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CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

SHO #25-001

RE: Section 5112 Requirement for all States to Provide Continuous Eligibility to Children in Medicaid and CHIP under the Consolidated Appropriations Act, 2023

January 15, 2025

Dear State Health Official:

Section 5112 of the Consolidated Appropriations Act, 2023 (CAA, 2023) amended titles XIX and XXI of the Social Security Act (the Act) to require that states[1] provide 12 months of continuous eligibility (CE) for children under the age of 19 in Medicaid and the Children's Health Insurance Program (CHIP) effective January 1, 2024. The Centers for Medicare & Medicaid Services (CMS) is issuing this updated State Health Official (SHO) letter to provide states with guidance on implementing this requirement.

This letter provides background on the importance of CE in preventing interruptions that impede access to health coverage to support better short- and long-term health outcomes,[2] and describes policies related to implementing CE under the CAA, 2023 amendments. We also discuss the differences between the CE requirements that existed prior to the CAA, 2023 and those specified in the CAA, 2023. This letter also clarifies which states had to submit Medicaid and CHIP state plan amendments (SPA) and reminds states that section 1115 demonstration authority may also serve as a mechanism to extend the CE period for children beyond 12 months and/or to apply CE to adults.

Since first issuing this letter on September 29, 2023, CMS has clarified the CE policies relating to:

(1) the duration of the CE period for children who are determined eligible for Medicaid during a CHIP CE period after they are transitioned from a separate CHIP to Medicaid, and
(2) the prohibition on disenrolling children from CHIP during a CE period for failure to pay premiums.

[1] For the purposes of this letter, "states" refer to the 50 states, the District of Columbia, and the United States territories of American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.

[2] Brooks, T., & Gardner, A. (2021). Continuous Coverage in Medicaid and CHIP. *Georgetown University Center for Children and Families*. Retrieved from: https://ccf.georgetown.edu/wp-content/uploads/2012/03/CE-program-snapshot.pdf

In addition, SHO# 24-004, entitled, "Provision of Medicaid and CHIP Services to Incarcerated Youth," was released on July 23, 2024.[3] We have updated the incarceration section below to reference this guidance.

This letter reflects those updates, and supersedes the September 29, 2023, guidance on these topics. In addition, we are adding an attachment to this letter, entitled "Medicaid and CHIP Continuous Eligibility Frequently Asked Questions."

I. Background

A. Importance of CE for Medicaid and CHIP Children

CE provides coverage to children in Medicaid and CHIP for a full 12-month period regardless of changes in circumstances with certain exceptions as described in more detail throughout this letter.

Research has shown that children who are disenrolled for all or part of the year are more likely to have fair or poor health care status compared to children who have health coverage continuously throughout the year.[4] Guaranteeing ongoing coverage ensures that children have continuous access to the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit, which includes comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. Some states also offer EPSDT in their separate CHIP. EPSDT is key to ensuring that children and adolescents receive appropriate preventive, dental, mental health, developmental, and specialty services. Stable coverage enables health care professionals to provide EPSDT within a well-developed relationship with children and their parents, track their health and development, and avoid expensive emergency room visits.

In addition to improving short- and long-term health status, CE has been shown to reduce financial barriers to care for low-income families, promote health equity, and provide states with better tools to hold health plans accountable for quality care and improved health outcomes.[5] Additionally, the literature shows that CE policies are cost-effective for both families and states by mitigating the impact of income volatility on enrollment, as children lose and then regain eligibility when their family's income fluctuates. When families maintain coverage year-round, it reduces the administrative burden on state agencies due to repeated eligibility reviews and re-enrollment after a gap in coverage.[6]
CE has been shown to reduce rates of churn, or the percentage of children who disenroll in Medicaid and re-enroll within the year. For example, one analysis found that the churn rate was

[3] https://www.medicaid.gov/federal-policy-guidance/downloads/sho24004.pdf
[4] Brantley, E., & Ku, L. (2022). Continuous eligibility for Medicaid associated with improved child health outcomes. *Medical Care Research and Review*, *79*(3), 404-413.
[5] Park, E., Alker, J., & Corcoran, A. (2020). Jeopardizing a Sound Investment: Why Short-Term Cuts to Medicaid Coverage During Pregnancy and Childhood Could Result in Long-Term Harm. Retrieved from: https://www.commonwealthfund.org/publications/issue-briefs/2020/dec/short-term-cuts-medicaid-long-term-harm
[6] Georgetown University. (2021). Advancing Health Equity for Children and Adults with a Critical Tool: Medicaid and Children's Health Insurance Program Continuous Coverage. Retrieved from https://ccf.georgetown.edu/wp-content/uploads/2021/10/continuity-of-coverage-final.pdf

lower in states with 12-month CE (2.9 percent) than in states without CE (5.3 percent).[7] Additionally, CE helps to address racial and ethnic disparities by reducing churn rates in groups disproportionately impacted by disenrollment.[8]

Many states elected to provide CE in Medicaid and/or CHIP before enactment of the CAA in December 2022. As of September 2023, 21 states had implemented CE for children in both Medicaid and CHIP. An additional 11 states had implemented CE in at least one program. During the COVID-19 public health emergency (PHE),[9] CE protected families and children from experiencing gaps in coverage, and also demonstrated that CE improves access to care,[10] continuity of coverage, and lowers the uninsured rate for children.[11]

II. CE Requirements

A. Overview and Exceptions to CE

State Plan Option Before January 1, 2024

Under section 1902(e)(12) of the Act, implemented at 42 CFR §435.926, states have long had the option to provide 12 months of CE to children under age 19 in Medicaid. A similar option existed in CHIP at 42 CFR § 457.342. Prior to January 1, 2024, States had the flexibility to elect a younger age limit and/or a shorter CE period in both programs. Children under the state-specified age who were determined eligible for Medicaid or CHIP at initial application or a regularly-scheduled annual renewal would remain eligible for Medicaid or CHIP for the duration of the CE period regardless of most changes in circumstances (CIC) that may have affected eligibility, such as:

- Changes in income or household composition,
- Loss of Supplemental Security Income (SSI) for children eligible for Medicaid based on their eligibility for SSI, or
- Obtaining other health insurance for children enrolled in CHIP.

Medicaid and CHIP regulations[12] established limited exceptions to this general rule when a CIC could result in termination of eligibility during a CE period. Under these regulations, a child's

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[7] Williams, E., Corallo, B., Tolbert, J., Burns, A., & Rudowitz, R. (2021). *Implications of Continuous Eligibility Policies for Children's Medicaid Enrollment Churn*. Retrieved from https://www.kff.org/medicaid/issue-brief/implications-of-continuous-eligibility-policies-for-childrens-medicaid-enrollment-churn/

[8] Georgetown University. (2021). Advancing Health Equity for Children and Adults with a Critical Tool: Medicaid and Children's Health Insurance Program Continuous Coverage. Retrieved from https://ccf.georgetown.edu/wp-content/uploads/2021/10/continuity-of-coverage-final.pdf

[9] See Section 6008 of the Families First Coronavirus Response Act (P.L. 116-127).

[10] Vasan, A., Kenyon, C., Fiks, A. G., & Venkataramani, A. S. (June 2023). Continuous Eligibility and Coverage Policies Expanded Children's Medicaid Enrollment: Study examines state continuous eligibility and coverage policies and children's Medicaid enrollment during COVID-19. *Health Affairs*, *42*(6), 753-758.

[11] Alker, J., Osorio, A., Park, E., Guest, Brooks, T., & Schneider, A. (December 2022). *Number of uninsured children stabilized and improved slightly during the pandemic*. Center for Children and Families. Retrieved from https://ccf.georgetown.edu/2022/12/07/number-of-uninsured-children-stabilized-and-improved-slightly-during-the-pandemic-2/

[12] §§ 435.926(d) and 457.342(b)

eligibility could not be terminated during a CE period unless one of the following exceptions applied:[13]

(1) The child attained age 19 or a lower age specified by the state;
(2) The child or child's representative requested a voluntary termination of eligibility;
(3) The child ceased to be a resident of the state;
(4) The agency determined that eligibility was erroneously granted at the most recent determination, redetermination, or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative; or
(5) The child is deceased.

The CHIP regulation also provided two additional CHIP-specific exceptions:

(6) The child became eligible for Medicaid; and
(7) At state option, the family failed to pay premiums or enrollment fees.

Changes to CE under the CAA, 2023

Section 5112 of the CAA, 2023 amended section 1902(e)(12) and added a new paragraph (K) to section 2107(e)(1) of the Act to require one year of CE under the state plan or a waiver of the state plan for children under age 19 enrolled in Medicaid and CHIP, effective January 1, 2024. The amendments to section 1902(e)(12) of the Act explicitly provide for an exception to CE for children who:

- Reach age 19; or
- Cease to be state residents.

The following regulatory exceptions, discussed above, are not explicitly identified in the CAA, 2023. However, states are expected to take appropriate steps to terminate eligibility in the following situations, including providing required Medicaid and CHIP notice and appeals rights with sufficient advance notice.

- The child or child's representative requests a voluntary termination of eligibility (same as #2 above);
- The agency determines that eligibility was erroneously granted at the most recent determination, redetermination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative (same as #4 above); or
- The child is deceased (same as #5 above).

The death or voluntary termination of a child does not involve the State's evaluation of eligibility at all, and therefore is not barred by the prohibition on reassessing eligibility based on changed circumstances during a CE period. Indeed, it is unclear how coverage could continue when the

[13] For Medicaid, termination of coverage during a CE period must comply with notice and explanation of fair hearings process requirements at part 431 Subpart E. For separate CHIP, termination of coverage during a CE period must comply with the requirements for notice and explanation of rights to a review process at §§ 457.340(e) and 457.1180.

child has died or is voluntarily removed from the program. Similarly, a decision that coverage was improperly provided to begin with (based on mistake, fraud, abuse, or perjury) does not involve a re-determination of eligibility based on changed circumstances during the CE period; rather, it is a correction to a child's eligibility status before the CE period began.

In addition, States must move a child from a separate CHIP to Medicaid if the child is determined eligible for Medicaid during their CE period. In the case of a child transitioning from CHIP to Medicaid in the middle of a CE period, in the September 29, 2023 version of this SHO, we indicated that the state must maintain the child's enrollment in Medicaid for the remaining duration of their current CE period.[14] After further consideration, we believe the statute could also be interpreted to permit states to provide children with a new 12-month CE period based on the date they were determined eligible for Medicaid.[15] As a result, we are revising the policy described in the September 29, 2023 guidance to provide states with the option to either: (1) maintain a child's enrollment in Medicaid for the remaining duration of their current CE period and conduct a full eligibility renewal at that time; or (2) provide a child with a new 12-month CE period based on the date the child was determined eligible for Medicaid, and conduct a full eligibility renewal at the end of the new 12-month CE period.

