

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act



Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act



Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act



Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act



Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information Act

<b>To:</b>	Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan <Janet.Santos@hhs.gov>; Todd, Karmen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user9d7f44bf <Karmen.Todd@HHS.GOV>
<b>Subject:</b>	50-state Compliance Review
<b>Date:</b>	2023/09/12 09:21:38
<b>Importance:</b>	High
<b>Priority:</b>	Urgent
<b>Type:</b>	Note

Janet and Karmen-

Can you please assist with this?

(b)(5); (b)(7)(A)

<b>Recipient:</b>	Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan
-------------------	--

	<Janet.Santos@hhs.gov>; Todd, Karmen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user9d7f44bf <Karmen.Todd@HHS.GOV>
<b>Sent Date:</b>	2023/09/12 08:40:19
<b>Delivered Date:</b>	2023/09/12 09:21:38
<b>Message Flags:</b>	Unread Unsent

Rationale for Reviews by State

Phase

Row Labels

1 2 maybe 1 (blank) Grand Total

(b)(5); (b)(7)(A)

Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act



Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5); (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5); (b)(7)(A)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5) ; (b)(7)(A)

of the Freedom of Information Act

<b>From:</b>	Hyams, David (HHS/OCR) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D894F7B1A28749E8BA7EC5EEBA49D75F-DAVID.HYAMS>
<b>To:</b>	Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbc07a64359be95f4a38f3dd073-Santos, Jan <Janet.Santos@hhs.gov>; Todd, Karmen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user9d7f44bf <Karmen.Todd@HHS.GOV>
<b>Subject:</b>	50-state Compliance Review
<b>Date:</b>	2023/09/12 09:28:00
<b>Importance:</b>	High
<b>Priority:</b>	Urgent
<b>Type:</b>	Note

Janet and Karmen-

Can you please assist with this today?

(b)(5); (b)(7)(A)

Please let me know if you can help with this and if you have any questions.

Thank you,  
David



<b>Sender:</b>	Hyams, David (HHS/OCR) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D894F7B1A28749E8BA7EC5EEBA49D75F-DAVID.HYAMS>
<b>Recipient:</b>	Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan <Janet.Santos@hhs.gov>; Todd, Karmen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user9d7f44bf <Karmen.Todd@HHS.GOV>
<b>Sent Date:</b>	2023/09/12 09:28:14
<b>Delivered Date:</b>	2023/09/12 09:28:00

**From:** Albrecht, Sarah B. (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USERA956839A <Sarah.Albrecht@hhs.gov>  
**To:** Hyams, David (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d894f7b1a28749e8ba7ec5eeba49d75f-David.Hyams <David.Hyams@hhs.gov>  
**Subject:** RE: Willing identify state applications?  
**Date:** 2023/09/11 17:44:11  
**Priority:** Normal  
**Type:** Note

(b)(5); (b)(7)(A)

---

**From:** Hyams, David (HHS/OCR) <David.Hyams@hhs.gov>  
**Sent:** Monday, September 11, 2023 5:13 PM  
**To:** Albrecht, Sarah B. (HHS/OCR) <Sarah.Albrecht@hhs.gov>  
**Subject:** RE: Willing identify state applications?

Sarah-

(b)(5); (b)(7)(A)

Thanks,  
DH

---

**From:** Albrecht, Sarah B. (HHS/OCR) <[Sarah.Albrecht@hhs.gov](mailto:Sarah.Albrecht@hhs.gov)>  
**Sent:** Monday, September 11, 2023 4:25 PM  
**To:** Hyams, David (HHS/OCR) <[David.Hyams@hhs.gov](mailto:David.Hyams@hhs.gov)>  
**Subject:** Willing identify state applications?

David,

(b)(5); (b)(7)(A)

(b)(5); (b)(7)(A)

<b>Sender:</b>	Albrecht, Sarah B. (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USERA956839A <Sarah.Albrecht@hhs.gov>
<b>Recipient:</b>	Hyams, David (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d894f7b1a28749e8ba7ec5eeba49d75f-David.Hyams <David.Hyams@hhs.gov>
<b>Sent Date:</b>	2023/09/11 17:43:00
<b>Delivered Date:</b>	2023/09/11 17:44:11


<b>From:</b>	Albrecht, Sarah B. (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USERA956839A <Sarah.Albrecht@hhs.gov>
	Townsend, Cooper (HHS/OCR/CTR) (CTR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3437c838983c449a9c0a3f8741a90bed-67e6cf3c-a2 <Cooper.Townsend@hhs.gov>; Richardson, Paula (HHS/OS) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4586207191cb4d4eb4c305ee0e30e904-Richardson, <Paula.Richardson@hhs.gov>; Soto, Steven (HHS/OCR) (CTR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c4993c574e78487da6746471d70b0abc-77ba28a9-c9 <Steven.Soto@hhs.gov>; Peart, Simone N. (OS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3db7865ebf994b40ba437d0d75b1e678-Peart, Simo <Simone.Peart@hhs.gov>; Hubbard, Talmon (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=04474bb88ce64d73819c93b973679ae8-Hubbard, Ta <Talmon.Hubbard@hhs.gov>;
<b>To:</b>	Todd, Karmen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user9d7f44bf <Karmen.Todd@HHS.GOV>; Babecki, Marie-Genevieve (HHS/OCR) (CTR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a5f16afcc5224a0fbb67c9deecf59f93-5233e922-0c <Marie-genevieve.Babecki@hhs.gov>; Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan <Janet.Santos@hhs.gov>; Hyams, David (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d894f7b1a28749e8ba7ec5eeba49d75f-David.Hyams <David.Hyams@hhs.gov>; Clark, Garian (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9470d9fd70d42f1811d796e37e2dc40-Clark, Gari <Garian.Clark@hhs.gov>
	Zayas, Anthony (HHS/HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9e2d402aa32f4bf0a24d83b10b0119ad-Zayas, Anth <Anthony.Zayas@hhs.gov>; Brown, Alicia (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ff9668fea534d968c57c302198362e9-Cornish, Al <Alicia.Brown@hhs.gov>;
<b>CC:</b>	Welch, Alisha (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c4f04c6ecc4a48358e8bb05b44dc4eb7-Welch, Alis <Alisha.Welch@hhs.gov>; Cameron, Emily (OS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e14d41e43c4647c58c522bddc4042307-Cameron, Em <Emily.Cameron@hhs.gov>
<b>Subject:</b>	no mtg but sign-on ltr, 2 unwind complaints and CMS data
<b>Date:</b>	2024/03/13 13:01:10
<b>Priority:</b>	Normal
<b>Type:</b>	Note

Unwind Team –

I am canceling our meeting this afternoon in lieu of an email update.

1. • As FYI, external organizations wrote to the Administration providing recommendations for improving unwinding and providing thanks to the Administration for its attention to the matter (see last PDF attachment).



2. • OCR received two unwinding complaints this week regarding TX and DC. I attached the complaint letters to OCR and did not include the exhibits.
3. • CMS posted new data at the end of February on states' call center operations and procedural terminations, which is data for November 2023. I saved that data to our Teams page. - 

(b)(5); (b)(7)(A)

Sarah

**From:** Elizabeth Edwards [mailto:[edwards@healthlaw.org](mailto:edwards@healthlaw.org)]

**Sent:** Tuesday, March 12, 2024 1:21 PM

**To:** [OCRMail@hhs.gov](mailto:OCRMail@hhs.gov); [Jennifer.Mathis@usdoj.gov](mailto:Jennifer.Mathis@usdoj.gov); Lanvers, Charlotte (CRT)

<[charlotte.lanvers@usdoj.gov](mailto:charlotte.lanvers@usdoj.gov)>; Thomas, Victoria (CRT) <[victoria.thomas2@usdoj.gov](mailto:victoria.thomas2@usdoj.gov)>

**Cc:** Jane Perkins <[perkins@healthlaw.org](mailto:perkins@healthlaw.org)>; Lyndsay Niles <[lniles@uls-dc.org](mailto:lniles@uls-dc.org)>; Maureen O'Connell <[moconnell@disabilityrightstx.org](mailto:moconnell@disabilityrightstx.org)>; Peter Hofer <[phofer@disabilityrightstx.org](mailto:phofer@disabilityrightstx.org)>; Mara Youdelman <[youdelman@healthlaw.org](mailto:youdelman@healthlaw.org)>

**Subject:** Disability Complaints re TX and DC Renewal Processes

Good afternoon,

Please see the attached complaints regarding disability discrimination in Texas and in the District of Columbia for HCBS enrollees. We will be mailing hard copies to the DOJ and CMS as well for submission.

The DC complaint has 6 exhibits and the TX complaint has 1. Please note that although we are putting these complaints on our website and sharing them, we are currently not widely sharing the Appendix of enrollee experiences for Texas.


If you have any questions, please reach out.

Elizabeth

--

Elizabeth Edwards (she/her/hers)  
Senior Attorney  
National Health Law Program  
1512 E. Franklin Street, Suite 110  
Chapel Hill, NC 27514  
(984) 278-7664  
[edwards@healthlaw.org](mailto:edwards@healthlaw.org)

[healthlaw.org](http://healthlaw.org)

 [Facebook](#)  [Twitter](#)  [LinkedIn](#)



## "Securing Health Rights for Those in Need"

NOTICE: The information contained in this e-mail message and any attachments are confidential and may be legally privileged. This message is intended only for the individual(s) named herein or other contacts of the National Health Law Program specifically authorized to receive this communication. If you are not the intended recipient, please notify the sender and delete the message immediately. Please do not store, copy or otherwise disseminate or distribute this e-mail or any part of it.

