

April 20, 2022

The Honorable Chiquita Brooks-LaSure, Administrator, Centers for Medicare & Medicaid Services
Daniel Tsai, CMS Deputy Administrator, Director of the Center for Medicaid and CHIP Services
Anne Marie Costello, Deputy Director, Center for Medicaid and CHIP Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Administrator Brooks-LaSure, Director Tsai, and Deputy Director Costello:

As organizations that share the goal of ensuring that everyone who qualifies for insurance affordability programs receives coverage and care, we deeply appreciate the extraordinary work you and your colleagues throughout the Biden administration have done to prevent struggling families from losing coverage when the public health emergency (PHE) ends, while simultaneously protecting their access to care during the pandemic.

Of course, we were glad to see Secretary Becerra's recent decision to extend the PHE for another 90 days. Even before that announcement, we greatly appreciated CMS's March 2 guidance, which included the administration's strongest steps to date in preserving Medicaid for people who remain eligible and in promoting a secure transition to other sources of coverage for those who become ineligible. People of color disproportionately rely on Medicaid to access health care, as do children, low-income people of all ages, people experiencing disabilities, people who live in rural areas, and pregnant and post-partum people. Thus, protecting Medicaid coverage reflects the administration's commitment to health equity and health care justice.

We write to suggest additional steps the administration can take that would further pursue the goals we share with you to prevent people eligible for insurance affordability programs from losing coverage and care when the PHE ends.

First, we appreciate the templates you released for states to prepare redetermination plans and to report monthly redetermination metrics. We hope these plans and reports will be made public soon after they are completed, so stakeholders can engage effectively as partners in spotting and rectifying emerging problems. We also recommend several additions and clarifications:

- Redetermination plans should articulate state expectations for key redetermination outcomes, such as the percentage of redeterminations anticipated to involve ex parte renewals and the percentage expected to result in procedural terminations. States should also describe their parameters for involving plans and providers in communicating with beneficiaries to preserve coverage, as well as the state's plans for communicating effectively with people who have limited English proficiency, people experiencing disabilities, homeless people, people in rural areas, and others who may be particularly hard to reach using standard outreach methods. We also recommend asking for state decisions on each individual flexibility authorized by CMS guidance to minimize coverage losses, including the waiver option for automatically renewing Medicaid beneficiaries under age 65 who receive SNAP. This additional information would help spot potential problems at the earliest possible stage, when corrections can be most effective in preventing needless coverage losses.
- State monthly reports should also distinguish between redetermination outcomes for MAGI-based eligibility and other eligibility categories, since applicable duties differ, as well as differentiate outcomes by age. CMS should also make clear that no redetermination outcomes may be left out of

monthly reports, so that each report provides a complete monthly picture of how the redetermination process is unfolding, based on data available to the state.¹

Second, we are grateful for CMS's commitment to holding states accountable for meeting minimum standards to protect eligible families. We strongly encourage CMS to be prepared to direct states to suspend procedural terminations if state practices appear out of compliance with applicable requirements, including the requirement to maximize ex parte renewals. We also urge you to provide clarity about the disenrollment outcomes that may trigger CMS investigation and potential intervention, such as the percentage of redeterminations that result in procedural termination and the percentage that result in ex parte renewal. In addition, we urge you to ensure that states demonstrate compliance with all applicable statutory and regulatory requirements, including those mandating fully accessible notice to people with limited English proficiency and people experiencing disabilities.

Third, we are pleased to see that amended regulations governing eligibility and redetermination are on the unified agenda at OMB. We urge the administration to expeditiously promulgate amended redetermination regulations, reflecting lessons learned since the Affordable Care Act's enactment and safeguarding coverage for eligible beneficiaries. Specifically, we recommend that amended regulations incorporate the following standards, each of which should become effective at the earliest feasible point for state implementation:

- States must connect to all third-party data sources referenced in ACA §1413(c) (such as federal income tax return data), except for sources where the Secretary specifically finds that administrative costs of connection exceed likely gains.
- Ex parte renewals, with requirements for beneficiaries to correct state errors included in renewal notices, must take place whenever available data establishes a high likelihood of continued eligibility, as prescribed by the Secretary.
- A beneficiary may not be terminated for failing to respond to state notices unless the state has taken all feasible and effective steps, prescribed by the Secretary, to obtain the beneficiary's current contact information.
- All beneficiaries who have been covered for at least 12 months should receive full, 30-day response periods to state notices.
- A state may not redetermine a beneficiary's eligibility before regular renewal based on data matches initiated by the state.

As an accompanying step, we urge the Secretary, as was done early in 2021, to announce his intent to extend the PHE through the end of the calendar year. In addition to providing states with additional time to comply with amended regulations and to implement best practices, that step would prevent serious destabilization of America's systems for coverage and care. If CMS is able to move forward quickly with regulations that can be finalized in late 2022, the resulting overlap with the end of 2023 open enrollment would allow an aggressive, coordinated outreach campaign that helps Medicaid-eligible families protect their current coverage while smoothly transitioning others to Marketplace plans for which they qualify.