In contrast to the requirements for children enrolled in CHIP, neither section 1902(e)(12) of the Act nor the regulations at 42 C.F.R. § 435.926 provide an exception to CE for children enrolled in Medicaid who become eligible for CHIP during a CE period. States may *not* move a child from Medicaid to a separate CHIP during their CE period.

Prior to January 1, 2024, States also had the option under § 457.342(b) to disenroll children from a separate CHIP for failure to pay required premiums or enrollment fees required under the state plan, subject to the disenrollment protections afforded under section 2103(e)(3)(C) of the Act (related to premium grace periods) and § 457.570 (related to other disenrollment protections).

The CAA, 2023, changed the statutory authority for the CE period in the CHIP statute requiring that CE "shall" apply to CHIP "in the same manner" as such CE applies to Medicaid. The Medicaid CE regulations at § 435.926 have never contained an exception permitting states to terminate coverage for failure to pay premiums or enrollment fees. Thus, under the amendments to the statute made by the CAA, 2023, states may no longer apply this exception to children enrolled in CHIP. CMS revised regulations at § 457.342(b) effective January 1, 2025, to reflect this change by eliminating the exception relating to nonpayment of premiums in the final rule, "Medicare and Medicaid Programs: …Medicaid and CHIP Continuous Eligibility" (89 FR 93912, 94462-67, November 27, 2024).[16] Thus, states cannot terminate enrollment of a child in CHIP during a CE period due to the family's failure to pay premiums. States may continue to

[14] See section 2107(e)(1)(K), providing that a "targeted low-income child enrolled under the State child health plan or waiver may be transferred to the Medicaid program under title XIX for the remaining duration of the 12-month continuous eligibility period, if the child becomes eligible for full benefits under title XIX during such period."
[15] *See* section 1902(e)(12)(A), providing that a CE period for a child determined eligible "under a State plan (or waiver of such plan) approved under this subchapter" (i.e., for Medicaid) shall be terminated at "the end of the 12-month period beginning on the date of such determination."
[16] See the November 27, 2024 final rule at https://www.govinfo.gov/content/pkg/FR-2024-11-27/pdf/2024-25521.pdf

require an initial premium or enrollment fee to be paid prior to an individual enrolling in coverage and/or pursue the collection of past-due premiums.

B. Populations Covered under CE

Section 1902(e)(12) of the Act, as amended by the CAA, 2023, applies to all children under age 19 who are enrolled under the state plan in a mandatory or optional Medicaid eligibility group described in section 1902(a)(10)(A) of the Act and implementing regulations at 42 CFR part 435 subparts B and C.[17] Section 2107(e)(1)(K) of the Act, added by the CAA, 2023, applies to all targeted-low income children[18] enrolled in a separate CHIP under the state plan. This includes targeted low-income children covered from-conception-to-end-of-pregnancy (FCEP) option. States also are required to provide CE to children enrolled in Medicaid or CHIP under a section 1115 demonstration.

States are *not* required to provide 12 months of CE to children who have *only* established eligibility through medically needy Medicaid coverage under section 1902(a)(10)(C) of the Act, or children who have been determined presumptively eligible for Medicaid or CHIP consistent with section 1920A of the Act, but who have not yet received a determination of eligibility based on a regular application. States also are not required to provide 12 months of CE to children who, upon a renewal, are determined to only be eligible for Medicaid based on transitional medical assistance (TMA) under section 1925 of the Act. (See discussion below on "Duration of CE Period.")

Effective January 1, 2024, states will no longer have the option to limit CE in both Medicaid and CHIP to children under an age (up to age 19) specified by the state or apply CE to a subset of children in CHIP.

C. Duration of CE Period

Effective January 1, 2024, states that have adopted a period of less than 12 months under existing policy were required to extend the CE period for children to 12 months as this policy is no longer permissible under the CAA.

Beginning of CE Period for New Applicants

Medicaid regulations[19] specify that the CE period for new applicants determined eligible for coverage begins on the effective date of the individual's eligibility – either the date of application or the first day of the month when the application is submitted, depending on the

[17] This includes children eligible under the mandatory group codified at § 435.121 for individuals age 65 or over or who have disabilities or blindness in section 209(b) states as well as children who are eligible under section 1902(e)(3) of the Act and § 435.225 (relating to individuals under age 19 who would be eligible for Medicaid if they were in a medical institution, commonly referred to as the "Katie Beckett" group). Section 1902(f) generally requires that individuals eligible in a 209(b) state's mandatory eligibility group for individuals 65 years old or who have blindness or disabilities be considered eligible under section 1902(a)(10)(A) of the Act. Similarly, section 1902(e)(3) of the Act requires that Katie Beckett enrollees be treated as SSI beneficiaries.

[18] Targeted low-income child is defined in Section 2110(b) of the Act and § 457.310.

[19] § 435.926

state's election.[20] Current CHIP regulations[21] specify that the CE period begins on the effective date of the child's eligibility.[22] States have the flexibility to determine the effective date of eligibility based on the date of application or another reasonable methodology that ensures a coordinated transition of children between CHIP and other insurance affordability programs as family circumstances change to avoid gaps or overlaps in coverage.

The Medicaid and CHIP regulations governing the beginning of the CE period for new applicants will continue to apply to children enrolled in Medicaid or CHIP on or after January 1, 2024, when the requirement to provide CE to children under age 19 in Medicaid and CHIP went into effect.

Beginning of CE Period Following a Periodic Renewal of Eligibility

States must renew eligibility for Medicaid and CHIP beneficiaries whose financial eligibility is determined using Modified Adjusted Gross Income (MAGI)-based methodologies every 12 months and no more frequently than once every 12 months.[23] States must renew eligibility for Medicaid beneficiaries excepted from MAGI-based financial methodologies at least once every 12 months but may conduct regular renewals more frequently but no more frequently than every six months.[24] We refer to the period between regular renewals as the "eligibility period."

For children whose Medicaid or CHIP eligibility is being redetermined at a regular renewal, current regulations provide that the CE period begins on the effective date of the individual's renewal, which begins a new eligibility period.[25] Because almost all children have 12-month eligibility periods and the 12-month CE period begins on the effective date of the child's most recent determination or redetermination of eligibility, a child's CE period generally will align with their renewal cycle.[26]

Current Enrollees Whose Eligibility Period Ends After January 1, 2024

Because the CE period is based on the effective date of the child's last eligibility determination (either at initial application or last renewal), for states newly implementing CE children under age 19 enrolled in Medicaid and CHIP will receive CE for the remainder of their eligibility period based on the date of their last determination. For example, Elijah is enrolled in a state that

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[20] § 435.915
[21] § 457.342
[22] §457.340(g)

[23] In March of 2024, CMS published a final rule that says that except as provided in § 435.919, by June 3, 2027, states must renew eligibility once every 12 months and no more frequently than once every 12 months for non-MAGI beneficiaries. States may elect to implement this requirement sooner.

[24] §435.916(b)
[25] §§ 435.926 and 457.342
[26] The only exception would involve children enrolled in Medicaid whose eligibility is not based on MAGI if the state has elected a shorter renewal period permitted under § 435.916(b). For these individuals, states may only act on changes in circumstance that fall into one of the exceptions to the provision of CE discussed in section II.A of this SHO letter.

implements CE for the first time on January 1, 2024. Elijah's most recent determination of eligibility was completed in September 2023, and his current eligibility period began on October 1, 2023. Effective January 1, 2024, the state must provide Elijah with CE for the remainder of his 12-month eligibility period (through September 30, 2024), unless he experiences one of the exceptions to the provision of CE discussed in section II.A of this SHO letter. States that already implement CE for a 12-month period will continue to provide CE through a child's existing CE period. States that currently provide less than 12 months of CE will have to extend a child's CE period to 12 months.

Interaction of CE and Continuous Enrollment during the COVID-19 PHE Unwinding Period

Congress enacted the Families First Coronavirus Response Act (FFCRA) at the start of the COVID-19 Public Health Emergency (PHE) on March 18, 2020. Section 6008 of the FFCRA allowed states to claim a temporary 6.2 percentage point increase in Federal Medical Assistance Percentage (FMAP) if they met certain conditions, including a continuous enrollment condition to keep nearly all individuals, including children, continuously enrolled in Medicaid for most of the period while the COVID-19 PHE was in effect. The CAA, 2023 amended section 6008 of the FFCRA to end the continuous enrollment condition on March 31, 2023. While the continuous enrollment provision was not applicable to separate CHIPs, some states obtained authority through a CHIP disaster relief SPA to delay processing renewals or through a section 1115 demonstration to authorize continuous coverage in CHIP, which had the similar result of maintaining continuous enrollment of children in CHIP.

CMS recognizes that states were in the process of unwinding when mandatory CE for children became effective. As a result, states likely have some children whose eligibility was not renewed during the 12-month period preceding January 1, 2024.

For children who did not have a determination or renewal of eligibility within the 12 months preceding January 1, 2024, and whose renewal during the unwinding period is conducted on or after that date, states will begin a new CE period when the renewal during the state's unwinding occurs, provided that the child is determined to be eligible at that time. For example, Mia's last redetermination was August 1, 2021. The state initiates a renewal for Mia during its unwinding period in December 2023. The state typically takes three months to complete the renewal for a given cohort, such that Mia's coverage is expected to end or be renewed effective March 1, 2024. The state determines that she is still eligible for Medicaid. Mia's CE period will align with her new eligibility period, beginning March 1, 2024, and extending through February 28, 2025.

Conversely, if the state had determined Mia was ineligible when the state completed her renewal, Mia's coverage would end effective March 1, 2024. Mia no longer gets the benefit of CE because her last redetermination was completed more than 12 months ago (August 1, 2021) and the state has determined that she no longer meets eligibility requirements.

D. Acting on Information from Electronic Data Sources During a CE Period

Changes in Circumstances Experienced Between Renewal Periods

As noted above, states must renew eligibility for CHIP and MAGI-based Medicaid beneficiaries once every 12 months and may renew eligibility for MAGI-excepted Medicaid beneficiaries more frequently.[27] States also are expected to have procedures in place designed to ensure that beneficiaries make timely and accurate reports of any CICs that may affect their eligibility, and to redetermine eligibility when such changes are reported.[28] States also can elect to obtain information from reliable outside sources (e.g., through conducting periodic data matches (PDM) with electronic data sources) between regular renewals to detect CICs that may impact eligibility.

For children entitled to a 12-month CE period, states may not terminate eligibility based on CICs either reported by the family or detected through a PDM prior to the child's regularly scheduled renewal (which is conducted at the end of the child's eligibility period), unless the change relates to one of the exceptions to CE listed in section II.A of this letter.

Since children are protected from termination due to most CICs, but adults are not, states cannot delay acting on CICs that may impact eligibility for adults ages 19 or older that are also enrolled in Medicaid or CHIP. When both children and adults in a given household are enrolled in Medicaid or CHIP, states must ensure that, when acting on a CIC that impacts the eligibility of a household member age 19 or older, the eligibility of a child in a CE period is not impacted unless the change relates to one of the exceptions to CE in section II.A of this letter.