<b>Sender:</b>	Albrecht, Sarah B. (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USERA956839A <Sarah.Albrecht@hhs.gov>
	<p>Townsend, Cooper (HHS/OCR/CTR) (CTR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3437c838983c449a9c0a3f8741a90bed-67e6cf3c-a2 &lt;Cooper.Townsend@hhs.gov&gt;;</p> <p>Richardson, Paula (HHS/OS) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4586207191cb4d4eb4c305ee0e30e904-Richardson, &lt;Paula.Richardson@hhs.gov&gt;;</p> <p>Soto, Steven (HHS/OCR) (CTR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c4993c574e78487da6746471d70b0abc-77ba28a9-c9 &lt;Steven.Soto@hhs.gov&gt;;</p> <p>Pearl, Simone N. (OS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3db7865ebf994b40ba437d0d75b1e678-Pearl, Simo &lt;Simone.Pearl@hhs.gov&gt;;</p> <p>Hubbard, Talmon (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=04474bb88ce64d73819c93b973679ae8-Hubbard, Ta &lt;Talmon.Hubbard@hhs.gov&gt;;</p> <p>Todd, Karmen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user9d7f44bf &lt;Karmen.Todd@HHS.GOV&gt;;</p> <p>Babecki, Marie-Genevieve (HHS/OCR) (CTR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a5f16afcc5224a0fbb67c9deecf59f93-5233e922-0c &lt;Marie-genevieve.Babecki@hhs.gov&gt;;</p>
<b>Recipient:</b>	<p>Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan &lt;Janet.Santos@hhs.gov&gt;;</p> <p>Hyams, David (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d894f7b1a28749e8ba7ec5eeba49d75f-David.Hyams &lt;David.Hyams@hhs.gov&gt;;</p> <p>Clark, Garian (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9470d9fd70d42f1811d796e37e2dc40-Clark, Gari &lt;Garian.Clark@hhs.gov&gt;;</p> <p>Zayas, Anthony (HHS/HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9e2d402aa32f4bf0a24d83b10b0119ad-Zayas, Anth &lt;Anthony.Zayas@hhs.gov&gt;;</p> <p>Brown, Alicia (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ff9668fea534d968c57c302198362e9-Cornish, Al &lt;Alicia.Brown@hhs.gov&gt;;</p> <p>Welch, Alisha (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c4f04c6ecc4a48358e8bb05b44dc4eb7-Welch, Alis &lt;Alisha.Welch@hhs.gov&gt;;</p> <p>Cameron, Emily (OS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group</p>

(FYDIBOHF23SPDLT)/cn=Recipients/cn=e14d41e43c4647c58c522bddc4042307-Cameron, Em  
<Emily.Cameron@hhs.gov>

**Sent Date:** 2024/03/13 12:59:53

**Delivered Date:** 2024/03/13 13:01:10



Administrator Brooks-LaSure  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

March 12, 2024

Dear Administrator Brooks-LaSure:

CC: Daniel Tsai, Anne Marie Costello, Hannah Katch, Melanie Fontes Rainer, Rachel Pryor, Jesse Cross-Call, Eden Tesfaye, and Perrie Briskin

Thank you for the intensive work that you and your team have done to try to ensure a smooth unwinding of the continuous eligibility provision in Medicaid. We are grateful for your leadership to date in minimizing losses, and appreciate the Biden administration's commitment to "doing everything in its power" to keep people enrolled in comprehensive health care coverage. We urge you and your staff to continue to dedicate resources to monitoring the unwind process throughout 2024, and to use all of your available enforcement tools to ensure that states comply with federal obligations and preserve Medicaid coverage for as many eligible individuals as possible.

With roughly half of renewals still to be completed, the next six months will prove challenging. Millions of *eligible* individuals and families — particularly people of color and children — are at risk of losing coverage due to administrative hurdles. With attention, this period of coverage transition also has the ability to lead to policy changes that strengthen the Medicaid program across states into the future.

During the pandemic, 23.3 million additional individuals were enrolled in Medicaid and the Children's Health Insurance Program (CHIP), leading to historically low uninsured rates and amazing gains reducing long standing health inequities. Medicaid remains a vital source of health coverage for more than 80 million people, particularly those from systemically excluded communities, low-income communities, or who have intersecting needs and significant disabilities. The unwind of the continuous eligibility provision has already caused the largest Medicaid coverage losses in history — disproportionately felt by children, young adults, postpartum people, people of color, and immigrant communities. In 2023, more than 13 million people lost Medicaid — the vast majority for procedural or administrative reasons. Projected losses are estimated to reach as high as 24 million before the end of the unwind and the Department of Health and Human Services' own data projects that nearly half will lose coverage despite remaining eligible.

Under the leadership of the Biden administration, CMS has made significant improvements to the Medicaid program. We are specifically grateful for your recent guidance to states that elected Section 1902(e)(14) waivers, which often focus on ensuring that eligible enrollees are automatically renewed into coverage, would be able to remain in effect throughout 2024, your reminding states of their ability to request section 1115



demonstration authority to extend the continuous coverage period for children beyond 12 months and to adopt continuous coverage for adults eligible for Medicaid, and options to improve 12-month postpartum coverage for critical immigrant populations. We are also thankful for the work of your team to identify and remedy issues with ex parte renewals, helping to mitigate unnecessary coverage losses among children and immigrant families. Lastly, we appreciate your efforts to post preliminary state unwinding data in a more timely way as the unwind has progressed, which has helped advocates better understand the coverage losses in their states.

As you know, this remains a very stressful time for families, providers and communities.

We believe the Biden administration can further minimize coverage losses and ensure the re-enrollment of eligible individuals into 2024 through the additional recommended efforts below.

**CMS should enforce requirements that states provide clear and accessible communications about eligibility determinations and provide template notices that will help states improve their enrollee communication.**

Based on reports from our state partners, enrollees continue to experience excessively long call center hold times, especially for non-English-speaking callers, lack consistent language access for people with proficiency in a language other than English, and receive unintelligible “Notice of Action” letters. To illustrate: our partners report that Medicaid enrollees have received letters that, within the same document, designate the member as ineligible, eligible, and again ineligible, and notices with multiple pieces of paper in the envelope, with one of the pieces of the paper saying, ‘ignore the other notices in this envelope’. In fact, one recent state audit report found that 90 percent of Medicaid correspondence in the state contained a problem with clarity, accuracy or completeness of information.

CMS should extend the definition of violations of “all Federal requirements applicable to such [Medicaid] redeterminations,” to include incomprehensible notices, notices that are not accessible to people with disabilities and notices that are not adequately translated. This would allow CMS to hold states accountable for the clarity of their notices and take enforcement actions against unclear notices, including imposing financial penalties. We further recommend that CMS create standard or template state notices that are thoroughly reviewed with Medicaid enrollees and transcreated into commonly-read languages. Transcreation goes beyond simply translating messages from one language to another and is focused on conveying the same message and concept in a new language including the necessary cultural context in order to make sense to people who read in that language.

**CMS should enforce application processing timeliness requirements for Medicaid and SNAP.** Federal regulations already quantify state standards around application processing timelines, which are a comprehensive measure of state eligibility and enrollment performance. Yet, dramatic state variation exists in the meeting of these standards. CMS must enforce these standards universally across states. Holding states to existing regulatory standards is within the administration’s current authority and would help people (including people who were procedurally terminated) access benefits more quickly.



**CMS should ensure that states follow-through on commitments they made, during negotiations around mitigation plans, to rectify Medicaid violations.** In exchange for these commitments, states were relieved of sanctions that Congress specifically authorized in the Consolidated Appropriations Act. Those commitments should be published, with specific and aggressive timelines for states to come into compliance with federal legal requirements.

**CMS should make permanent some of the flexibilities states initiated under Section 1902(e)(14) waivers, including all flexibilities that promote ex parte renewal.** The flexibilities that states have taken up during the unwind through Section 1902(e)(14) waivers have simplified enrollment and redetermination procedures – reducing state workload, decreasing red tape, and maintaining the enrollment of eligible individuals. State Medicaid Agencies have expressed significant interest in maintaining these flexibilities. We urge CMS to use its authority to make as many of these waiver flexibilities as possible ongoing features of the Medicaid program. Offering states a clear pathway to maintaining their system changes beyond the unwinding period will encourage states to dedicate the staff resources necessary to make these critical system improvements – especially those that CMS has found are most helpful at maintaining enrollment among eligible individuals.

For example, we believe that states should be able to continue to automatically renew individuals with no income, when no data is returned. CMS should also continue the 100% income strategy beyond the unwinding period. In addition, CMS should permanently allow states to continue to renew individuals based on SNAP, TANF, or other means-tested benefit programs eligibility determinations, starting with approving Maryland's pending waiver request, an approach that is much more feasible for states administratively than the facilitated enrollment option for adults. We also encourage CMS to develop expedited approval pathways for states that want to continue to allow managed care plans to provide assistance to enrolled individuals to complete and submit their Medicaid renewal forms, including through the collection of their members' telephonic or electronic signatures. Careful guardrails around marketing and influencing plan choice can make this an effective pathway of maintaining Medicaid coverage.

**CMS should encourage states to focus considerable energy on identifying people who have been terminated for procedural reasons, reaching out to them, and enrolling them in Medicaid or other programs for which they qualify.** Nearly 12 million people lost Medicaid for procedural reasons as of February 1 – a number that rises with each passing month. Re-enrolling disenrolled individuals should now be a top priority. States should be encouraged to pursue these efforts using their own program staff, Medicaid managed care organizations, and funding for trusted, community agencies. For this work to succeed, communications alone will not suffice. Hands-on help is what will move the needle.

**CMS should work closely with the Department of Labor (DOL) to help individuals who are losing their Medicaid or CHIP coverage enroll into their employer-sponsored plans.** Our state partners have shared stories of individuals who have struggled to enroll into employer-sponsored coverage when they lose their Medicaid or CHIP coverage due to notices that do not use specific language around "termination of coverage." As employer open enrollment ends at the beginning of the year, we request that CMS and DOL work together to provide guidance to employers about Medicaid terminations and the variation in terminology about coverage termination used across and within state notices.



