- ¹² Sarah Sugar et. al, *Medicaid Churning and Continuity of Care: Evidence and Policy Considerations Before and After the COVID-19 Pandemic*, Assistant Secretary for Planning and Education, Federal Office of Health Policy, April 2021, available at <https://aspe.hhs.gov/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf>.
- ¹³ *Id.*
- ¹⁴ Matthew Buettgens, Issue Brief, *Ensuring Continuous Eligibility for Medicaid and CHIP: Coverage and Cost Impacts for Adults*. The Commonwealth Fund, Sept. 26, 2023, <https://www.commonwealthfund.org/publications/issue-briefs/2023/sep/ensuring-continuous-eligibility-medicaid-impacts-adults> (last visited Nov 2023).
- ¹⁵ Suzanne Wikle, Jennifer Wagner, Farah Erzouki, Jennifer Sullivan. *States Can Reduce Medicaid's Administrative Burdens to Advance Health and Racial Equity*. Center on Budget and Policy Priorities. July 2022. <https://www.cbpp.org/research/health/states-can-reduce-medicoids-administrative-burdens-to-advance-health-and-racial>
- ¹⁶ Jennifer Tolbert, Patrick Drake & Robin Rudowitz. *A Closer Look at the Remaining Uninsured Population Eligible for Medicaid and CHIP*, June 2023, <https://www.kff.org/uninsured/issue-brief/a-closer-look-at-the-remaining-uninsured-population-eligible-for-medicaid-and-chip/> (last visited Nov. 29, 2023).
- ¹⁷ Linn Jennings & Rob Nelb, *Updated Analyses of Churn and Coverage Transitions*, MACPAC, April 7, 2022, available at <https://www.macpac.gov/wp-content/uploads/2022/04/Churn-and-Coverage-Transitions.pdf>.
- ¹⁸ See note x
- ¹⁹ Blaire Bryant & Naomi Freil, *CMS releases interim final rule on Medicaid unwinding, enforcing requirements for states*, NACo, found at: <https://www.naco.org/news/cms-releases-interim-final-rule-medicaid-unwinding-enforcing-requirements-states> (last visited Jan 2024).
- ²⁰ Emily Olsen. *CMS says states could lose funding over Medicaid redeterminations issues*. HealthcareDive. found at: <https://www.healthcaredive.com/news/medicaid-funding-reduction-redeterminations-cms-rule/701576/> (last viewed Jan 2024).
- ²¹ Chelsea Cirruzzo. *Biden administration pleads with states after millions of kids lose Medicaid coverage*. Politico. found at: <https://www.politico.com/news/2023/12/18/biden-administration-pleads-with-states-after-millions-of-kids-lose-medicaid-coverage-00132282/> (last found Jan 2024).
- ²² Medicaid. *Unwinding and Returning to Regular Operations after COVID-19*. Medicaid.gov (last viewed Jan 2024).
- ²³ Alex Kienlen, *Arkansas completes Medicaid unwinding with more than 400,000 disenrolled in last six months*, KARK, found at: <https://www.kark.com/news/health-news/arkansas-completes-medicaid-unwinding-with-more-than-400000-disenrolled-in-last-six-months/> (last visited Jan 2024).
- ²⁴ Tess Vrbin. *More than 31K Arkansans lost Medicaid coverage for procedural reasons in July*, Arkansas Advocate. found at: <https://arkansasadvocate.com/2023/08/08/more-than-31k-arkansans-lost-medicaid-coverage-for-procedural-reasons-in-july/> (last visited Jan 2024).
- ²⁵ Note viii
- ²⁶ KFF. *Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier*. Database. found at: <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/> (last visited Jan 2024).