Post-Enrollment Verification

In processing applications, states have the option to enroll individuals based on self-attested information and conduct required verifications post-enrollment, consistent with the state's verification plan.[29] This process is commonly referred to as "post-enrollment verification." Children who have been determined eligible for Medicaid or CHIP based on attested information are entitled to a 12-month CE period. States may *not* terminate coverage for such children during a CE period if, in conducting post-enrollment verification, the state obtains information that indicates that the child does not meet all of the eligibility requirements unless the information indicates that one of the limited exceptions to CE discussed in section II.A of this letter applies (e.g., the child turns age 19 or ceases to be a state resident). Such information is considered a CIC, and the child's coverage may not be terminated. Rather, the child must remain eligible for coverage through the end of the 12-month period following the effective date of eligibility based on the initial determination. As long as the attested information indicates that the child is eligible, the state is not considered to have made an erroneous determination, even if there is an inconsistency between the attested information and information subsequently obtained from

[27] As mentioned earlier, if states conduct renewals for MAGI-excepted beneficiaries more than once a year, states may only act on changes in circumstance that fall into one of the exceptions to the provision of CE discussed in section II.A of this SHO letter. On April 2, 2024, CMS published a final rule that says that except as provided in § 435.919, by June 3, 2027, states must renew eligibility once every 12 months and no more frequently than once every 12 months for non-MAGI beneficiaries. States may elect to implement this requirement sooner.
[28] § 435.916(c) and (d), and § 457.343
[29] Per §§ 435.945(j) and 457.380(j), states are required develop, and update as needed, a verification plan that describes the verification policies and procedures.

electronic data sources after enrollment.[30] This policy does not apply to children who have attested to being a U.S. citizen or in a satisfactory immigration status,[31] and who are receiving benefits during a reasonable opportunity period (ROP),[32] if the state is unable to verify the child's status during the ROP.

III. Considerations for Specific Populations

A. Summary of Existing Medicaid Incarceration Policies

Medicaid: Eligibility for Children Who Become Incarcerated

Federal law provides that incarceration status does not preclude eligibility for Medicaid. Individuals who are incarcerated are eligible for Medicaid if they otherwise meet all eligibility requirements under the state plan. However, the provision of federal financial participation (FFP) for inmates of a public institution under Medicaid, including children, is limited to inpatient services that are furnished to the individual while admitted to a medical institution for at least a 24-hour inpatient stay.[33]

To comply with the FFP limitation, states historically have either terminated or suspended coverage for Medicaid beneficiaries who become incarcerated. However, the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) prohibits the termination of "eligible juveniles" who are incarcerated and instead requires states to suspend their Medicaid coverage for the duration of their incarceration.[34, 35] To comply with these requirements, states can elect to either suspend benefits or eligibility when a child in Medicaid is incarcerated:[36]

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[30] Children whose citizenship or satisfactory immigration status is not verified have not been determined eligible for Medicaid or CHIP. If a state is unable to verify a child's status prior to the end of the ROP, the state must take action within 30 days, to terminate benefits in accordance with §§ 435.956(b)(3) and 457 380(b)(1)(ii).

[31] Applicable regulations are at §§ 435.406(a) and 457.320(d),

[32] Applicable reasonable opportunity period regulations are at §§ 435.956(b) and 457.380(b)(1)(ii).

[33] For additional information on when individuals are considered an inmate of a public institution see § 435.1010 and State Health Official Letter # 16-007 available at https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/sho16007.pdf. Subdivision (A) of the matter following section 1905(a)(30) of the Act limits the provision of FFP to inpatient services provided to individuals who are incarcerated. For purposes of this payment exclusion, "medical institutions" include hospitals, nursing facilities, intermediate care facilities for individuals with intellectual disabilities, and to facilities pursuant to the inpatient psychiatric services available for individuals under age 21 through the EPSDT benefit, including psychiatric residential treatment facilities. To qualify for the medical institution exception, services must be covered under the state's Medicaid plan, delivered in a prescribed setting in a way that is consistent with other terms of the state's Medicaid plan, and provided by a certified or enrolled provider that maintains compliance with federal requirements.

[34] Section 1001 of the SUPPORT Act, Public Law 115-271, enacted October 24, 2018, added section 1902(a)(84) of the Act.

[35] An "eligible juvenile" is defined as an individual who is under 21 years of age or an individual eligible under the mandatory eligibility group for former foster care children who was determined eligible for Medicaid prior to becoming or while an inmate of a public institution.

[36] See SMDL #21-002 "Implementation of At-Risk Youth Medicaid Protections for Inmates of a Public Institution (Section 1001 of the SUPPORT Act)" (available at https://www.medicaid.gov/sites/default/files/2021-12/smd21002.pdf) for additional information regarding suspension strategies available under Medicaid.

- Under a benefits suspension, individuals who become incarcerated continue to be eligible for Medicaid, but coverage is limited only to inpatient services. When benefits are suspended, the state must complete regular annual renewals and redetermine eligibility when the incarcerated individual experiences a CIC that may impact their eligibility for the duration of the individual's incarceration.

- Under an eligibility suspension, the individual's Medicaid eligibility is not terminated, but is effectively paused. Eligibility can be reinstated if the individual needs covered inpatient services. Depending on when the individual's last full determination was conducted (i.e., at application or most recent regular renewal), the state may need to conduct a renewal prior to reinstating eligibility. When eligibility is suspended, a state may, but is not required to, conduct regular annual renewals. We also note that states electing to suspend eligibility will need to conduct a redetermination prior to release[37] for individuals who were determined eligible more than 12 months prior to the date of release, if the state has not redetermined eligibility within the 12-month period preceding release.

Medicaid: CE for Children who Become Incarcerated

Current Medicaid regulations[38] do not include incarceration as a permissible reason to end a child's CE period in Medicaid if a state has elected to provide CE. The CAA, 2023 does not change the current policy. Therefore, if a child becomes incarcerated during their CE period, the child remains eligible for the remainder of the CE period while incarcerated.

During a CE period, states that implement a *benefits suspension* for children in Medicaid who become incarcerated may not act on CICs that occur, unless the CIC triggers one of the exceptions to CE listed in section II.A of this SHO letter. This means that the child would be eligible for any necessary inpatient services under Medicaid until the end of their CE period. The state would complete an annual renewal at the end of a child's CE period.

During a CE period, states that implement an *eligibility suspension* would not take CICs into account if a child in Medicaid needed inpatient services while incarcerated prior to their annual renewal. Under an *eligibility suspension*, if a child in a carceral setting needed inpatient services, the state only would consider whether the child's last eligibility determination was within the previous 12 months, such that the child is still in their CE period. If it has been more than 12 months since the child's last eligibility determination, the child's CE period would have expired, and the state would need to redetermine their eligibility prior to providing coverage for inpatient services.

B. Summary of CHIP Incarceration Policies

CHIP: Eligibility for Children who Become Incarcerated

[37] States are required to redetermine eligibility for eligible juveniles prior to their release from a carceral facility consistent with section 1902(a)(84)(B) of the Act. See SMDL #21-002 for more information.
[38] § 435.926

Unlike in Medicaid, incarceration status *is* a factor of eligibility in CHIP. A child who is an inmate of a public institution is excluded from the statutory definition of a targeted low-income child and therefore, without CE, a child who is in a carceral setting is ineligible for a separate CHIP.[39]

CHIP: CE for Children who Become Incarcerated

Under current CHIP regulations,[40] incarceration is not an exception to CE. Thus, in the case of a child currently enrolled in CHIP, incarceration is not a permissible reason to terminate coverage during a CE period. This means that children determined eligible for CHIP at initial application or renewal who later become incarcerated during a CE period, remain eligible. In addition, these children continue to receive services that are covered under the CHIP state plan through the end of their CE period, if the services are not otherwise provided by the carceral setting. However, if a child remains incarcerated at the end of their CE period, the state must terminate the child's CHIP coverage because they no longer meet the definition of a targeted low-income child.

CHIP: Modifications under the CAA, 2023 to CHIP Eligibility for Children who Become Incarcerated

The CAA, 2023 amendments to sections 1902(e)(12) and 2107(e)(1)(K) of the Act do not explicitly change the incarceration policy for CHIP enrollees in a CE period. However, effective January 1, 2025, section 5121 of the CAA 2023 adds a new paragraph at section 2102(d), to the Act. That new paragraph modifies how incarceration impacts a child's CHIP eligibility and specifies the actions states must take during their period of incarceration. The language added at section 2102(d) of the Act is virtually identical to the existing Medicaid requirements at section 1902(a)(84) of the Act for eligible juveniles, as described in the SMD 21-002. Due to the similarity of the language, we aligned our interpretation of section 2102(d) of the Act with our interpretation of section 1902(a)(84) to the extent possible, including the interaction of CE for incarcerated children in Medicaid and CHIP with the provisions in section 5121 of the CAA, 2023.

Section 2102(d)(1)(A) of the Act, as amended by section 5121 of the CAA, 2023 requires that "[s]tate[s] shall not terminate eligibility for child health assistance under the State child health plan for a targeted low-income child because the child is an inmate of a public institution, but may suspend coverage during the period the child is such an inmate." This means that, effective January 1, 2025, states may no longer terminate otherwise-eligible children from CHIP at renewal if the only reason for the termination is that they have become an inmate of a public institution. Under section 2102(d)(1)(A) of the Act, as revised by the CAA, 2023, states will no longer be permitted to terminate coverage for a child at the end of their CE period because they are still incarcerated. If they are found ineligible for CHIP for another reason after their CE period ends, the state may terminate the child's CHIP eligibility at that time.

When the September 29, 2023 SHO was released, we explained that prior to January 1, 2024, when CE became mandatory, only states that had elected the option to implement CE could elect

[39] Section 2110(b)(2)(A) of the Act and regulations at § 457.310 define targeted low-income child.
[40] § 457.342

to suspend, rather than terminate, enrollment of a child who became incarcerated. Effective January 1, 2024, all states have the option to suspend coverage for children who become incarcerated or to continue to furnish benefits. States may revise their state plans at any time to demonstrate that they suspend CHIP coverage. States electing to suspend CHIP coverage may choose one of the suspension options discussed in detail under the subheading above entitled "Medicaid: Eligibility for Children who Become Incarcerated." States will also retain the option to continue to provide all CHIP-covered services to incarcerated youth not otherwise paid for by the carceral setting through the end of their CE period.