**CMS should set targets for reducing state Medicaid churn and implement changes that increase ex parte renewal rates.** Ex parte rates remain relatively low in many states and vary widely despite having myriad benefits such as reducing burdens and cost for both individuals and states, while promoting program integrity. As required by the Affordable Care Act, CMS should hold states accountable for maximizing ex parte renewals. We encourage CMS to implement the recent Medicaid and CHIP Payment and Access Commission (MACPAC) recommendations to increase rates of ex parte renewals for all states, including:

- establishing minimum acceptable ex parte rate “performance standards” (or thresholds) as laid out in § 42 C.F.R 435.912 and conducting reviews of states with rates below those thresholds, and
- providing clear, written guidance about the types of assets that are unlikely to appreciate over time and explains that states do not need to reverify those assets during annual renewals, as CMS has already done with citizenship re-verification.

**CMS should continue enforcement action against poorly-performing states.** Interstate variation is extraordinary. If all states were performing at the level of the states with the lowest levels of coverage loss, coverage losses would be a small fraction of what they have been. We’ve appreciated the partnership from CMS in investigating inappropriate state actions as they are identified by our state partners and we encourage this action to continue. Taking enforcement action against even a few states could encourage other states to improve their performance. CMS should also let advocates know what happens when state-specific complaints are brought to CMS. Without such looping back, it’s hard to motivate continued reporting from state and local partners.

**CMS should require ongoing data reporting.** CMS should require ongoing state reporting and federal publication of the unwinding metrics, including Medicaid termination and renewal rates across key populations and key demographics, after the end of unwinding, using CMS’s pre-CAA statutory authority. State advocates are able to effectively support access to health care only when they have consistent access to timely data. Many states do not report data publicly making it difficult to understand the full picture of coverage loss and enrollment at both the state and national levels. CMS should require reporting on key metrics for children, individuals that are dually eligible for Medicare and Medicaid, individuals that are pregnant and postpartum, as well as older adults, people with disabilities and those who are blind, and require that the data be disaggregated as much as possible including by race and ethnicity, income, language, and geography.

**HHS should significantly increase ex parte renewals by removing barriers to state access to data critical for Medicaid redeterminations.** First, we recommend that CMS add quarterly wage records from the National Directory of New Hires to the Federal Data Services Hub (Hub). Without costly or time-consuming changes to state eligibility systems, states could simply connect to the Hub and increase wage information by roughly 50 percent. Two different federal statutes (ACA § 1413(c)(2) and Social Security Act § 1942(a)) authorize this data access. Second, we express concern about the reinterpretation of the use of the Hub’s Verify Current Income (VCI) service to a state Medicaid and CHIP agency function, as proposed in the Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program rule. This would shift the cost of this service from one fully borne by the federal government

to one shared by states and territories, increasing fiscal pressure on state Medicaid agencies, which may act as a barrier to ongoing state/territory efforts to streamline eligibility processes. We recommend that CMS consider the implications of this shift and ways to mitigate its potential impact of reducing use of this critical service.

**CMS should pursue policy changes that continue to strengthen the Medicaid program.** We are grateful for the historic attention that this administration has given to Medicaid, and we recognize that still more remains to be done. CMS should develop additional policies that invest in the enrollment and eligibility systems that determine the ability of eligible individuals to get the health coverage they want and need. The current implementation of eligibility and enrollment systems has led to systems that are not fully compliant with federal renewal requirements and to substantial coverage losses in states across the political spectrum during this unwind period.

In the medium-term, we must move towards a Medicaid program that dramatically reduces the administrative burdens put on people and families who need critical health services – including by simplifying and clarifying notices, using data-based renewals to eliminate administrative burdens, increasing access to trained staff to directly support filling out eligibility determination paperwork, and moving towards the use of more streamlined income and asset requirements.

We look forward to our continued work together.

Sincerely,

**Alabama**

Alabama Rise

**Arkansas**

Arkansas Advocates for Children and Families

**California**

Asian Resources, Inc.

Health Access California

The Children's Partnership

**Colorado**

Caring for Colorado Foundation

Colorado Children's Campaign

Colorado Consumer Health Initiative

Colorado Cross-Disability Coalition

Colorado Immigrant Rights Coalition (CIRC)

Youth Healthcare Alliance

**Connecticut**

Connecticut Oral Health Initiative, Inc.

**Florida**

Florida Policy Institute

Florida Voices for Health

**Indiana**

Hoosier Action

**Kansas**

El Centro

**Kentucky**

Kentucky Voices for Health



**Maine**

Consumers for Affordable Health Care

**Maryland**

High Note Consulting, LLC  
The Parent's Place of MD

**Massachusetts**

Health Care For All  
Massachusetts Organization for Addiction  
Recovery  
TRUE ALLIANCE CENTER INC

**Michigan**

Detroit Community Health Connection  
Michigan Disability Rights Coalition

**Mississippi**

Mississippi Center for Justice

**Missouri**

Missouri Family Health Council, Inc.  
Missouri Foundation for Health  
Missouri Jobs with Justice  
Paraquad

**Montana**

Montana Budget & Policy Center  
Montana Women Vote

**Nebraska**

Nebraska Appleseed

**Nevada**

New Day Nevada

**New Jersey**

Camden Coalition  
Family Voices NJ  
SPAN Parent Advocacy Network

**New Mexico**

Health Action New Mexico

**New York**

Center for Independence of the Disabled, New York  
(CIDNY)  
Community Service Society of New York  
Medicaid Matters New York  
Southern Tier Independence Center

**North Carolina**

Kintegra Family Medicine

**Ohio**

UHCAN Ohio

**Pennsylvania**

Pennsylvania Health Access Network

**Rhode Island**

Protect Our Healthcare Coalition RI  
RIPIN

**South Carolina**

South Carolina Appleseed Legal Justice Center

**Tennessee**

African American Clergy Collective of Tennessee  
Black Clergy Collaborative of Memphis  
Family Voices of Tennessee  
Tennessee Disability Coalition  
Tennessee Health Care Campaign  
Tennessee Justice Center

**Texas**

Every Texan

**Utah**

Utah Health Policy Project

**Vermont**

Vermont Family Network

**Washington**

Northwest Health Law Advocates (NoHLA)

**West Virginia**

West Virginians for Affordable Health Care

**Wisconsin**

Citizen Action of Wisconsin

FREE

**National**

ACA Consumer Advocacy

ADAP Advocacy

American Academy of Family Physicians

American Association of Health and Disability

American Cancer Society Cancer Action Network

American Lung Association

American Psychological Association Services

Asian & Pacific Islander American Health Forum

Autistic Self Advocacy Network

Black Mamas Matter Alliance, Inc.

CareQuest Institute for Oral Health

Center for Health Law and Policy Innovation

Center for Medicare Advocacy

Community Access National Network

Community Catalyst

Disability Rights Education and Defense Fund (DREDF)

Disciples Center for Public Witness (Disciples of Christ)

Disciples Justice Action Network

Elephant Circle

Families USA

First Focus on Children

Hand in Hand Multicultural Center

Health Care for America Now (HCAN)

Health Care Voices

Help Not Handcuffs, Inc.

International Society of Psychiatric Mental Health Nurses

Jewish Federations of North America

Justice in Aging

Lakeshore Foundation

MomsRising

NASTAD

National Alliance on Mental Illness

National Association of Community Health Workers (NACHW)

National Association of Councils on Developmental Disabilities

National Association of Pediatric Nurse Practitioners

National Association of Social Workers

National Center for Medical-Legal Partnership

National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)

National Disability Rights Network (NDRN)

National Family Planning & Reproductive Health Association

National Immigration Law Center

National League for Nursing

National Women's Health Network

NETWORK Lobby for Catholic Social Justice

Network of Jewish Human Services Agencies

Not Dead Yet

Planned Parenthood Federation of America

PlusInc

Policy Center for Maternal Mental Health

Primary Care Development Corporation

Protect Our Care

The Aids Institute

The Arc of the United States

The Leadership Conference on Civil and Human Rights

UnidosUS

Union for Reform Judaism

United States of Care

Young Invincibles

**From:** Todd, Karmen (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USER9D7F44BF <Karmen.Todd@HHS.GOV>  
**To:** Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan <Janet.Santos@hhs.gov>  
**Subject:** FW: 50-state Compliance Review  
**Date:** 2023/09/12 11:13:41  
**Priority:** Normal  
**Type:** Note

Hi Janet,

Below are the links I've found so far. Are you finding similar information?

---

**From:** Hyams, David (HHS/OCR) <David.Hyams@hhs.gov>  
**Sent:** Tuesday, September 12, 2023 9:28 AM  
**To:** Santos, Janet (HHS/OCR) <Janet.Santos@hhs.gov>; Todd, Karmen (HHS/OCR) <Karmen.Todd@HHS.GOV>  
**Subject:** 50-state Compliance Review  
**Importance:** High

Janet and Karmen-

Can you please assist with this today?

(b)(5); (b)(7)(A)

(b)(5); (b)(7)(A)

Please let me know if you can help with this and if you have any questions.

Thank you,  
David

<b>Sender:</b>	Todd, Karmen (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USER9D7F44BF <Karmen.Todd@HHS.GOV>
<b>Recipient:</b>	Santos, Janet (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac633fbe07a64359be95f4a38f3dd073-Santos, Jan <Janet.Santos@hhs.gov>
<b>Sent Date:</b>	2023/09/12 11:12:42
<b>Delivered Date:</b>	2023/09/12 11:13:41



<b>From:</b>	Albrecht, Sarah B. (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USERA956839A <Sarah.Albrecht@hhs.gov>
<b>To:</b>	Baratta, Karen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=usercc9b40cf <Karen.Baratta@HHS.GOV>; Rhodes, Susan (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=486f3fac513b44318992b6a79e96c28a-Rhodes, Sus <Susan.Rhodes@HHS.GOV>
<b>CC:</b>	Perez, Luis (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eb4f62687d764a40a5c4e52f94b8354a-Perez, Luis <Luis.Perez@hhs.gov>
<b>Subject:</b>	NHeLP complaint: TN litigation involving unwinding & disability discrimination
<b>Date:</b>	2023/08/03 11:02:10
<b>Priority:</b>	Normal
<b>Type:</b>	Note

Susan and Karen,

(b)(5)

No action is needed from you other than awareness of the documents.

