



Discussion of Interim Final Rule with Comment

Medicaid and CHIP Payment and Access Commission

Joanne Jee

Outline

- Overview of the interim final rule with comment
- Families First Coronavirus Response Act (FFCRA, P.L. 116-172)
- Continuous coverage provisions
- COVID-19 vaccine coverage provision
- Potential areas for comment

Overview of Interim Final Rule with Comment

- Published November 2 in the Federal Register
- Effective November 2
- Comments due January 4, 2021
- FFCRA provisions related to increased federal Medicaid match, continuous coverage, and COVID-19 vaccine coverage

Families First Coronavirus Response Act

- Provides a temporary 6.2 percentage point increase to the federal medical assistance percentage (FMAP) to states and territories that
 - Meet maintenance of effort requirements
 - Do not increase premiums over January 1, 2020 levels
 - Cover without cost sharing COVID-19 related testing, services, and treatment, including vaccines
 - Do not terminate beneficiary coverage through the end of the month the PHE ends (continuous coverage)

Continuous Coverage Provisions- Prior vs. New Interpretation

- Prior interpretation: States must maintain beneficiary enrollment with the same amount, duration, and scope of benefits in effect on or after March 18, 2020
- New interpretation: States must maintain Medicaid enrollment in one of three tiers for validly enrolled beneficiaries through the end of the month in which the PHE ends

New Continuous Coverage Provisions- Validly Enrolled

- Beneficiaries are generally considered to be validly enrolled unless the determination was incorrect due to agency error or beneficiary fraud or abuse.
- Those in a presumptive eligibility period are not considered validly enrolled.

New Continuous Coverage Provisions- Coverage Tiers

- Tier 1: Coverage that qualifies as minimum essential coverage (MEC), including coverage under a Medicare Savings Program.
- Tier 2: Non-MEC coverage that includes coverage for COVID-19 testing and treatment services, including vaccines, specialized equipment, and therapies.
- Tier 3: Non-MEC coverage with limited benefits that does not include COVID-19 testing or treatment services.

New Continuous Coverage Provisions- Transitions Between Eligibility Groups

- States may transition a validly enrolled beneficiary with Tier 1, 2, or 3 coverage to new eligibility group if it provides the same or higher tier of coverage.
 - Special rule for Tier 3
 - Does not specify if notice and appeals rules apply
- If a validly enrolled individual becomes ineligible for Medicaid, states must maintain the same tier of coverage.

New Continuous Coverage Provisions- Other Permitted Coverage Changes

- Validly enrolled individuals can be terminated
 - Upon beneficiary request
 - Beneficiary is no longer a resident of the state
 - Death of beneficiary
 - A PARIS match indicates Medicaid enrollment in two states and residency cannot be verified
- State must limit coverage to emergency services for immigrant children and pregnant women if they no longer meet the definition of lawfully residing

New Continuous Coverage Provisions- Individuals Not Validly Enrolled

- States may terminate coverage for individuals who were not validly enrolled, and remain eligible for the increased FMAP.
- Preamble indicates states must first conduct a redetermination, provide notice, and opportunity for state fair hearing.

New Continuous Coverage Provisions- Other Programmatic Changes

- States may
 - Modify covered benefits
 - Establish or increase beneficiary cost sharing
 - Increase beneficiary liability under post-eligibility treatment of income (PETI)
- Preamble indicates that states must provide proper advance notice; may not make such change retroactively; and amount, duration, and scope rules apply.

COVID-19 Vaccine Coverage – During the PHE

- States must cover COVID-19 vaccines and their administration without cost sharing.
- States must make payments to providers for vaccine administration or provider visits during which the vaccine is administered.
- The coverage requirement does not apply to beneficiaries eligible for limited benefits package.

COVID-19 Vaccine Coverage – After the PHE

- States must cover ACIP-recommended vaccines and their administration with no cost sharing for:
 - children under age 21,
 - adults with alternative benefit plan coverage, and
 - adults in states electing to receive the 1 percentage point FMAP increase on vaccine related spending for providing vaccines with no cost sharing.
- Vaccine coverage is optional for other adults (e.g., ABD, parents and caretaker relatives, pregnant women) and cost sharing is allowed.

Potential Areas for Comment

- Need for early CMS guidance on returning to routine operations post-PHE
- Regulatory text on beneficiary protections (e.g., advance notice, fair hearing rights)
- Notice and appeal rights for individuals transitioning between coverage tiers
- Eligibility determination for validly enrolled individuals losing eligibility at the PHE's end

Potential Areas for Comment (cont.)

- Appropriateness of validly enrolled definition
- Reasonableness of tiered coverage approach
- Approach to ensuring coverage for COVID-19 testing and treatment
- Balance between beneficiary protections and state flexibility



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