Regardless of whether the state elects to suspend coverage or to provide benefits during a CE period, effective January 1, 2025, states also must maintain children's eligibility in CHIP (in either a suspended enrollment or suspended benefits status) if they otherwise remain eligible for CHIP at subsequent renewals conducted at the end of a child's CE period. States may only terminate CHIP coverage for children who are incarcerated if they experience one of the exceptions to CE or are found ineligible for CHIP for a reason other than being incarcerated at a regular renewal when their CE period ends. If a targeted low-income child is released from the carceral setting during a CE period, the state is required to reinstate coverage and benefits without conducting a redetermination of eligibility.

Please see SHO # 24-004 "Provision of Medicaid and CHIP Services to Incarcerated Youth" for additional information on the changes to section 2102(d)(1)(A) of the Act made by section 5121 of the CAA, 2023 and their interaction with the requirement to provide CE to children enrolled in CHIP under section 2107(e)(1)(K) of the Act and 42 CFR § 457.342.

C. From-Conception-to-End-of-Pregnancy Option

Under § 457.10, states have the option to provide coverage in order to provide prenatal care and other pregnancy-related benefits from conception to end of pregnancy to pregnant individuals, if they are not eligible for Medicaid or CHIP.[41]

Under section 2107(e)(1)(K) of the Act, states must provide CE to those eligible under the FCEP option in the same manner as CE for targeted low-income children. The duration of the CE period, however, will depend on how states pay for labor and delivery services.

Currently, states generally must enroll the pregnant individual, if eligible, for coverage of services necessary to treat an emergency medical condition, which includes labor and delivery ("Emergency Medicaid"). The only exception to this general rule is if the pregnant individual is ineligible for Emergency Medicaid or the state uses a bundled or global payment[42] to cover prenatal, labor and delivery, and postpartum care in CHIP.

The duration of CE depends on whether a state enrolls the pregnant individual into Medicaid for coverage of labor and delivery or pays for the delivery under CHIP, as follows:

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[41] See the October 2, 2002 final rule at https://www.federalregister.gov/documents/2002/10/02/02-24856/state-childrens-health-insurance-program-eligibility-for-prenatal-care-and-other-health-services-for

[42] See CMS SHO #02-004; available at https://healthlaw.org/wp-content/uploads/2018/09/cms_release_on_prenatal_care_for_fetuses.pdf.pdf

- *Emergency Medicaid pays for labor and delivery.* Under the Medicaid deemed newborn requirement, the newborn will be deemed eligible for Medicaid at birth (regardless of family income), so the child is automatically eligible for continuous coverage in Medicaid until their first birthday.[43] Because the newborn is eligible for Medicaid, the CHIP CE period that began on the effective date of coverage under the FCEP option ends at birth.

- *CHIP pays for labor and delivery.* Many newborns will be eligible for Medicaid, if their family's income is at or below the Medicaid income standard for infants, even though labor and delivery was covered by CHIP. Therefore, the state must screen the newborn for potential eligibility for Medicaid at birth. Such screening must be based on information available to the state without contacting the individual, unless additional information is needed to verify the specific change in circumstances.[44] Depending on the results of this screen, the state must take a different action:

    a. *The screening identifies potential eligibility for Medicaid.* The state must transition the newborn to Medicaid for the remainder of their 12-month CE period (beginning on the effective date of coverage under the FCEP option) or may choose to provide a new 12-month CE period in Medicaid from the date of the determination if the state has enough information available to it to determine eligibility with respect to all eligibility criteria without requiring additional information or documentation from the family.[45]

    b. *The screening does not indicate potential eligibility for Medicaid.* The state must maintain the newborn's coverage in CHIP for the duration of the 12-month CE period (beginning on the effective date of coverage under the FCEP option).[46] If the screening indicates the child remains eligible for CHIP, the state may begin a new 12-month CE period if it has enough information available to redetermine CHIP eligibility with respect to all eligibility criteria without requiring additional information or documentation from the family.[47]

We note that, while states may continue using bundled payments to provide postpartum care to those eligible under the FCEP option, states can also provide postpartum care through a health services initiative (HSI).[48] Covering labor and delivery under Medicaid and postpartum care for the parent through an HSI may be beneficial for both the parent and child. Infants whose birth is

[43] Requirements for deemed newborns are at § 435.117. When the deemed newborn reaches their first birthday, the state must conduct a renewal of eligibility in accordance with § 435.916.
[44] See §457.350(b) for CHIP screening and enrolling procedures. Section 457.350(b) cites to § 457.343, which incorporates Medicaid regulations about changes in circumstances by cross referencing § 435.916(d)(1).
[45] § 435.916(b)(1)(ii).
[46] If the newborn continues to appear eligible for CHIP, states may move the child from the FCEP eligibility category to another CHIP eligibility category for the remainder of their 12-month CE period as long as the change does not result in a loss of benefits or an increase in cost sharing. States may not contact the child's family for additional information in order to move the newborn to a new CHIP eligibility category.
[47] § 457.344(e)
[48] January 12, 2017 Health Services Initiatives FAQs (https://www.medicaid.gov/federal-policy-guidance/downloads/faq11217.pdf) for more information.

not paid for as part of a bundled payment that are deemed eligible for Medicaid[49] are entitled to Medicaid eligibility for one year and receive the mandatory EPSDT benefit in Medicaid, which is an optional benefit in CHIP. States also generally impose lower premiums and cost sharing charges under Medicaid compared to CHIP. Additionally, by using an HSI for postpartum care, states can provide the same comprehensive postpartum coverage to all pregnant individuals across Medicaid and CHIP for up to 12 months, not just the postpartum services covered through a bundled payment.

IV. State Plan Amendments (SPAs)

All states had to submit Medicaid and/or CHIP SPAs to come into compliance with sections 1902(e)(12) and 2107(e)(1)(K) of the Act, except for states that previously provided CE in a manner that was consistent with the requirements following from the amendments made by the CAA, 2023 discussed in this SHO.

States that elected to implement CE prior to the CAA, 2023, originally received approval to do so through a paper-based SPA. All of these states were required to attest to compliance with the CAA CE requirements in the current online SPA system, referred to as MACPro. States submitted new CE-related SPAs for Medicaid through MACPro and CHIP SPAs through the Medicaid Model Data Lab (MMDL).

For Medicaid, to have an effective date of January 1, 2024, states had to submit their SPA no later than March 31, 2024, in accordance with Medicaid regulations.[50] For CHIP, to have an effective date of January 1, 2024, states had to submit their SPA no later than the end of the state fiscal year in which January 1, 2024 falls.[51]

V. Section 1115 Demonstration Authority

States may also request CE for children for more than a 12-month period, or multi-year CE, through section 1115 demonstration authority. CMS has approved demonstration authority in a few states to provide CE for longer than 12 months, including CE for children determined eligible until they reach age six, and a two-year CE period for children ages six and older. We recognize that CE for adults also supports consistent coverage and continuity of care by keeping adults and children enrolled for a longer period of time regardless of income fluctuations or most other changes that otherwise would affect eligibility. These types of demonstrations are expected to minimize coverage gaps and to help maintain continuity of access to program benefits, and thereby help improve health outcomes of beneficiaries. CE is also an important aspect of reducing the rate of uninsured and underinsured adults. For more information about the section 1115 demonstration application process, states may contact their CMS Section 1115 Project Officer or refer to the "1115 Application Process" webpage on Medicaid.gov at https://www.medicaid.gov/medicaid/section-1115-demonstrations/1115-application-process/index.html

[49] § 435.117
[50] §§ 430.12 and 430.20
[51] §§ 457.60 and 457.65

VI. Closing

CMS looks forward to its continued work with states on the implementation of CE in all states and ensuring that children enrolled in Medicaid and CHIP have continuous access to the coverage afforded to them under the statute. Please reach out to your Medicaid state lead or CHIP project officer with any questions related to the guidance in this letter.

Sincerely,

/s/

Daniel Tsai
Deputy Administrator and Director

Medicaid and CHIP Continuous Eligibility FAQs

Specific Changes in Circumstance

Q1: Under what circumstances can states terminate coverage for a child during a Medicaid or CHIP continuous eligibility (CE) period?

A1: States may not terminate coverage for a child during the 12-month CE period in Medicaid or CHIP unless:

(1) The child attains age 19;
(2) The child or child's representative requests a voluntary termination of eligibility;
(3) The child ceases to be a resident of the state;
(4) The agency determines that eligibility was erroneously granted at the most recent determination, redetermination, or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative; or
(5) The child dies.

The CHIP regulation also provides one additional CHIP-specific exception:

(6) The child becomes eligible for Medicaid.

Q2: Are there any circumstances, other than those described in State Health Official Letter #25-001, *Section 5112 Requirement for all States to Provide Continuous Eligibility to Children in Medicaid and CHIP under the Consolidated Appropriations Act, 2023* (SHO #25-001) and outlined in Q1 above, in which a child's Medicaid or CHIP coverage would be terminated prior to the end of the 12-month CE period? For example, if the child's whereabouts are unknown or if a parent leaves the home?

A2: No, unless there is a loss of satisfactory immigration status (see Q4). Otherwise, states may not terminate coverage for a child during the 12-month CE period, regardless of any changes in circumstances other than those described in Q1, above.

Q3: If a state enrolls a child based on attested information and conducts required verifications post-enrollment, may the state disenroll the child if the information collected post-enrollment shows that the child does not meet all eligibility requirements?

A3: No. In processing applications, states have the option to enroll individuals based on self-attested information and conduct required verifications post-enrollment, consistent with the state's verification plan. This process is commonly referred to as "post-enrollment verification." Children who have been determined eligible for Medicaid or CHIP based on attested information are entitled to a 12-month CE period, unless they enrolled during a reasonable opportunity period (ROP) pending verification of citizenship or satisfactory immigration status, as discussed in Q15 below. States may not terminate coverage for such children during a CE period if, in conducting post-enrollment verification, the state obtains information indicating the child does not meet all

of the eligibility requirements, unless the information indicates that one of the limited exceptions to CE, discussed in Q1 above, applies. As long as the attested information indicates that the child is eligible, the state is not considered to have made an erroneous determination, even if there is an inconsistency between the attested information and information subsequently obtained from electronic data sources after enrollment.

Q4: Does CE apply to lawfully residing noncitizen children who are eligible in a state that has elected the option under sections 1903(v)(4) and 2107(e)(1)(P) of the Act ("CHIPRA 214 option") to cover lawfully residing children if the child's immigration status changes mid-year?

A4: Available benefits will be impacted if the child loses their lawfully residing status. For a child enrolled in Medicaid, a change in immigration status, including the loss of satisfactory immigration status, does not affect the length of the 12-month CE period. However, loss of satisfactory immigration status changes the scope of benefits for which Federal financial participation (FFP) can be claimed. If a child in a CE period no longer has a satisfactory immigration status, Medicaid benefits will be limited to the payment for the treatment of an emergency medical condition, as described in sections 1903(v)(2) and (3) of the Act. Section 1903(v)(4)(C) of the Act specifically requires states that elect the CHIPRA 214 option to "verify that the individual continues to lawfully reside in the United States." Where an individual no longer is lawfully residing in the United States, the exception to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 under section 1903(v)(4) of the Act ceases to apply, and the latter prohibits the individual's eligibility "notwithstanding any other provision of law" (8 U.S.C. 1611(a)), including the CE requirement.