Sarah

**From:** Perez, Luis (HHS/OCR) <Luis.Perez@hhs.gov>  
**Sent:** Tuesday, August 1, 2023 3:50:10 PM  
**To:** Albrecht, Sarah B. (HHS/OCR) <Sarah.Albrecht@hhs.gov>  
**Subject:** FW: TN litigation involving unwinding & disability discrimination

For discussion later this week. Thanks.

---

**From:** Rainer, Melanie Fontes (OS/OCR) <Melanie.Rainer@hhs.gov>  
**Sent:** Tuesday, August 1, 2023 3:16 PM  
**To:** Perez, Luis (HHS/OCR) <Luis.Perez@hhs.gov>  
**Cc:** Jee, Lauren (HHS/OCR) <Lauren.Jee1@hhs.gov>  
**Subject:** FW: TN litigation involving unwinding & disability discrimination

Which AD is working on the Medicaid redetermination cases I flagged from NEHLP?

---

**From:** Mara Youdelman <[youdelman@healthlaw.org](mailto:youdelman@healthlaw.org)>  
**Sent:** Tuesday, August 1, 2023 3:01 PM  
**To:** Rainer, Melanie Fontes (OS/OCR) <[Melanie.Rainer@hhs.gov](mailto:Melanie.Rainer@hhs.gov)>; Jee, Lauren (HHS/OCR) <[Lauren.Jee1@hhs.gov](mailto:Lauren.Jee1@hhs.gov)>  
**Cc:** Elizabeth Edwards <[edwards@healthlaw.org](mailto:edwards@healthlaw.org)>  
**Subject:** TN litigation involving unwinding & disability discrimination

Hi Melanie and Lauren,

I wanted to share an update on a case we are co-counseling. While the case preceded unwinding, more recent developments involve and unwinding and significant disability access issues are involved.

We've also shared with Karen Baratta who reached out recently about unwinding issues related to LEP & people with disabilities.

If you have any questions, we're happy to help. I've cc'd Elizabeth Edwards who is on our litigation team for this case.

Thanks,  
Mara

---

**From:** Elizabeth Edwards [mailto:[edwards@healthlaw.org](mailto:edwards@healthlaw.org)]  
**Sent:** Tuesday, August 1, 2023 11:50 AM  
**To:** Stephens, Jessica O. (CMS/CMCS) <[Jessica.Stephens@cms.hhs.gov](mailto:Jessica.Stephens@cms.hhs.gov)>; MS CMCS\_Unwinding <[CMCSUnwinding@cms.hhs.gov](mailto:CMCSUnwinding@cms.hhs.gov)>; [akg72@georgetown.edu](mailto:akg72@georgetown.edu); Allison Orris <[aorris@cbpp.org](mailto:aorris@cbpp.org)>; Barry, Meg (CMS/CMCS) <[meg.barry@cms.hhs.gov](mailto:meg.barry@cms.hhs.gov)>; Bonelli, Anna (CMS/CMCS) <[Anna.Bonelli@cms.hhs.gov](mailto:Anna.Bonelli@cms.hhs.gov)>; Briskin, Perrie (CMS/CMCS) <[Perrie.Briskin@cms.hhs.gov](mailto:Perrie.Briskin@cms.hhs.gov)>; Costello, Anne Marie (CMS/CMCS) <[AnneMarie.Costello@cms.hhs.gov](mailto:AnneMarie.Costello@cms.hhs.gov)>; Delone, Sarah (CMS/CMCS) <[Sarah.Delone2@cms.hhs.gov](mailto:Sarah.Delone2@cms.hhs.gov)>; Harris, Monica (CMS/CMCS) <[Monica.Harris@cms.hhs.gov](mailto:Monica.Harris@cms.hhs.gov)>; Idil Samantar <[isamantar@cbpp.org](mailto:isamantar@cbpp.org)>; [jca25@georgetown.edu](mailto:jca25@georgetown.edu); Jennifer Wagner <[jwagner@cbpp.org](mailto:jwagner@cbpp.org)>; Kim Lewis <[lewis@healthlaw.org](mailto:lewis@healthlaw.org)>; Lovejoy, Shannon (CMS/CMCS) <[Shannon.Lovejoy@cms.hhs.gov](mailto:Shannon.Lovejoy@cms.hhs.gov)>; Gravens (she/her), Colleen (CMS/CCIIO) <[Colleen.Gravens@cms.hhs.gov](mailto:Colleen.Gravens@cms.hhs.gov)>; Mara Youdelman <[youdelman@healthlaw.org](mailto:youdelman@healthlaw.org)>; O'Connor, Sarah (CMS/CMCS) <[Sarah.OConnor@cms.hhs.gov](mailto:Sarah.OConnor@cms.hhs.gov)>; [perkins@healthlaw.org](mailto:perkins@healthlaw.org); Seng, Suzette (CMS/CMCS) <[Suzette.Seng@cms.hhs.gov](mailto:Suzette.Seng@cms.hhs.gov)>; Spector, Sarah (CMS/CMCS) <[Sarah.Spector@cms.hhs.gov](mailto:Sarah.Spector@cms.hhs.gov)>; Steinberg, Marc (CMS/CMCS) <[Marc.Steinberg@cms.hhs.gov](mailto:Marc.Steinberg@cms.hhs.gov)>; Teal, Lela (CMS/CMCS) <[Lela.Teal@cms.hhs.gov](mailto:Lela.Teal@cms.hhs.gov)>; Tricia Brooks <[pab62@georgetown.edu](mailto:pab62@georgetown.edu)>; Tsai, Daniel (CMS/CMCS) <[Daniel.Tsai@cms.hhs.gov](mailto:Daniel.Tsai@cms.hhs.gov)>; Weiss, Alice (CMS/CMCS) <[Alice.Weiss@cms.hhs.gov](mailto:Alice.Weiss@cms.hhs.gov)>; Unwinding Support <[UnwindingSupport@mathematica-mpr.com](mailto:UnwindingSupport@mathematica-mpr.com)>; Katch (she/her), Hannah (CMS/OA) <[Hannah.Katch@cms.hhs.gov](mailto:Hannah.Katch@cms.hhs.gov)>; Ginnis (she/her), Kate (CMS/CMCS) <[katherine.ginnis@cms.hhs.gov](mailto:katherine.ginnis@cms.hhs.gov)>; Kuhn, Juliet (CMS/CMCS) <[Juliet.Kuhn@cms.hhs.gov](mailto:Juliet.Kuhn@cms.hhs.gov)>; Alicia Emanuel <[emanuel@healthlaw.org](mailto:emanuel@healthlaw.org)>  
**Cc:** Pryor, Rachel (HHS/OS/IOS) <[Rachel.Pryor@hhs.gov](mailto:Rachel.Pryor@hhs.gov)>; Sarah Grusin <[grusin@healthlaw.org](mailto:grusin@healthlaw.org)>  
**Subject:** TN Issues: Recent filings in AMC case show ongoing problems

CMS Team,



I mentioned in earlier meetings that we know of ongoing problems in TN due to our litigation, AMC v. Smith, regarding issues with due process (notices and access to hearings), TennCare's ability to evaluate for all categories of eligibility, and ADA violations. Recently, the State filed for summary judgment and yesterday plaintiffs, for which NHeLP is co-counsel, filed their response. I'm not attaching everything that was filed yesterday, but thought you may be most interested in a few things:

- • Plaintiffs' response in opposition to summary judgment: describes issues with inadequate notices, systematic denial of fair hearings, failure to provide access under the ADA and other issues. Also the Plaintiffs' response to the summary of undisputed material fact (SUMF) and the Plaintiffs Additional Disputed Facts (PADF) that are cited in the brief.
- • New declarations from Guyton, Holland, and Riley describing past and recent experiences of individuals having trouble with TennCare coverage and notices/appeals.
- • Redacted version of the expert report that was filed as an exhibit 57 that describes the plaintiffs' expert's opinions regarding ADA issues, including that TennCare does not have a reliable system for providing reasonable accommodations.
- • Defendant's motion for summary judgment. Notably for CMS, TennCare makes a lot of arguments about deference to CMS and CMS having approved or certified what they are doing, including making a point of them not having a mitigation plan. These arguments are primarily towards the end of the brief, p. 28 on, but are not exclusively there.
  - • Outside of TN, we've heard from advocates that the CMS mitigation plans document is being used as a shield by states that are not identified as having a mitigation plan to say they have no issues. Adding language to that document about it not indicating all compliance issues states may have would be extremely helpful.



I recognize this is a lot of information. If you have limited time, I'd say focus on the response to summary judgment and the new declarations. As always, happy to answer questions or provide more information.

Elizabeth

--

Elizabeth Edwards (she/her/hers)  
Senior Attorney  
National Health Law Program  
1512 E. Franklin Street, Suite 110  
Chapel Hill, NC 27514  
(984) 278-7664  
[edwards@healthlaw.org](mailto:edwards@healthlaw.org)

[healthlaw.org](http://healthlaw.org)

 [Facebook](#)  [Twitter](#)  [LinkedIn](#)



## "Securing Health Rights for Those in Need"

NOTICE: The information contained in this e-mail message and any attachments are confidential and may be legally privileged. This message is intended only for the individual(s) named herein or other contacts of the National Health Law Program specifically authorized to receive this communication. If you are not the intended recipient, please notify the sender and delete the message immediately. Please do not store, copy or otherwise disseminate or distribute this e-mail or any part of it.