We would appreciate an opportunity to meet with you to discuss these proposals, as well as to hear your advice about how we can be most helpful in achieving our shared goals for protecting families. To arrange such a meeting, please contact Jen Taylor at Families USA, jtaylor@familiesusa.org.

¹ The current version of the monthly reporting template could be misunderstood to exclude (a) renewals that involve neither ex parte determinations nor prepopulated renewal forms; and (b) terminations that are based on findings of ineligibility but do not result in files being transferred to a Marketplace.

We are grateful for the remarkable commitment CMS has shown to gathering stakeholder recommendations and other feedback. We deeply value our ongoing partnership with you and look forward to continued collaboration in the months ahead.

Sincerely,

National Organizations

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| ACA Consumer Advocacy | Latino Commission on AIDS |
| Alliance of Community Health Plans (ACHP) | Lupus and Allied Diseases Association, Inc. |
| Allergy & Asthma Network | March for Moms |
| American Academy of Family Physicians (AAFP) | NAACP |
| American Academy of Pediatrics | National Alliance on Mental Illness (NAMI) |
| American College of Physicians | National Association of Community Health Centers (NACHC) |
| American Institute of Dental Public Health | National Association of Community Health Workers |
| American Public Health Association | National Association of Pediatric Nurse Practitioners |
| Asian & Pacific Islander American Health Forum (APIAHF) | National Association of Social Workers |
| Association for Community Affiliated Plans (ACAP) | National Birth Equity Collaborative |
| Association of Asian Pacific Community Health Organizations (AAPCHO) | National Consumers League (NCL) |
| Association of Clinicians for the Underserved | National Council of Urban Indian Health |
| Be a Hero | National Health Care for the Homeless Council |
| Catholic Health Association of the United States | National Health Council |
| Children's Hospital Association | National Health Law Program |
| Coalition on Human Needs | National Hispanic Medical Association |
| Community Catalyst | National Immigration Law Center |
| Conscious Talk Radio | National Indian Health Board |
| Consumer Action | National Partnership for Women & Families |
| Families USA | Oral Health Progress and Equity Network (OPEN) |
| First Focus on Children | Planned Parenthood Federation of America |
| Health Care Awareness Month | Positive Women's Network-USA |
| Health Care Voices | The American College of Obstetricians & Gynecologists |
| HealthConnect One | The Kennedy Forum |
| Hemophilia Federation of America | UnidosUS |
| Justice in Aging | |

Union for Reform Judaism
United States of Care
Young Invincibles

State Organizations

Alabama

Alabama Arise
Alabama Forward

Arizona

Children's Action Alliance

California

Asian Resources, Inc
California Rural Legal Assistance Foundation
Health Access California
Sacramento Covered
The Children's Partnership

Colorado

Colorado Center on Law and Policy
Colorado Children's Campaign
Colorado Consumer Health Initiative
The Consortium

Connecticut

Universal Health Care Foundation of
Connecticut

Georgia

Georgians for a Healthy Future

Illinois

AIDS Foundation Chicago
Prevent Blindness
Shriver Center on Poverty Law

Indiana

Covering Kids & Families of Indiana

Kentucky

Kentucky Equal Justice Center
Kentucky Voices for Health

Louisiana

Louisiana Democratic Party Disability Caucus
Louisiana Partnership for Children and Families

Massachusetts

Global Alliance for Behavioral Health and Social
Justice
Massachusetts Law Reform Institute
Massachusetts Senior Action Council

Maryland

High Note Consulting, LLC
Maryland Citizens' Health Initiative

Michigan

Michigan Primary Care Association

North Carolina

NC AIDS Action Network
NC Justice Center

Nebraska

Nebraska Appleseed

New York

Long Island Center for Independent Living, Inc.
(LICIL)

New York Legal Assistance Group (NYLAG)

Oral Health Nursing Education and Practice
(OHNEP)

New Jersey

Family Voices NJ

SPAN Parent Advocacy Network

Ohio

Northeast Ohio Black Health Coalition

Ohio Federation for Health Equity and Social
Justice

Ohio Grandparent Kinship Coalition

Oklahoma

Oklahoma Policy Institute

Pennsylvania

Pennsylvania Council of Churches

Philadelphia Health Partnership

Puerto Rico

MChA Law Office

South Carolina

SC Appleseed Legal Justice Center

Tennessee

Tennessee Health Care Campaign

Tennessee Justice Center

Texas

Every Texan

Texans Care for Children

Utah

Senior Charity Care Foundation

Virginia

Virginia Organizing

Virginia Poverty Law Center

Vermont

Voices for Vermont's Children

Washington

Northwest Harvest

West Virginia

West Virginians for Affordable Health Care