For a child enrolled in a separate CHIP in a state that has elected the CHIPRA 214 option, a loss of satisfactory immigration status may be accompanied by a change in family income that results in the child being eligible for Medicaid for the treatment of an emergency medical condition, as described in sections 1903(v)(2) and (3) of the Act. If a child who has lost their satisfactory immigration status meets the income and other eligibility requirements for Medicaid in the state, a state would have the option to either: (1) maintain the child's enrollment in Medicaid for the remaining duration of their current CE period and conduct a full eligibility renewal at that time; or (2) provide the child with a new 12-month CE period based on the date the child was determined eligible for Medicaid, and conduct a full eligibility renewal at the end of the new 12-month CE period.

Federal financial participation is not available for child health assistance under CHIP for children who are neither a U.S. citizen nor in a satisfactory immigration status. Thus, if a child enrolled in a separate CHIP loses their lawfully residing status in the middle of a CE period and is not eligible for Medicaid, the child must be disenrolled in accordance with 8 U.S.C. 1611.

Duration of the Continuous Eligibility Period

Q5: If an individual receives coverage during a retroactive eligibility period does the CE period include the retroactive eligibility period?

A5: No. The CE period begins on the effective date of coverage consistent with 42 CFR 435.915 and 457.340(g). Any months of coverage provided during a period of retroactive eligibility would not be included as part of the child's eligibility period or the CE period. For example, if an individual applies in April 2024, is determined eligible effective April 1, 2024, and is eligible retroactively to January 1, 2024, the child's CE period would begin on April 1, 2024, and would continue for 12 months until March 31, 2025.

Q6: When a new child is enrolled in coverage, may states renew other members of the family or household early to align their effective dates of coverage and place all family members on the same renewal cycle?

A6: It depends. States may not conduct a full renewal of an individual's eligibility for the purposes of aligning the individual's renewal date with another member in a household, and they may not require a current beneficiary to provide additional information to retain coverage and start a new eligibility period. However, states may be able to achieve such alignment using the option at 42 CFR 435.919(e)(2). Under this option, states may begin a new 12-month eligibility period if the state has sufficient information with respect to all factors of eligibility to renew an individual's eligibility without requiring additional information from the individual. This option can result in the alignment of renewal dates across members in a household.

Q7: Does continuous eligibility apply to children eligible on the basis of receiving Title IV-E assistance, if the child loses Title IV-E assistance (e.g., the child returns to the birth parents)?

A7: Yes. Children who are receiving Title IV-E assistance under an adoption assistance agreement or through foster care or kinship guardianship assistance maintenance payments are eligible for the mandatory categorically needy group described in Section 1902(a)(10)(A)(i)(I) of the Social Security Act (the Act) (as implemented at 42 CFR 435.145) CE applies to all categorically needy individuals under age 19. Children who lose Title IV-E assistance and thus no longer meet the eligibility requirements for their categorically needy group must have their Medicaid eligibility maintained for at least the duration of their existing CE period, unless they meet an exception to CE, as described in Q1 above. At the end of such child's CE period, the state must determine whether the child is eligible under another group, such as the mandatory group for low-income children.

This outcome also applies to children in non-Title IV-E foster care or guardianship placements who are enrolled in a mandatory or optional categorically needy eligibility group for children (e.g., the mandatory group for low-income children or the optional targeted low-income children group) and who lose non-Title IV-E assistance.[1]

Q8: If a state relies on information provided by another agency to verify continued eligibility to meet renewal requirements for certain children whose Medicaid eligibility is

[1] CE also applies to children under age 19 for whom a non-Title IV-E adoption assistance agreement is in effect and who are eligible for the optional categorically needy group described in section 1902(a)(10)(A)(ii)(VIII) of the Act (as implemented at 42 CFR 435.227), if the adoption assistance agreement ceases to be in effect during their eligibility.

based on receipt of other benefits how would the state operationalize the start and end dates of continuous eligibility for these children? As examples, this could apply to children receiving supplemental security income (SSI) in states with a Section 1634 agreement of the Act or children receiving Title IV-E foster care maintenance payments.

A8: For many states with Section 1634 agreements or arrangements with another agency to make Medicaid eligibility determinations for children based on receipt of other benefits, the state Medicaid agency assumes that the child continues to receive benefits under the other agency's program until notified that those benefits have been terminated. When the state Medicaid agency receives notice from the other agency of such termination, the Medicaid agency considers such notice as a change in circumstances and conducts an eligibility redetermination in accordance with 42 CFR 435.919, including considering other bases on which the child may be eligible.[2] To ensure 12 months of CE for children whose other benefits — such as SSI or Title IV-E adoption assistance — are terminated, states will use the date or month of Medicaid enrollment to determine 12-month continuous eligibility periods for children enrolled in eligibility groups for which the state relies on another agency's substantive determination to redetermine eligibility for Medicaid rather than doing so independently.

For a child enrolling in Medicaid after January 1, 2024, states will need to retain the child's enrollment date in order to track the 12-month CE period. However, CMS recognizes that, before implementing CE, some states may not have tracked the initial enrollment date of children whose eligibility is based on receiving benefits another agency administers. Therefore, for children enrolled in Medicaid prior to January 1, 2024, the effective date of the requirement for all states to provide 12 months of CE to children under age 19, states may use one of the following options to identify children's enrollment month for the purposes of first implementing CE for children enrolled in eligibility groups for which the state does not independently renew coverage:

> **Option 1:** If the state is able to identify the month the child was initially enrolled in Medicaid, the state will determine the child's continuous eligibility period based on that month. For example, if a child receiving SSI first enrolled in Medicaid in September 2021, the child's 12-month CE period would run from September 2023 through August 2024.
>
> **Option 2:** If a state is not able to identify the month a child enrolled in Medicaid prior to January 1, 2024, the state may use January 1, 2024, in lieu of the child's actual month of enrollment to determine the child's 12-month continuous eligibility period, which would run from January 2024 through December 2024.

As stated above, moving forward, all states will need to identify the enrollment date or month of children who enroll in Medicaid on or after January 1, 2024, in order to track their CE periods.

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[2] New regulations governing redeterminations following a change in a beneficiary's circumstances at 42 CFR 435.919(b) went into effect on June 3, 2024. However, as explained in Table 2 of the preamble to that final rule CMS–2421–F2: Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes, states have until June 3, 2027 to come into compliance with this provision. States not yet in compliance with 42 CFR 435.919(b) must comply with the regulation at 42 CFR 435.916(d), as in effect prior to June 3, 2024.

Q9: A child is initially determined eligible via an *ex parte* review at the renewal. The child's parent subsequently provides new information that could impact the child's eligibility. What options do states have for acting on this information?

A9: A state may not redetermine eligibility and terminate coverage if the state receives information that may impact a child's eligibility after the CE period has begun unless the change relates to one of the exceptions described in SHO #25-001 and Q1 above. A state may pursue one of two options for a child initially determined eligible via an *ex parte* renewal process when the family subsequently provides information that may impact eligibility, if the new information is received before the beginning of the child's new continuous eligibility period. The state must consistently apply one of these options to all children in this situation.

- **Option 1:** The state may hold the child's final eligibility determination until eligibility determinations are made for other individuals in the household. Information submitted before the child's new continuous eligibility period begins would be considered part of the child's renewal. If the returned information establishes the child no longer meets eligibility requirements (including eligibility on other potential bases), the state would determine the child ineligible and disenroll her or him from coverage, after providing the required advance notice and appeal rights, at the end of the current 12-month continuous eligibility period.

- **Option 2:** The state may treat the *ex parte* determination as a final determination effective following the end of the current eligibility and CE period. Information submitted after a successful *ex parte* determination would not affect ongoing eligibility for the child under this option. The new 12-month continuous eligibility would begin the day after the current 12-month continuous eligibility period ends.

Additional details on these options can be found in the October 18, 2023, CE slide deck.

Q10: When a state has information that suggests a child in a CE period may no longer be a state resident, how should the state address this possible change in circumstances?

A10: When the state has information from a reliable data source that suggests that a child may no longer be a state resident, the state must first reach out to the household to attempt to confirm that the child is no longer a state resident, because ceasing to be a state resident is an exception to CE pursuant to section 1902(e)(12)(C) of the Act and in accordance with 42 C.F.R. §§ 435.926(d)(3) and 457.342. If the state receives information from the parent or caretaker confirming the child is no longer a state resident, the state must send advance notice and terminate eligibility. If the state does not receive a response from the parent or caretaker confirming that the child is no longer a resident of the state, the state may either 1) maintain eligibility for the remainder of the child's CE period unless and until the state confirms with the parent or caretaker that the child ceases to be a state resident or 2) follow the procedures set forth in 42 C.F.R. §§ 435.919(f)(3) and (f)(5) or 457.344(f)(3) and (f)(5) and, if still unable to reach the family, provide appropriate notice and appeal rights in accordance with 42 C.F.R. Part 431

Subpart E or review rights in accordance with 42 C.F.R. §§ 457.1130 and 1180, and terminate eligibility.[3]

Transitions Between Eligibility Groups

Q11: What are the rules pertaining to moving a child between Medicaid and a separate CHIP during the continuous eligibility period?

A11: States may not move a child from Medicaid to a separate CHIP during the CE period consistent with 1902(e)(12) of the Act. However, states must move a child from a separate CHIP to Medicaid if the child is determined eligible for Medicaid during their CE period consistent with section 2107(e)(1)(K) of the Act.

Q12: When a child transitions from CHIP to Medicaid during the continuous eligibility (CE) period, are states required to provide the child with a new 12-month eligibility period or can they provide the remainder of the continuous eligibility in CHIP?

A12: States must move a child from a separate CHIP to Medicaid if the child is determined eligible for Medicaid during their CE period. In the case of a child transitioning from CHIP to Medicaid in the middle of a CE period, states have the option to either: (1) maintain a child's enrollment in Medicaid for the remaining duration of their current CE period and conduct a full eligibility renewal at that time; or (2) provide a child with a new 12-month CE period based on the date the child was determined eligible for Medicaid, and conduct a full eligibility renewal at the end of the new 12-month CE period.

Q13: When a family has reported a change in circumstance that would move a child from a medically needy group to a categorically needy group, may the state move that child to the new eligibility group?