<b>Sender:</b>	Albrecht, Sarah B. (HHS/OCR) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=USERA956839A <Sarah.Albrecht@hhs.gov>
<b>Recipient:</b>	Baratta, Karen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=usercc9b40cf <Karen.Baratta@HHS.GOV>; Rhodes, Susan (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=486f3fac513b44318992b6a79e96c28a-Rhodes, Sus <Susan.Rhodes@HHS.GOV>; Perez, Luis (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eb4f62687d764a40a5c4e52f94b8354a-Perez, Luis <Luis.Perez@hhs.gov>
<b>Sent Date:</b>	2023/08/03 10:59:28
<b>Delivered Date:</b>	2023/08/03 11:02:10



**From:** Elizabeth Edwards <edwards@healthlaw.org>  
**To:** Mara Youdelman <youdelman@healthlaw.org>  
**CC:** Baratta, Karen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=usercc9b40cf <Karen.Baratta@HHS.GOV>  
**Subject:** Re: email intro & disability issues w/ unwinding  
**Date:** 2023/08/01 16:13:08  
**Priority:** Normal  
**Type:** Note

Hi Karen,

Nice to meet you. To add to Mara's email about CO, I'm attaching the letter from CO advocates that we sent to CMS last week detailing other examples of CO unwinding problems, many of which have a significant impact or are largely impacting people with disabilities (CCLP letter). I'm not sure what all from our TN case you may be interested in, but I'm attaching what we sent to CMS earlier today and here is the summary of those items:

- Plaintiffs' response in opposition to summary judgment: describes issues with inadequate notices, systematic denial of fair hearings, failure to provide access under the ADA and other issues. Also the Plaintiffs' response to the summary of undisputed material fact (SUMF) and the Plaintiffs Additional Disputed Facts (PADF) that are cited in the brief.
- New declarations from Guyton, Holland, and Riley describing past and recent experiences of individuals having trouble with TennCare coverage and notices/appeals.
- Redacted version of the expert report that was filed as an exhibit 57 that describes the plaintiffs' expert's opinions regarding ADA issues, including that TennCare does not have a reliable system for providing reasonable accommodations.
- Defendant's motion for summary judgment. Notably for CMS, TennCare makes a lot of arguments about deference to CMS and CMS having approved or certified what they are doing, including making a point of them not having a mitigation plan. These arguments are primarily towards the end of the brief, p. 28 on, but are not exclusively there.

I recognize this is a lot of information. If you have limited time, I'd say focus on the response to summary judgment and the new declarations. You may be most interested in the expert report regarding the ADA in TN and the arguments in the brief that their failures to evaluate for all categories of eligibility impact certain disability-related categories.

Of interest to you potentially, we believe that the state's inability to evaluate those disability-related categories of eligibility is not unique to TN. Their system is similar to many other states and they all rely largely on a SSA database that only has limited historical information, which impacts the ability to properly evaluate for certain categories of eligibility. For example, a Disabled Adult Child, using the SSA term, will continue to be eligible for Medicaid if they received SSI previously and are only income-ineligible because of receipt of parental benefits.

The SSA database that many states use only contains information on prior receipt of SSA back to a certain date. Many states have some historical data they import, but we are not sure it is reliable. We are working to collect more information on this issue.

Also, I think Mara may have flagged this already, but also attaching a letter from DC advocates regarding issues there where case managers failed in their duty to renew waiver recipient's eligibility for Medicaid and although the District has extended Medicaid eligibility, they have not done so for the prior authorization for the necessary home and community-based services. This failure puts all of those individuals at risk of harm, decreased community integration, and potentially institutionalization. I'm also attaching DC's response, which indicates some solutions but also indicates some fixes to ensure ongoing services will be too slow and burdensome. (DRDC letter and DHCS response)

If you have any questions or would like more information, please let me know.

Elizabeth

On Tue, Aug 1, 2023 at 2:45 PM Mara Youdelman <[youdelman@healthlaw.org](mailto:youdelman@healthlaw.org)> wrote:

Hi Karen,

I meant to make a connection to my colleague Elizabeth Edwards before I headed out on vacation but that just didn't happen. So first, an introduction -- Elizabeth is in our NC office and is one of our experts on disability issues.

We've been identifying more examples of the problems people with disabilities are facing during unwinding. The below came in today from CO (we've shared it with CMS as well).

We also just filed new declarations and a response to a request for summary judgment in a TN case. The case includes ADA issues. TennCare (the state's Medicaid program) has only 1 person who serves as a gatekeeper when people request accommodations. These requests aren't processed in a timely manner and TN's eligibility system doesn't track disability needs. Even if a person happens to get an accommodation 1 time, because there's no tracking the person has to make subsequent requests over and over.

Elizabeth can send you the materials in the TN case. We also have identified issues in DC. And we can keep you updated as we identify further issues.



Thanks,

Mara

---

**From:** Bethany Pray [mailto:[bpray@cclponline.org](mailto:bpray@cclponline.org)]  
**Sent:** Tuesday, August 1, 2023 12:33 PM  
**To:** Elizabeth Edwards <[edwards@healthlaw.org](mailto:edwards@healthlaw.org)>  
**Cc:** Mara Youdelman <[youdelman@healthlaw.org](mailto:youdelman@healthlaw.org)>; Katie Wallat <[kwallat@cclponline.org](mailto:kwallat@cclponline.org)>; [jreiskin@ccdconline.org](mailto:jreiskin@ccdconline.org)  
**Subject:** FW: FW: URGENT Fwd: (b)(6) appeal 7/25/23 71 year old mostly bedridden woman dumped due to multiple system failures

Good morning, Elizabeth and Mara,

We have a crisis situation this morning that reflects the many systemic issues we're seeing in Colorado with LTSS enrollees.

Our colleagues at the Colorado Cross-Disability Coalition (CCDC) are working with an individual, (b)(6) a 71-year-old woman who lost eligibility without notice, leaving her without the daily attendants she needs for transfers, dressing, etc. She is in bed and without assistance. We are told she filled out her renewal form and called her county several times but was told that there was a queue for inputting information and processing was about 6 weeks out.

Her home health agency called last week to say Medicaid was ending as of July 31 but she did not receive a written notice, though the system says a notice was sent on June 20 to terminate on June 30. CCDC has not been given any information on how the notice was sent, and the person received no notice other than the one call from the case management agency. An appeal was filed on July 25, 2023, but CCDC reports that the Department of Health Care Policy and Financing will not reinstate benefits because the appeal was filed after the termination.

CCDC has volunteered to have us share this information directly with you and their non-attorney advocate (b)(6) is representing Ms. (b)(6) on her appeal. More direct outreach to HCPF is underway and I am hopeful that her Medicaid can be reinstated, but this case really drives home how dysfunctional the county processing is right now. We really need these LTSS terminations to be paused while the state can ensure that counties are up to date with all

processing and other systemic issues (the large number of people designated “whereabouts unknown,” which we described in our earlier letter) can be resolved.

Please see the emails below for more details.

Best,

Bethany

**Bethany Pray, Esq.**

*Legal Director*

*She/her/hers*

**[Colorado Center on Law and Policy](#)**

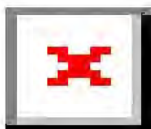
789 Sherman Street, Suite 300

Denver, CO 80203

T: +303 573 5669

F: +303 496 7910

**[CCLPonline.org](http://CCLPonline.org)**







**NOTICE:** The information contained in this e-mail message and any attachments are confidential and may be legally privileged. This message is intended only for the individual(s) named herein. If you are not the intended recipient, please notify the sender and delete the message immediately. Please do not store, copy or otherwise disseminate or distribute this e-mail or any part of it.

**From:** Julie Reiskin <[jreiskin@ccdconline.org](mailto:jreiskin@ccdconline.org)>  
**Sent:** Tuesday, August 1, 2023 10:09 AM  
**To:** Bethany Pray <[bpray@cclponline.org](mailto:bpray@cclponline.org)>  
**Subject:** Re: FW: URGENT Fwd: (b)(6) appeal 7/25/23 71 year old mostly bedridden woman dumped due to multiple system failures

Absolutely share w anyone

She did fill out her redetermination and called several times ..was told it was I queue

Julie Reiskin

On Tue, Aug 1, 2023, 10:07 AM Bethany Pray <[bpray@cclponline.org](mailto:bpray@cclponline.org)> wrote:

We will do whatever you need – comms help or anything else. If we can share this with NHcLP (they have a direct channel to CMS), let us know.

**Bethany Pray, Esq.**

*Legal Director*

*She/her/hers*

[Colorado Center on Law and Policy](#)

789 Sherman Street, Suite 300

Denver, CO 80203

T: -303 573 5669

F: 303 496 7910

[CCLPonline.org](http://CCLPonline.org)



NOTICE: The information contained in this e-mail message and any attachments are confidential and may be legally privileged. This message is intended only for the individual(s) named herein. If you are not the intended recipient, please notify the sender and delete the message immediately. Please do not store, copy or otherwise disseminate or distribute this e-mail or any part of it.

**From:** Donna Sablan <[dsablan@ccdconline.org](mailto:dsablan@ccdconline.org)>

**Sent:** Tuesday, August 1, 2023 9:46 AM

**To:** Silva - HCPF (She | her | ella), Bonnie <[bonnie.silva@state.co.us](mailto:bonnie.silva@state.co.us)>

**Cc:** [jreiskin@ccdconline.org](mailto:jreiskin@ccdconline.org); Flores-Brennan - HCPF, Adela <[adela.flores-brennan@state.co.us](mailto:adela.flores-brennan@state.co.us)>; Bethany Pray <[bpray@cclponline.org](mailto:bpray@cclponline.org)>; Winkler - GOVOffice, Josh <[josh.winkler@state.co.us](mailto:josh.winkler@state.co.us)>

**Subject:** Re: URGENT Fwd: (b)(6) appeal 7/25/23 71 year old mostly bedridden woman dumped due to multiple system failures

**Good Morning Bonnie,**

**Here are the releases for this client.**

**Thank you,**

**Donna**

Donna Sablan

Director of Medicaid Appeals and Eligibility

*Colorado Cross-Disability Coalition*

*1385 S. Colorado Blvd. Bldg. A., Suite 610*

*Denver\*, CO 80222*

*Organizational phone: 303-839-1775 | Direct phone: [Your direct line/extension]*

*Organizational fax: 303-648-6262*

**Looking for ways to support our mission? Follow these links:**

[Join our membership for free](#) | [Online giving](#) | [Other ways to support](#)

*\*CCDC is headquartered in Denver; we acknowledge that Denver is on the occupied land of the Ute, Arapaho, and Cheyenne people.*

**Nothing about us without us - ever!**



Click the logos above or the text here to connect with us at [ccdconline.org](https://ccdconline.org), [Facebook](#), or [Twitter](#)

On Tue, Aug 1, 2023 at 9:27 AM Silva - HCPF (She | her | ella), Bonnie  
<[bonnie.silva@state.co.us](mailto:bonnie.silva@state.co.us)>wrote:

Thanks, Julie. Confirming receipt.

**Bonnie Silva**

**Director**

**Office of Community Living**

*Pronouns: She/Her/Hers*



P: 303-907-4153

**Mailing Address:** 1570 Grant Street, Denver, CO 80203

**Office Address:** 303 E. 17th Avenue, Denver, CO 80203

[bonnie.silva@state.co.us](mailto:bonnie.silva@state.co.us) | [colorado.gov/hcpf](https://colorado.gov/hcpf)

**For Scheduling Please Email:** [thai.bazanac@state.co.us](mailto:thai.bazanac@state.co.us)

On Tue, Aug 1, 2023 at 9:17 AM Julie Reiskin <[jreiskin@ccdconline.org](mailto:jreiskin@ccdconline.org)> wrote:

Bonnie and Adela

This client never got a written notice. **She needs daily home care and as of today she is left in bed with no help.** Donna has tried to get people to act but it has not happened. The home health agency called her last week and told her her Medicaid was ending 7/31 which is the only notice she got. We found out today her span ended 6/30.23 but she was never noticed. Apparently the system shows a notice was sent on 6/20 to terminate on 6/30 but the client never got the notice. We have not been given any information on how it was sent and there has been no other outreach. HCPF is saying that because the appeal came after termination which neither the client nor the home agency knew about, they would NOT turn on benefits. This case needs to be turned on today. **We will need to escalate if this is not fixed by noon.**

LTSS terminations need to be turned off to stop terminations until the numerous problems can be fixed. Last week Donna was told that she is in a queue and it will be 6-8 weeks before processing. Now we are told that this all happened two months ago. Clearly the system is total

chaos and there has been NO outreach from the system to the client to help this elderly bedridden woman.

This is unacceptable. If this is not fixed today she will need to go to an ER and we will have the press meet her there.

Releases are in your system and were provided with appeal.

An appeal was filed within a day of the client being notified...which has still never come from the system.

With Gratitude,

Julie Reiskin, Co-Executive Director  
Colorado Cross-Disability Coalition  
1385 S. Colorado Blvd. Bldg. A., Suite 610  
Denver, CO 80222  
Organizational phone: 303-839-1775 | Direct Phone: (b)(6)

Looking for ways to support our mission? Follow these links:  
[Join our membership for free](#) | [Online giving](#) | [Other ways to support](#)

*"CCDC is headquartered in Denver"; we acknowledge that Denver is on the occupied land of the Ute, Arapaho, and Cheyenne people*

Nothing about us without us - ever!



Click the logos above or the text here to connect with us at [ccdconline.org](https://ccdconline.org), [Facebook](#), or [Twitter](#)

----- Forwarded message -----

From: **Steve Nash** <[SNash@arapahoegov.com](mailto:SNash@arapahoegov.com)>

Date: Tue, Aug 1, 2023 at 8:57 AM

Subject: RE: (b)(6) G134424 appeal 7/25/23

To: Donna Sablan <[dsablan@ccdconline.org](mailto:dsablan@ccdconline.org)>, Morrison, Joelle <[Joelle.Morrison@state.co.us](mailto:Joelle.Morrison@state.co.us)>



Cc: Elinora Reynolds <(b)(6)>, [23-0005454@ccdc.legalserver.org](mailto:23-0005454@ccdc.legalserver.org)  
<[23-0005454@ccdc.legalserver.org](mailto:23-0005454@ccdc.legalserver.org)>, Julie Reiskin <[jreiskin@ccdconline.org](mailto:jreiskin@ccdconline.org)>

I checked and her medspans ended 6/30/23.



**Steve Nash**

Program Specialist Supervisor

Human Services

Community and Child Support Services

1690 W Littleton Blvd | Littleton CO 80120

O: 303-738-8073 F: 303-636-1426

[Arapahoegov.com](http://Arapahoegov.com)

[Facebook](#) | [Twitter](#) | [Instagram](#) | [Nextdoor](#) | [Youtube](#)

**CONFIDENTIALITY NOTICE**

The information and any attachment contained in this transmission is confidential, and may be proprietary, privileged, and/or subject to the work product doctrine and therefore protected from disclosure by law. Information and any attachment contained herein may also be deemed confidential by federal and state statute. It is intended solely for the use of the individual or entity to which it is addressed. Unauthorized review, forwarding, printing, copying, distributing or using such information is strictly prohibited. If you have received this communication in error, please call the number above, and delete this and all copies or backups thereof without further disclosure. Thank you

---

**From:** Donna Sablan <[dsablan@ccdconline.org](mailto:dsablan@ccdconline.org)>

**Sent:** Monday, July 31, 2023 4:00 PM

**To:** Morrison, Joelle <[Joelle.Morrison@state.co.us](mailto:Joelle.Morrison@state.co.us)>

**Cc:** Steve Nash <[SNash@arapahoegov.com](mailto:SNash@arapahoegov.com)>; Elinora Reynolds

<(b)(6)> <[23-0005454@ccdc.legalserver.org](mailto:23-0005454@ccdc.legalserver.org)>; Julie Reiskin

<[jreiskin@ccdconline.org](mailto:jreiskin@ccdconline.org)>

**Subject:** Re: (b)(6) G134424 appeal 7/25/23

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**Hi Joelle,**

**Please contact Katerina Montgomery**

**Care Plus Agency**

**[Careplus12@gmail.com](mailto:Careplus12@gmail.com)**

**720-394-4745**

**Let them know you will be continuing her  
medicaid benefits before they stop services  
tomorrow 8/1/23.**

**Thank you,**

## Donna

Donna Sablan

Director of Medicaid Appeals and Eligibility

*Colorado Cross-Disability Coalition*

*1385 S. Colorado Blvd. Bldg. A., Suite 610*

*Denver\*, CO 80222*

*Organizational phone: 303-839-1775 | Direct phone: [Your direct line/extension]*

*Organizational fax: 303-648-6262*

**Looking for ways to support our mission? Follow these links:**

[Join our membership for free](#) | [Online giving](#) | [Other ways to support](#)

*\*CCDC is headquartered in Denver; we acknowledge that Denver is on the occupied land of the Ute, Arapaho, and Cheyenne people.*

**Nothing about us without us - ever!**

---

Click the logos above or the text here to connect with us at [ccdconline.org](https://ccdconline.org), [Facebook](#), or [Twitter](#)

-

-

-

On Tue, Jul 25, 2023 at 2:10 PM Donna Sablan <[dsablan@ccdconline.org](mailto:dsablan@ccdconline.org)>wrote:

**Dear Clerk of the Court,**

-

**My client was informed by Care Plus Agency  
her medicaid will end on 7/31/23.**

-

**No termination notice has been received.**

-



**She has turned the redetermination into Arapahoe county timely.**

-

**The county and CMAP have indicated it is in a cue for about 6 weeks out.**

-

**As this appeal is filed timely, please continue benefits**

**promptly so the LTC has no gaps in continuing benefits coverage.**

-

**Regards,**

**Donna**

-

Donna Sablan

Director of Medicaid Appeals and Eligibility

Colorado Cross-Disability Coalition

1385 S. Colorado Blvd. Bldg. A., Suite 610

Denver\*, CO 80222

Organizational phone: 303-839-1775 | Direct phone: [Your direct line/extension]

Organizational fax: 303-648-6262

Looking for ways to support our mission? Follow these links:

[Join our membership for free](#) | [Online giving](#) | [Other ways to support](#)

*\*CCDC is headquartered in Denver; we acknowledge that Denver is on the occupied land of the Ute, Arapaho, and Cheyenne people.*

**Nothing about us without us - ever!**

Click the logos above or the text here to connect with us at [ccdconline.org](https://ccdconline.org), [Facebook](#), or [Twitter](#)

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

The information transmitted is intended only for the person or entity to which it is addressed and may



contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

--

Elizabeth Edwards (she/her/hers)  
Senior Attorney  
National Health Law Program  
1512 E. Franklin Street, Suite 110  
Chapel Hill, NC 27514  
(984) 278-7664  
[edwards@healthlaw.org](mailto:edwards@healthlaw.org)

[healthlaw.org](http://healthlaw.org)

 [Facebook](#)  [Twitter](#)  [LinkedIn](#)



## "Securing Health Rights for Those in Need"

NOTICE: The information contained in this e-mail message and any attachments are confidential and may be legally privileged. This message is intended only for the individual(s) named herein or other contacts of the National Health Law Program specifically authorized to receive this communication. If you are not the intended recipient, please notify the sender and delete the message immediately. Please do not store, copy or otherwise disseminate or distribute this e-mail or any part of it.