A13: Yes, if a state determines that a child in a medically needy group (as set forth in Section 1902(a)(10)(C) of the Act and 42 CFR 435.300 et seq) is eligible for a categorically needy group (as set forth in Section 1902(a)(10)(A) of the Act and 42 CFR 435.100 et seq and 435.200 et seq.), the state must transition the child to the categorically needy group. We note that, as the continuous eligibility mandate in Section 1902(e)(12) of the Act applies to those children who are "determined to be eligible . . . under subsection *(a)(10)(A),"* (emphasis added), medically needy children, who are enrolled under the authority of Section *1902(a)(10)(C)*, are not entitled to CE. Where, however, a medically needy child becomes eligible for a categorically needy group described in Section 1902(a)(10)(A), the child will become entitled to a mandatory 12-

[3] The "Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment and Renewal Processes" Final Rule, (89 FRFR 22870) provides guidance at 42 C.F.R. § 435.919, including 42 C.F.R. § 435.919(f)(3) regarding the process the state must follow when it receives updated contact information with an out-of-state address from a reliable data source. The final rule was effective June 3, 2024, and states have until December 3, 2025, to come into compliance with the requirements in 42 C.F.R. § 435.919(f).

month CE period upon the transition to the categorically needy group. States may not transition a child from a categorically needy group to a medically needy group during a CE period.

Q14: What happens when a child reaches age 19, which is one of the exceptions to CE?

A14: When a child turns 19, CE no longer applies under Section 1902(e)(12) of the Act, and the state would act on any changes in circumstances the individual may experience. If the child is in an eligibility group where age is a factor of eligibility and turning 19 would represent a change in circumstances that may affect the child's eligibility, the state would redetermine eligibility at an appropriate time based on the anticipated change. The state would initiate the redetermination process prior to the anticipated change in circumstances so that it can determine whether the individual's eligibility should be continued or terminated, after providing required notice, on the date or the end of the month in which the individual turns age 19.

Consistent with 42 CFR 435.916(d), the state must consider Medicaid eligibility on all bases, such as the adult group or a disability-related group, prior to determining the individual is ineligible and, if so, determine eligibility for other insurance affordability programs. In the case of an individual who continues to be eligible for Medicaid, the individual would be moved to the appropriate eligibility group.

Specific populations

Q15: Does continuous eligibility apply to individuals in a reasonable opportunity period (ROP)?

A15: No. Under 42 CFR 435.956(b) (for Medicaid) and 457.380(b)(1)(ii) (for CHIP), if the state has determined that an applicant who has attested to U.S. citizenship or to being in a satisfactory immigration status meets all other conditions of eligibility (e.g., income and state residency), but verification of U.S. citizenship or satisfactory immigration status is pending, the individual must be provided benefits during a reasonable opportunity period (ROP). During the ROP, the agency must continue efforts to complete verification of the individual's citizenship or satisfactory immigration status or request additional information if necessary.[4] Because a final determination of eligibility has not yet been made during the ROP, the 12-month continuous eligibility period for a child would not begin until the child's U.S. citizenship or satisfactory immigration status has been verified.

If the child's U.S. citizenship or satisfactory immigration status is ultimately verified, the start date of the continuous eligibility period for the child would be the effective date of coverage. This would be retroactive to application date or the first day of the month in which the applicant applied in Medicaid, in accordance with 42 CFR 435.915. If the child's U.S. citizenship or satisfactory immigration status is not verified during the ROP, the state must terminate or deny coverage, after providing a minimum of 10 days advance notice of termination and fair hearing rights consistent with 42 CFR 435.917 and 42 CFR Part 431, Subpart E.

[4] During the ROP, the agency must, if relevant to verification of the individual's citizenship or satisfactory immigration status, follow the guidelines in 42 CFR 435.956(b).

Q16: Does continuous eligibility apply to children with disabilities enrolled in the following optional Medicaid eligibility groups?

- **Children enrolled in groups serving working people who have disabilities under Sections 1902(a)(10)(A)(ii)(XIII), (XV) and (XVI) of the Act, commonly referred to, respectively, as the Work Incentives, TWWIIA Basic, and TWWIIA Medically Improved groups (collectively, "working disability groups");**
- **Family Opportunity Act children under Section 1902(a)(10)(A)(ii)(XIX) of the Act; and**
- **Children enrolled in the "Katie Beckett" group under Section 1902(e)(3) of the Act and 42 CFR 435.225.**
  Children enrolled under section 1902(a)(10)(A)(ii)(VI) and 42 CFR § 435.217 (i.e., children whose underlying eligibility is based on their receipt of home and community-based services (HCBS) authorized under section 1915(c) of the Act.

A16: Yes. Children who are eligible for a categorically needy eligibility group are entitled to CE, including all of the eligibility groups listed above, subject to the exceptions described in Section 1902(e)(12) of the Act. If an individual enrolled in one of these groups no longer meets all of the eligibility requirements for their group—e.g., they no longer: are earning income; or have a disability — the individual's eligibility would be protected for the duration of their CE period, so long as they remain under 19 and a resident of the state in which they are enrolled for Medicaid. This is true for all individuals under 19 who are enrolled in a categorically needy group.

Q17: Does continuous eligibility apply to children eligible on the basis of Transitional Medical Assistance (TMA)?

A17: No. While children living with a parent or caretaker relative enrolled in TMA are entitled to the extended Medicaid required under Section 1925 of the Act, the CE mandated by Section 1902(e)(12) of the Act does not apply to children whose TMA-related eligibility ends. Section 1902(e)(12) mandates CE for categorically needy individuals under age 19 who are eligible under Section 1902(a)(10)(A) of the Act. The TMA statutory provision is section 1925 of the Act. Children who are Medicaid-eligible exclusively on the basis of TMA are therefore outside the scope of Section 1902(e)(12) of the Act. Some children who are eligible under Section 1925 of the Act are also eligible for a categorically needy eligibility group. In such a circumstance, a child will be entitled to Medicaid CE under Section 1902(e)(12) of the Act simultaneous with ongoing eligibility on the basis of TMA under Section 1925 of the Act. For more information on this situation, see Transitional Medical Assistance and Medical Support FAQ, published November 22, 2023.

Q18: May the state terminate an enrollee in a working disabilities group if they fail to pay premiums?

A18: Commonly, paying a premium is an eligibility requirement for these groups. Individuals under age 19 who fail to pay a mandatory premium for these groups are, like any other categorically needy individuals under 19 who no longer meet the eligibility requirements for

their groups, entitled to Medicaid for the duration of their CE period (unless they meet a permissible exception to CE, as described in Q1 above. Failure to pay a premium is not a permissible exception to CE under Section 1902(e)(12) of the Act.

Q19: Does continuous eligibility apply to children eligible only through a Section 1115 demonstration?

A19: Yes. Section 1902(e)(12) of the Act, which is incorporated by cross-referenced in Section 2107(e)(1)(K) of the Act, specifies that children determined eligible for either Medicaid or CHIP "under the state plan or *a waiver of [the state plan]*" (emphasis added) must be provided with a 12-month period of continuous eligibility.

Q20: Can a state voluntarily provide continuous eligibility to a population that does not mandatorily receive it?

A20: No. States may not provide continuous eligibility under state plan authority unless expressly authorized or mandated under federal law. For certain eligibility groups, such as parents and caretaker relatives enrolled under Section 1931 and Section 1902(a)(10)(A)(i)(I) of the Act and 42 CFR 435.110 (who are age 19 or older), there is no state plan option for continuous eligibility. In the absence of such statutory authority, states must reevaluate eligibility if they receive reliable information about a change in circumstances that may impact the beneficiary's eligibility for Medicaid, the amount of medical assistance for which the beneficiary is eligible, or the beneficiary's premiums or cost sharing charges.

Note that states can effectively provide continuous eligibility for beneficiaries excepted from methodologies based on modified adjusted gross income (MAGI), such as beneficiaries eligible through a medically needy group, by disregarding any increases in income and resources during a state-defined CE period under the authority of section 1902(r)(2)(A) of the Act. In addition, states may seek authority under Section 1115 of the Act to provide continuous eligibility to other populations, as some states have done.[5]

Q21: Does continuous eligibility apply to children whose eligibility was determined using a finding from an Express Lane Eligibility?

A21: Yes. Express Lane Eligibility is a streamlined enrollment process, authorized under Section 1902(e)(13) of the Act, through which states can elect to make determinations of Medicaid and CHIP eligibility for children using findings made by another agency that has been designated by the state as an Express Lane agency. A determination of eligibility for Medicaid or CHIP using a finding from an Express Lane agency constitutes a final determination of eligibility, and children enrolled through this streamlined process are entitled to 12 months continuous eligibility to the same extent as other children covered under Section 1902(a)(10)(A) of the Act.

[5] New Jersey and New York have approved Section 1115 demonstrations to provide continuous eligibility to adults. Massachusetts is in the process of implementing a demonstration.

CHIP-Specific Questions Involving Third-Party Liability

Q22: Are states required to keep a child enrolled in a separate CHIP who obtains other health insurance coverage during their CE period?

A22: Yes. Consistent with CHIP regulations at 42 CFR 457.342, a child who obtains other health insurance coverage during the CE period must remain enrolled in CHIP for the duration of the CE period, because obtaining other coverage is not a permissible exception to CE under the statute, as explained in Q1 above.

Q23: If the state is aware that a child enrolled in CHIP has obtained other health insurance coverage during the CE period, may the state recoup the capitation payments paid to a CHIP managed care entity (MCE) since the child used private health insurance coverage instead of CHIP?

A23: No. If a child enrolled in CHIP obtains other health insurance during the CE period, this alone is not considered a change in circumstances that would impact eligibility, and the child would remain eligible for CHIP. As long as the child does not meet one of the exceptions listed at 42 C.F.R. § 435.926, the state may not recoup the capitation payment from an MCE during the CE period.

Separately, CHIP capitation rates must be developed consistent with actuarially sound principles per requirements at 42 C.F.R. § 457.1203(a). Turnover rates and overlap are taken into account when an MCE develops capitation rates for children enrolled in CHIP. States and actuaries may assess necessary adjustments when setting prospective capitation rates.

Q24: If the state is aware that a child enrolled in CHIP has obtained other health insurance coverage during the CE period, may the state disenroll this child at *renewal?*

A24: Yes. After the child's CE period has ended and the state has conducted a full renewal of CHIP eligibility, the state would find the child ineligible for CHIP coverage if the child has other health insurance coverage. At renewal, a targeted low-income child must continue to meet all eligibility requirements in accordance with 42 CFR 457.310, including lack of other coverage, to retain CHIP enrollment. We note that, in conducting a full renewal as described in 42 CFR 457.343, the state must provide the family with an opportunity to demonstrate that the child is not enrolled in other insurance.

Q25: If the state is aware that a CHIP child enrollee has obtained other health insurance during the CE period, does CHIP become a secondary payor?

A25: Yes. If a child has obtained other health insurance coverage during the CE period, depending on the individual's other coverage, CHIP will be the secondary payor. The Balanced Budget Act of 2018 amended Section 2107(e)(1) of the Act to apply Medicaid third party liability requirements at Section 1902(a)(25) of the Act to CHIP. In accordance with these statutory provisions, Medicaid and CHIP pay secondary to other sources of coverage with

limited exceptions.[6] For services that the other health coverage does not provide, CHIP would provide coverage up to the maximum CHIP payment amount established for the service in the CHIP state plan.

For further guidance on Coordination of Benefits (COB) and Third Party Liability (TPL) requirements, please see the Medicaid COB/TPL handbook published on Medicaid.gov: https://www.medicaid.gov/medicaid/eligibility/downloads/cob-tpl-handbook.pdf. In accordance with Section 2107(e)(1) of the Act, the requirements described in this handbook apply equally to CHIP.

Premiums

Q26. Can states terminate CHIP coverage at the end of a CE period due to non-payment of premiums during the CE period?

A26. Yes. Children may be disenrolled from CHIP at the end of the 12-month CE period if they have any unpaid premium balance, provided that the state has provided the family with a grace period of at least 30 days. Under section 2103(e)(3)(C)(i) of the Act, the state must provide the child with a grace period of "at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage" may be terminated. The material immediately following section 2103(e)(3)(C)(ii)(II) of the Act defines "new coverage period" as "the month immediately following the last month for which the premium has been paid." Section 2103(e)(3)(C)(ii) of the Act also requires the state to provide notice no later than 7 days after the first day of the grace period (typically 7 days after the premium payment was due) that failure to make a premium payment within the grace period will result in termination of coverage and when such termination will be effective.[7] Following termination of coverage, the child would be eligible to re-apply for coverage, following the state's typical application process. As specified in 42 C.F.R. § 457.570(c)(2) and discussed further in Q29 below, the state may not require the collection of past due premiums or enrollment fees as a condition of eligibility for re-enrollment if the individual was terminated for failure to pay premiums.

The state also must follow its usual renewal process in accordance with 42 § C.F.R. 457.343, including first attempting to renew eligibility based on available data without requiring additional information from the individual (referred to as *ex parte* renewal), and sending a pre-populated renewal form only if available information is insufficient to renew the individual's eligibility on an *ex parte* basis. The state also must provide the family with a notice of the state's

[6] There are a limited exceptions to the general rule that Medicaid/CHIP is the payer of last resort, and these exceptions generally relate to federally administered health programs (e.g., Ryan White Program, Indian Health Services). For a federally administered program to be an exception to the Medicaid payer of last resort rule, the statute creating the program must expressly state that the other program pays only for claims not covered by Medicaid/CHIP; or, is allowed, but not required, to pay for health care items or services. For further guidance on COB and TPL requirements, please see the Medicaid COB/TPL handbook published on Medicaid.gov: https://www.medicaid.gov/medicaid/eligibility/downloads/cob-tpl-handbook.pdf

[7] CMS strongly encourages states to send the family additional notices in situations in which several months or more will elapse between the last month for which the last premium payment was made and the last date to make payment in order to avoid termination of coverage.

determination in accordance with the requirements specified in 42 C.F.R. § 457.340(e). In the case of a child whose eligibility is not being renewed, the notice must explain the basis for the termination of coverage, including that it is due to non-payment of premiums if applicable, and the family's right to a review if it disagrees with the termination of coverage.

In conducting the renewal at the end of the child's CE period, in accordance with 42 C.F.R. §§ 457.340(e)(1)(iii) and 457.570(a), states must ensure that the family has an opportunity to pay any outstanding premium balance before the end of the CE period, such that coverage can continue without interruption if the child continues to meet all eligibility requirements.

Example 1:
Jose is enrolled in CHIP with a 12-month CE period of January 1, 2024 – December 31, 2024. The state generally initiates renewals 3 months prior to the end of a beneficiary's eligibility period and sends a pre-populated renewal form, if needed, 2 months prior to the end of the eligibility period. The state requires that any unpaid premiums owed for one or more months during a child's current CE period must be paid prior to the end of the CE period, in order to avoid termination of coverage at the end of the CE period.

Jose's family paid the monthly premiums from January through November, due on the 1st of each respective month. However, the family did not pay the required premiums due for December.

Consistent with its renewal process, the state initiates the *ex parte* process for Jose's renewal on October 1, 2024. The state is unable to determine Jose's eligibility based on available information. The state therefore sends the family a pre-populated renewal form on November 1 and provides the family with 30 days to respond. Jose's family returns the renewal form (along with any requested documentation) later that month, and the state begins to process the information received. On December 7, the state sends Jose's family the notice required under section 2103(e)(3)(C)(ii) of the Act that Jose's coverage will end on December 31, 2024, if the family does not pay the December premium by that date. On December 10, the state completes processing Jose's renewal form and determines that Jose continues to meet the other eligibility requirements. However, because Jose's family failed to pay the December premium, the state will not send Jose's family a notice that his eligibility is being renewed. Rather, the state would send Jose's family a notice explaining that (1) it has determined that Jose meets the other eligibility requirements to have his coverage renewed but (2) in order for Jose's coverage to be renewed automatically for another 12 months effective January 1, 2025, the family must pay the December premium by December 31. If the state requires that the premium for January 2025 be paid prior to renewing Jose's coverage, the notice must include this information as well.

If the family pays the outstanding premium by December 31, 2024, Jose's coverage cannot be terminated due to failure to pay the premium. If Jose's coverage is erroneously terminated (e.g., because the family did not submit the premium until December 31 and the state was unable to reverse the termination), the state must reinstate his coverage effective January 1, 2025. Conversely, if the family does not pay the outstanding premium by December 31, Jose's coverage can be terminated effective January 1, 2025, due to failure to pay the premium. However, a new eligibility period begins whenever Jose's re-applies, and if applicable, pays the

initial premium or enrollment fee, even if as early as January 1, 2025. The state must not require repayment of the past-due premium prior to reenrolling Jose in CHIP.

Example 2:
Jack is enrolled in CHIP with a 12-month CE period of January 1, 2024 – December 31, 2024. The state generally initiates renewals 3 months prior to the end of a beneficiary's eligibility period and sends a pre-populated renewal form, if needed, 2 months prior to the end of the eligibility period. The state requires that any unpaid premiums owed for one or more months in a child's current CE period must be paid prior to the end of the CE period in order to avoid termination at the end of the CE period.

Jack's family paid the monthly premiums from January through August, due on the 1st of each respective month. However, the family did not pay the required premiums due for September – December. Under Section 2103(e)(3)(C)(ii) of the Act, the state must provide notice to Jack's family by September 7 that failure to pay any outstanding premiums will result in termination of coverage on December 31, 2024. CMS encourages states to provide additional notice in subsequent months of the amount of premiums owed and that failure to pay outstanding premiums by December 31, 2024, will result in termination of coverage.

Consistent with its renewal process, the state initiates the *ex parte* process for Jack's renewal on October 1, 2024. Based on available information, the state is able to determine that Jack meets all other eligibility requirements for continued coverage. If the state's policy provides that it does not renew coverage for children with outstanding premiums, it must provide Jack's family an opportunity to pay the outstanding premiums to prevent any gap in coverage. The state must provide Jack's family with a notice, in accordance with 42 C.F.R. § 457.340(e), that based upon the information available to it, Jack continues to meet all other eligibility requirements for re-enrollment effective January 1, 2025 but that his coverage will be terminated on December 31, 2024 due to failure to pay premiums, if the family does not pay the outstanding premiums by that date. In accordance with 42 C.F.R. § 457.340(e)(1)(D)(iii), the notice must provide the family with clear information on what steps it must take to allow Jack's coverage to continue past December 31, 2024, without interruption. The notice must also instruct the family to notify the state if any of the information upon which it relied in determining Jack's eligibility is incorrect.

If Jack's family pays the outstanding premiums by December 31, Jack's coverage cannot be terminated due to failure to pay the premium. If the family does not pay the outstanding premiums by December 31, the child's coverage can be terminated due to failure to pay the premiums; however, if Jack reapplies on or after January 1, 2025, and pays the enrollment fee or first month's premium (if applicable), he must be re-enrolled, regardless of any previously uncollected premiums. If Jack's coverage is erroneously terminated (e.g., because the family did not submit the premium until December 31 and the state was unable to reverse the termination), the state must reinstate his coverage effective January 1, 2025.

Q27: Can a state require payment of the first month's premium before enrolling a child into a new 12-month CE period at renewal?

A27: Yes. A state can require payment of the first month's premium at an eligibility renewal before providing a child with a new enrollment period (which would also begin a new CE period) at renewal. If the family fails to pay the first month's premium for a new enrollment period, the state may disenroll the child from CHIP at the end of the previous 12-month CE period. This is true regardless of whether any of the child's past-due premiums have been paid. The first month's premium for a new enrollment period can be required in addition to payment of any outstanding premium balance from the previous enrollment period to avoid any gap in coverage.

Example 1:
Mina is enrolled in CHIP with a continuous eligibility period of January 1, 2024, to December 31, 2024. Mina's family has paid each monthly premium and does not have an outstanding premium balance. The state completes Mina's renewal and determines that she continues to meet all eligibility requirements for coverage effective January 1, 2025. In order for her coverage to continue beyond December 31, 2024, the state may require payment of the January 2025 monthly premium by December 31, 2024. Failure to pay the January 2025 payment by December 31, 2024, can result in termination from CHIP coverage effective January 1, 2025.

Example 2:
Brenda is enrolled in CHIP with a continuous eligibility period of January 1, 2024, to December 31, 2024. The family paid the monthly premiums for January-March but did not pay the premiums for April-December on time. The family paid the outstanding premiums for April-December on December 20. If the state determines during the renewal process that Brenda meets the other eligibility requirements, in order for her coverage to continue beyond December 31, 2024, the state may also require payment of the January 2025 monthly premium by December 31, 2024. Failure to pay the January 2025 payment by December 31, 2024, can result in termination of CHIP coverage effective January 1, 2025.

Q28: If a state determines at renewal following a CE period that a CHIP enrollee continues to meet all eligibility requirements but is not re-enrolled in coverage because the family did not pay the first month's premium, can the child be re-enrolled in CHIP without completing a new application?

A28: Yes. At the state's election, the state may define a period of time during which the state can re-enroll such a child upon payment of the first month's premium without requiring a new application, provided the state determined the child to be eligible for CHIP at their renewal. If the state did not complete a renewal for the child, or the child was determined ineligible at renewal, the child would need to submit a new application.

Q29: If an individual's CHIP coverage is terminated at the end of the CE period due to failure to pay premiums, may the state apply a premium lock-out period?