<b>Sender:</b>	Elizabeth Edwards <edwards@healthlaw.org>
<b>Recipient:</b>	Mara Youdelman <youdelman@healthlaw.org>; Baratta, Karen (HHS/OCR) /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPOLT)/cn=Recipients/cn=usercc9b40cf <Karen.Baratta@HHS.GOV>
<b>Sent Date:</b>	2023/08/01 16:06:05
<b>Delivered Date:</b>	2023/08/01 16:13:08

July 26, 2023

Mara Youdelman, Managing Attorney  
Wayne Turner, Senior Attorney  
National Health Law Program  
1444 I Street NW, Suite 1105  
Washington, DC 20005

Re: PHE Unwind and LTSS Terminations

Dear Mara, Wayne, and Elizabeth,

The Colorado Center on Law and Policy (CCLP) has been monitoring the PHE Unwind, effective in Colorado as of May 31, 2023, through conversations with disability advocates and meetings with state partners. It is our position that errors and delays are putting hundreds or thousands of people with disabilities at great risk of harm.

## **I. Overview**

Colorado is obligated to provide renewal packets to any enrollee whose eligibility cannot be confirmed on an ex parte basis in a timely manner,<sup>1</sup> to assist enrollees with applications and renewals,<sup>2</sup> to request only information that is relevant to eligibility,<sup>3</sup> to promptly process information provided when determining eligibility,<sup>4</sup> to provide a plain language notice ten days prior to an adverse action,<sup>5</sup> to comply with due process requirements regarding hearings<sup>6</sup> and maintenance of benefits,<sup>7</sup> and to maintain accurate data related to terminations and appeals to share with CMS<sup>8</sup>.

CCLP has heard of more than 20 unique circumstances in at least 9 counties where children or adults with disabilities have had their Medicaid benefits inappropriately terminated, and whose stories and notices demonstrate the ways in which Colorado is failing to meet its legal obligations.<sup>9</sup>

---

<sup>1</sup> 42 CFR §§ 435.916(a)(3)(i)(A) and (b).

<sup>2</sup> 42 CFR § 435.908.

<sup>3</sup> 42 CFR § 435.916(e).

<sup>4</sup> 42 CFR § 435.952(a).

<sup>5</sup> 42 CFR § 431.211 and 10 CCR 2505-10 8.057.2.

<sup>6</sup> 42 CFR § 431.221(b).

<sup>7</sup> 42 CFR § 431.230; 10 CCR 2505-10 8.057.5.A.

<sup>8</sup> 42 CFR § 431.16.

<sup>9</sup> Colorado's 64 counties process eligibility independently for their county residents. Colo. Rev. Stat. §§ 25.5-4-205, -206. Enrollees' experiences can differ substantially from county to county.

---

*CCLP stands with diverse communities across Colorado in the fight against poverty through research, legislation, and legal advocacy.*





Issues reported to CCLP staff are described in Section II and documented in Appendix A, and include the following:

- failure to receive a timely renewal packet;
- the unavailability of assistance with renewal packets through either counties or managed care entities;
- requests for information that is not relevant to eligibility, such as parental income for particular children's waivers;
- failure of eligibility staff in Colorado's county-administered system to timely process information provided by families in renewal packets or through the electronic portal known as PEAK;
- failure of eligibility staff in Colorado's county-administered system to timely process information provided by case management agencies regarding Long Term Services & Supports (LTSS) eligibility;
- failure to provide written notice of termination timely or at all;
- failure to provide a comprehensible, plain language notice;
- failure to promptly continue benefits pending an appeal; and
- possible failure to maintain accurate data that reflects terminations and appeals.

The statewide scope of these problems and the dire circumstances of waiver-enrolled adults and children was confirmed at a meeting held on July 20, 2023, convened by Colorado's Executive Director of the Department of Health Care Policy and Financing (HCPF), Kim Bimestefer, and attended by Colorado's regional PIHP/PCCM entities, the Regional Accountable Entities (RAEs), several case management agencies (CMAs), and disability advocates. *See* Appendix B.

The Colorado Center on Law and Policy has asked the state to pause LTSS terminations pending resolution of these problems in three meetings, including the meeting referenced above, that were held during the week of July 17. Executive Director Bimestefer orally denied that request in the July 20 meeting, and other HCPF staff have denied that request at other times as well.

## **II. Specific Cases and Available Documentation**

### **Available Documentation:**

We have included nine redacted notices reportedly received by children or adults formerly enrolled in Medicaid LTSS in an appendix to this letter. A tenth notice concerns a child formerly enrolled in Medicaid who has an application underway for LTSS. These cases come from seven different counties in Colorado's county-administered system. The first notice provided, on pages 1-8 of Appendix A, includes the complete notice packet. Subsequent notices in Appendix A include only the first pages that are relevant, and do not include the repeated information shown on pages 3-8 that are included in every notice packet.

#### No renewal packet received by enrollee:

The four notices on pages 1-13 of Appendix A all concern families formerly enrolled in LTSS who did not receive a renewal packet in the mail or through their online account,<sup>10</sup> and illustrate various errors.

- The first notice states that the reason for termination was because “we did not receive your renewal information.” Appendix A at 1-8.
- The second notice contains no information about Medicaid eligibility and informs the family that the enrollee child is terminated from the CHIP program (known as CHP+ in Colorado) because “you have other health insurance.” *Id.* at 9. The enrollee in this case had been on an HCBS waiver and had not been enrolled in CHP+. Having other health insurance is not a permissible reason for termination of Medicaid coverage.
- The third notice states the reason for termination is “because you told us you no longer want this benefit.” *Id.* at 10-11. The enrollee is a nonverbal adult with a developmental disability, whose caregiver had no communication with the agency prior to receiving this termination.
- The fourth notice states that the enrollee child is eligible for Medicaid but ineligible for “Health First Colorado (Colorado Medicaid) and Long-Term Services and Supports.” *Id.* at 12-13. The reason for termination of LTSS is because “you don’t meet the Social Security criteria for disability.” *Id.* The enrollee met that criteria when qualifying for LTSS in the past and there have been no changes to their condition or disability. State regulations require that the county process a certification of disability prior to terminating coverage, with that documentation provided by the CMA.<sup>11</sup>

#### Problems with requesting additional information:

The four notices on pages 14-21 of Appendix A all concern families reportedly enrolled in LTSS who were terminated due to needing more information. These terminations reflect the county’s failure to process information received, sometimes result in a termination on an inappropriate basis, and illustrate a range of additional errors.

- One notice concerns a child whose disability status and income had not changed, but who was nonetheless terminated for lack of information. Appendix A at 14-15. Based on widespread reports of processing delays from advocates, managed care entities and case managers,<sup>12</sup> we hypothesize that the county failed to process disability information provided by the case management agency.<sup>13</sup>
- Another notice indicates that the enrollee child qualified for Medicaid as of July 2023, and for the Medicaid Buy-in as of August 2023, but had been terminated from LTSS as of June 30, 2023 because the family had not provided enough information. Appendix A at 16-17. The notice is confusing and internally contradictory, in violation of plain language

---

<sup>10</sup> This violates 42 CFR § 435.916(a)(3)(i)(A) and (b).

<sup>11</sup> 10 CCR 2505-10 8.100.5.A.1.d. *See also* Appendix B, where multiple Regional Accountable Entities and others confirmed backlogs in inputting information for LTSS enrollees and resulting inappropriate terminations.

<sup>12</sup> *See* Appendix B.

<sup>13</sup> This violates state regulation 10 CCR 2505-10 8.100.5.A.1.d.



notice requirements.<sup>14</sup> The county's failure to process disability information presumably provided by the CMA comports with information from the July 20 meeting that counties are experiencing significant processing delays.<sup>15</sup> It also seems to violate state regulation.<sup>16</sup> Last, the notice fails to inform the enrollee of the 90-day reconsideration period.<sup>17</sup>

- The notice on pages 18-19 of Appendix A requests more information and asks the child enrollee to refer to a "Request for More Information" letter. This letter was never provided, via mail or in the online system (PEAK). It took six total calls and hours of being on hold for the parent to learn what information was reportedly outstanding. The information being sought was pay stubs from the parent's former employer. That information was irrelevant and should not have been requested because it was historical and because the enrollee child was on an LTSS waiver, for which parental income is not a factor considered in assessing eligibility.<sup>18</sup>
- The notice on pages 20-21 of Appendix A involves a termination from Medicaid and the Medicaid Buy-in that occurred despite timely submission of the renewal packet and information requested in a "request for information" letter, provided on pages 22-23. The enrollee's family received a termination letter dated July 16, eight days after the parent submitted the information, apparently without the county having reviewed the enrollee's information.<sup>19</sup> The reason given for termination from both programs is a lack of information. Appendix A at 20.

Incorrectly using income to determine eligibility where income should not be considered:

- We have been informed of more than a dozen enrollees who have been told by county staff or through a notice that they were terminated for being over-income in programs where parental income is not considered in determining eligibility.<sup>20</sup>
- One notice, dated May 15, 2023, states that both enrollees are terminated because they are "over the income limit." Appendix A at 24. (b)(6) is a parent enrollee, and (b)(6) is her child. The termination of (b)(6) is a violation of federal and state regulations because only the child's income should be considered for the waiver in question,<sup>21</sup> and such income was minimal and unchanged. This enrollee did not receive the notice directly and learned of the termination from a provider when seeking services.<sup>22</sup> She received the notice after termination only after requesting a copy from the child's case manager. We have shared her unredacted notice with her express permission.
- Similarly, the notice on pages 18-19, referenced above, is a notice of a termination due to not providing parental pay stub information for a waiver program where parental income should not be considered.

---

<sup>14</sup> 42 CFR § 435.917(a).

<sup>15</sup> See Appendix B.

<sup>16</sup> 10 CCR § 2505-10 8.100.5.A.1.d.

<sup>17</sup> 42 CFR § 435.916(a)(3)(iii).

<sup>18</sup> 42 CFR § 435.916(e).

<sup>19</sup> This violates 42 § CFR 435.952(a), which requires prompt evaluation of information received.

<sup>20</sup> This violates 42 § CFR 435.916(e), as noted above.

<sup>21</sup> 42 CFR § 435.916(e), 10 CCR § 2505-10 8.100.5.B.1.c.

<sup>22</sup> This violates 42 CFR § 435.917(a).