A29: The answer to this question depends on whether the state currently applies a premium lock-out period under its approved CHIP state plan. On April 2, 2024, CMS' *Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application,*

Eligibility Determination, Enrollment, and Renewal Processes Final Rule (89 FR 22780) (Final Rule) was published in the Federal Register. Prior to implementing this Final Rule, states had the option under 42 CFR 457.570(c) to prohibit individuals whose CHIP coverage was terminated due to failure to pay required premiums from re-enrolling in coverage for up to 90 days, unless the individuals pay the outstanding premiums. The Final Rule, which was effective June 3, 2024, revised 42 CFR 457.570(c) to prohibit premium lock-out periods. However, the Final Rule provides that states with existing premium lock-out periods have 12 months from the effective date of the Final Rule to comply with this provision. Therefore, if a state has an approved premium lock-out policy, the state may continue until June 3, 2025, to apply its premium lock-out period if an individual is terminated from coverage at the end of the CE period due to failure to pay premiums.[8] Effective June 3, 2025, these states may no longer apply a premium lock-out period. Until June 3, 2025, states with an approved premium lock-out policy must comply with prior federal regulations at 42 CFR 457.570(c)(1)-(3), which limit the length of any premium lock-out period to a maximum 90 days and prohibit a state from continuing to impose a premium lock-out period once the past due premiums have been paid. A state is also prohibited from requiring the collection of past due premiums as a condition of eligibility for reenrollment once the premium lock-out period has expired.

States without an approved premium lock-out policy cannot impose a new premium lock-out policy as of June 3, 2024, the effective date of the Final Rule.

Q30: Can a state apply a premium lock-out period to a new applicant who has a CHIP-enrolled sibling in a 12-month CE period, if the sibling has an unpaid premium balance?

A30: No. As explained in the answer to Question 29 above, a state with an approved premium lock-out policy may — until June 3, 2025 — impose a lock-out period consistent with its approved CHIP state plan if an individual is terminated from coverage at the end of the CE period due to failure to pay premiums. States without an approved premium lock-out policy are not able to impose a new premium lock-out policies as of June 3, 2024.

For a state that has an approved premium lock-out policy, unpaid premiums owed by one child cannot impact eligibility for another child in the household, if that child has applied for coverage and is otherwise eligible for CHIP. Under 42 CFR 457.10, a premium lock-out period is defined as a state-specified period of time (not to exceed 90 days) during which a child who has an unpaid premium or enrollment fee, but who meets the other eligibility requirements, cannot reenroll for coverage in CHIP. A second child newly applying for coverage would not have an unpaid premium balance and therefore may not be subject to a premium lock-out. This is true regardless of whether the state charges premiums on a per-enrollee basis (e.g., $5 per child per month) or a per-family basis —e.g., $5 per family per month regardless of the number of children enrolled in CHIP\. The state can require payment of the first month's premium for the second child before enrolling them into CHIP.

Example 1:
Adia is enrolled in CHIP and has a 12-month CE period of January 1, 2024–December 31, 2024. The state charges families a monthly premium of $5 per child and has an approved 90-day

[8] States with biennial legislatures that require legislative action to remove the premium lock-out period can request an extension until June 3, 2026, as discussed in the Final Rule.

premium lock-out period. Adia's family timely pays the required premiums for Adia's coverage for January–May 2024 but does not pay the premiums for June or July 2024. The family submits a new application for coverage of the Adia's sibling, Brhane, in July. The state determines that Brhane meets the other eligibility requirements for enrollment effective August 1, 2024. The state can require that the family pay the August premium for Brhane prior to enrolling him in CHIP but cannot impose a premium lock-out period to delay his enrollment to a later month. If the family pays the August premium for Brhane, the state must enroll him in CHIP and provide him with a 12-month continuous eligibility period.

Example 2:
Daniel is enrolled in CHIP and has a 12-month CE period of January 1, 2024–December 31, 2024. The state charges families a monthly premium of $10 per family, regardless of the number of children enrolled in CHIP, and has a 90-day premium lock-out period. Daniel's family timely pays the required premiums for his coverage for January – August 2024 but does not pay the premium for September or October 2024. The family submits a new application for coverage of Daniel's sibling, James, in October. The state determines that James meets the other eligibility requirements for enrollment, effective November 1, 2024. The state can require that the family pay the $10 family premium, which would cover both Daniel and James, for November, prior to enrolling James in coverage. The state cannot impose a premium lock-out period for James or delay his enrollment. If the family pays the $10 family premium for November, the state must enroll James in CHIP and provide him with a 12-month CE period.

Q31: If a state does not have an approved premium lock-out policy, can the state require repayment of premiums prior to an individual's reenrollment in CHIP?

A31: No. Repayment of past premiums prior to reenrollment is considered a lock-out policy. If a state does not have an approved premium lock-out policy in its state plan, the state may not impose a premium lock-out policy. However, the state may disenroll the child after the 12-month CE period. Once disenrolled for failure to pay premiums, the child may immediately reapply for CHIP coverage following the state's usual application process. The state cannot condition reenrollment in CHIP on the payment of the past due premiums. However, the state may require payment of the first month's premium prior to enrollment in CHIP.

Q32: If the state has an approved premium lock-out policy, can the state require payment of all past due premiums as a condition of reenrollment <u>during</u> the lock-out period?

A32: As explained in the answer to Question 29 above, states with an approved premium lock-out policy may — until June 3, 2025 — impose a lock-out period consistent with its approved CHIP state plan if an individual is terminated from coverage at the end of the CE period due to failure to pay premiums. As explained in response to Question 29, states without an approved premium lock-out policy are not able to impose a new premium lock-out policy as of June 3, 2024.

If a state has an approved premium lock-out policy, the state may require repayment of a portion or all past due premiums as a condition of enrollment <u>during</u> the lock-out period. However, once the lock-out period has expired, the state may require payment of the premium for the first month

of re-enrollment but may not require the collection of past due premiums as a condition of reenrollment.

Example:
The state has an approved 90-day premium lock-out period it plans to remove effective June 1, 2025. Sam is enrolled in CHIP with a 12-month CE period of January 1, 2024–December 31, 2024. The family paid monthly premiums from January through August, due on the first of each respective month. However, the family did not pay the required premiums due for September-December 2024. Therefore, Sam was disenrolled from coverage on December 31, 2024, after receiving proper notice from the state. In order for Sam to reenroll in coverage before April 1, 2025, the state may require payment of the premiums due for September-December 2024. After April 1, 2025, Sam may apply to re-enroll in coverage and the state cannot require paying any past-due premiums as a condition for eligibility. The state can require payment of the April 2025 premium prior to re-enrolling the child in coverage effective April 1, 2025.

Q33: If a family does not pay a CHIP premium for a month, can a state maintain enrollment, but suspend coverage for a child during their CE period — i.e., not pay the CHIP capitation payment for managed care, or claims for children enrolled in a fee-for-service delivery system?

A33: No. States that charge CHIP premiums are required to keep children enrolled in coverage and provide benefits during their CE period regardless of whether the premium for a given month is paid. States may not suspend coverage due to nonpayment of premiums during the continuous eligibility period.

Q34: In some cases, states choose to delegate the collection of the monthly premium for a child's enrollment to the MCE through which the child is enrolled. Can such states increase the capitation rate to MCEs to account for unpaid premiums for children whose coverage must be maintained during a CE period despite nonpayment of premiums?

A34: States and MCEs may adjust capitation rates based on expectations about changes in premium receipts. For the collection of premiums in a managed care delivery system, states may choose: (a) to collect premiums themselves or (b) to collect premiums through an independent contractor; or (c) to delegate the collection of premiums to its managed care entities through a contractual requirement in the managed care contract. If a state delegates the collection of premiums to its managed care entities, the state cannot increase the capitation rate paid to its MCEs after the fact to offset the revenue shortfall from children whose families have not paid their premium.

As a result of the new CE requirement enacted in the Consolidated Appropriations Act, 2023 (CAA, 2023), states that currently contract with MCEs at reduced capitation rates (which are less the premium to be collected and retained by the MCE) where it is the MCE's responsibility to collect CHIP premiums may want to make changes to their contract arrangements or premium policy. States are not prohibited from entering contract arrangements whereby the MCE is paid the full rate whether or not the MCE is able to collect premiums, provided other rules for claiming FFP are met and the total does not exceed limits on what is permitted as an expenditure. For example, a state paying full rates may choose to incorporate in their contract a simple

passthrough agreement whereby any premiums collected are forwarded to the state. If the state chooses to eliminate premiums for children or instead charge an enrollment fee, the state could amend its managed care contracts and adjust its managed care capitation rates to account for any changes made to MCEs' contractual responsibilities to collect premiums.

Q35: If a state currently charging premiums to CHIP enrollees decided to stop charging premiums and instead charge an annual enrollment fee, what level of enrollment fee would be permissible given the maintenance of effort requirement at section 2105(d)(3)(A) of the Act?

A35: States are permitted to begin collecting an enrollment fee, rather than monthly premiums, even if the state did not collect an enrollment fee or an initial monthly premium prior to March 23, 2010. As described further below, CMS does not believe that collecting one annual enrollment fee that is equal to or less than the previously required monthly premium amount is a more restrictive policy.

The maintenance of effort requirement at section 2105(d)(3)(A) of the Act provides that a state may not have eligibility standards, methodologies, or procedures for children in CHIP that are more restrictive than the eligibility standards, methodologies, or procedures that were in effect in the state on March 23, 2010. This requirement currently extends through September 30, 2029. In states that charge a monthly premium and require that the first month's premium be paid prior to enrolling a child in CHIP, the first month's premium is effectively an enrollment fee. Therefore, CMS has determined that if a state changes from charging premiums to an enrollment fee in CHIP, the enrollment fee would be considered more restrictive for purposes of the maintenance of effort requirement if it exceeds the amount of the monthly premium charged on March 23, 2010.

States are permitted to adjust their premium charges to account for inflation. State Medicaid Director Letter SMDL #11-001, "Re: Maintenance of Effort," released February 25, 2011, explains the type of inflation-related adjustments that are permitted for premiums charged to children in families with income at or below 300 percent of the federal poverty level (FPL). Pursuant to section 2105(d)(3)(A) of the Act, states are permitted to increase premiums beyond a reasonable inflation amount for children in families with household income above 300 percent of FPL, subject to the limitations of section 2103(e) of the Act. A state similarly could adjust the March 23, 2010, premium amount to account for inflation in establishing a new enrollment fee. To implement a new enrollment fee, states must submit a state plan amendment. States' CHIP project officers are available to provide technical assistance to states considering adopting an enrollment fee.

Q36: Can states terminate children from Medicaid or Medicaid Expansion CHIP coverage during CE periods due to non-payment of premiums?

A36: No. Medicaid CE requirements apply to children enrolled in Medicaid Expansion CHIP — e.g., the Medicaid eligibility groups described at 42 CFR 435.118 and 435.229, funded at enhanced federal match from the state's Title XXI allotment. Existing regulations at 42 CFR 435.926 do not allow states to terminate a child's Medicaid or Medicaid Expansion CHIP eligibility during a CE period unless one of the specified exceptions applies. This policy is not changed by the amendments made by Section 5112 of the CAA, 2023, to Section 1902(e)(12) of the Act, or the Final Rule.