### Other problems with income determination

- The final notice has two family members on it. Appendix A at 26-27. The first individual is said to be ineligible for a Medicare Savings Program due to income. *Id.* at 26. The second enrollee, a child, is said both to be eligible for Medicaid beginning on May 1, 2023, and ineligible due to excess income on May 31, 2023. *Id.* at 27. This confusing and contradictory notice violates the plain language requirements for notice.<sup>23</sup> In addition, if the child was eligible as of May 1, he should retain eligibility for 12 months.<sup>24</sup> The incomprehensibility of the timelines and reasons provided for termination greatly confused this recipient.

### Other Reports

Lack of Notice: Nearly half of the approximately 25 individual enrollees whose terminations have been shared with us report that they did not receive a renewal packet in the mail or via their online portal. One family reported receiving a renewal packet via the online portal two weeks before their termination date, well after the deadline to return the packet had passed. Many families are reporting that they learn of their termination from a provider and are not receiving notices about their coverage. This is part of the reason we are only able to share ten notices.

Colorado's Returned Mail System may play a role in problems related to mailing. On July 20, 2023, the representative of one managed care entity, Colorado Community Health Alliance, reported large numbers of clients categorized as "whereabouts unknown" when addresses were, in fact, available.<sup>25</sup> At a public meeting on the returned mail system on July 11, 2023, county staff disclosed that they had encountered several enrollees who were categorized as "whereabouts unknown" despite having been at the same address for many years.

Renewal Struggles: It has been reported that LTSS portions of renewal packets for enrollees in long term care are not pre-populated, adding to the substantial burden on enrollees who already face challenges. Families report uncertainty about what needs to be filled out in packets that can be as long as 100 pages, according to state eligibility staff.<sup>26</sup> Many who use the online portal, known as PEAK, report that uploaded information is not reflected in eligibility determinations. One enrollee reported that they changed their address in the PEAK app over a year ago, but the change is still "pending review" in the system. Representatives of managed care entities are reporting that enrollees have been unable to access assistance with renewal packets and that the RAEs were not equipped to provide that help.<sup>27</sup> This violates federal regulations that require that states provide assistance with applications and renewals.<sup>28</sup>

Disability Determinations: There are many reports of enrollees being removed from waivers because a disability determination is not up to date, as well as reports of MAGI enrollees losing

---

<sup>23</sup> 42 CFR § 435.917(a).

<sup>24</sup> 42 CFR § 435.926.

<sup>25</sup> See Appendix B.

<sup>26</sup> See Appendix B.

<sup>27</sup> See Appendix B.

<sup>28</sup> 42 CFR § 435.908.

coverage while an application is pending for an LTSS program. Under a state regulation<sup>29</sup> enrollees should be maintained in their current Medicaid category until the disability determination has been processed. State eligibility staff also informed stakeholders at public meetings that MAGI enrollees would not lose their Medicaid coverage while they are waiting on a disability determination.<sup>30</sup> Contrary to these promises and this regulation, we have heard of multiple enrollees that have been terminated for this reason.

Incorrect eligibility assessments: As noted above, we have heard reports of many waiver recipients being terminated due to their parental income, which is not relevant to eligibility for several pediatric waivers.<sup>31</sup> Enrollees are being asked for more information, like paystubs and proof of income, for programs that do not assess income as part of eligibility.

Appeals: Individuals have also reported that timely appeals have not triggered continuing benefits pending appeal, leaving families at risk of loss of home health services and necessary medications. The failure to continue benefits pending appeal violates federal and state requirements.<sup>32</sup> We assume this is due to a lack of a clear process at the state's Office of Administrative Courts. CCLP has requested information from the state about their process for ensuring that benefits continue but has not received a response. One family filed a timely appeal on May 25, 2023, within ten days of the date of their termination notice.<sup>33</sup> Despite filing the appeal prior to the date of action of May 31, 2023, the child enrollee (b)(6) did not have Medicaid coverage beginning on June 1, 2023. It was not until June 13, 2023 that confirmation was sent that (b)(6) Medicaid benefits would be restored and continued pending the appeal. See Appendix A at 32. The result was nearly two weeks without benefits for a medically fragile child requiring extensive supports.<sup>34</sup>

Another family reported that staff at the Office of Administrative Courts discouraged them from filing an appeal and instead urged them to work it out with their county.<sup>35</sup> Most of the terminations discussed here were resolved by state staff without a hearing. The state, however, did not assist those families in filing an appeal that would have effectively preserved their due process rights.

Data: We hear from our community partners that many cases of wrongful termination are being fixed by individuals at the agency without appeals being filed, thanks to individual targeted advocacy. We recognize that desperate circumstances may require quick solutions on the back end. However, such one-off solutions are inadequate and will reduce the accuracy of data provided to CMS on appeals and terminations. In addition, when a waiver-enrolled child's

---

<sup>29</sup> 10 CCR 2505-10 8.100.5.A.1.d.

<sup>30</sup> *PHE Unwind Webinar-Community Partners and Advocates*, YouTube.com (Jan. 25, 2023) at 1:00:40, <https://youtu.be/nlPnO6DCEfY>.

<sup>31</sup> 42 CFR § 435.916(e).

<sup>32</sup> 42 CFR § 431.230; 10 CCR 2505-10 8.057.5.A.

<sup>33</sup> See Appendix A at 24-25. The appeal of the termination notice can be found on pages 28 through 31 of Appendix A. We did not include the exhibits that were filed, which included a copy of the notice, as well as correspondence from CMAs.

<sup>34</sup> Again, we have shared this family's unredacted notice, appeal, and continuation of benefits letter with the parent's express permission.

<sup>35</sup> This violates 42 CFR 431.221(b)





eligibility is terminated due to excess household income—which is not a factor in their eligibility category—this raises the possibility that these cases are being mischaracterized in the system as MAGI terminations, rather than LTSS terminations.

Impact: The impact of these issues has been catastrophic for some individuals. We have heard of cancer treatments being postponed or cancelled for a child with leukemia. We have been told of cancelled appointments, postponed surgeries, and halted procedures, because providers see in their systems that the patient is no longer covered. We have heard from parents paying out of pocket for things like expensive seizure medication or special formula for children who receive nutrition through gastrostomy tubes. We agree with the CMA CEO who stated in a public meeting with the agency's Executive Director that LTSS enrollees are in crisis.<sup>36</sup>

### **III. Recommended Remedy**

Considering the information provided by HCPF employees, RAEs, CMAs, and families on Medicaid, along with the documentation provided here, we strongly recommend that LTSS terminations be suspended. Such a suspension should remain in effect until, at a minimum, county backlogs for LTSS cases are resolved, a system is in place to ensure that Medicaid coverage continues while an application for LTSS is pending, and a system is set up with the Office of Administrative Courts to ensure that the process to continue benefits pending appeal is effective.

We commend the state for issuing a July 24, 2023 operational memo<sup>37</sup> that aims to prevent unnecessary LTSS terminations when whereabouts are unknown and we support that policy being maintained on a permanent basis. However, we also request that LTSS enrollees whose benefits have already been terminated for that reason have their eligibility reinstated and receive notice of that action.

Thank you for your time and consideration.

Sincerely,

Bethany Pray, Legal Director, [bpray@cclponline.org](mailto:bpray@cclponline.org)  
Katie Wallat, Senior Attorney, [kwallat@cclponline.org](mailto:kwallat@cclponline.org)  
Colorado Center on Law and Policy

*Sent via email*

Included: Appendix A and Appendix B

cc: Elizabeth Edwards, Senior Attorney, NHeLP

---

<sup>36</sup> See Appendix B.

<sup>37</sup> HCPF OM 23-047, available at <https://hcpf.colorado.gov/sites/hcpf/files/HCPF%20OM%2023-047%20Medical%20Assistance%20Returned%20%20Mail%20Process.pdf>.

# Appendix A



May 16, 2023

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

---


## What you qualify for

### Medical Assistance Benefits

We reviewed your information for Medical Assistance benefits and made a decision on May 15, 2023 at 11:45 PM. Some of your benefits have changed. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact Community Assistance at Jeffco-Main at (303) 271-1388 or 900 JEFFERSON COUNTY PKWY GOLDEN CO 80401-6001.

### does **not** qualify for:

-  Health First Colorado (Colorado Medicaid). As of May 31, 2023, you don't qualify because we did not receive your renewal information. If you want to see if you still qualify, you have 90 days from the date your coverage ended to provide the renewal information without having to reapply.

If you don't have your renewal letter anymore, contact your local county office or go to CO.gov/PEAK. If you don't have an account, follow the instructions on CO.gov/PEAK to create one.

Health First Colorado may offer help with unpaid medical expenses during the month(s) you did not have coverage. Please contact your county office for more information.

does **not** qualify for:

- X** Health First Colorado (Colorado Medicaid) and Long-Term Services and Supports. As of May 31, 2023, you don't qualify because we did not receive your renewal information. If you want to see if you still qualify, you have 90 days from the date your coverage ended to provide the renewal information without having to reapply.

If you don't have your renewal letter anymore, contact your local county office or go to [CO.gov/PEAK](https://CO.gov/PEAK). If you don't have an account, follow the instructions on [CO.gov/PEAK](https://CO.gov/PEAK) to create one.

Health First Colorado may offer help with unpaid medical expenses during the month(s) you did not have coverage. Please contact your county office for more information.

---

## Other Health Insurance Options

### People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## Reporting your changes and managing your benefits online

### Report changes to your information

For most programs, you must report changes for your household that could affect your benefits. Examples of changes to report:



- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes pregnant, has or adopts a child, or joins or leaves the household for any reason
- If someone gets health coverage through an employer, COBRA, Medicare, VA Health or another source
- If someone is incarcerated

### To report changes

- **Health First Colorado or CHP+:** Report changes within 10 days of the change by calling (303) 271-1388 or going to [CO.gov/PEAK](https://co.gov/PEAK). If you do not report changes correctly and on time, you may have to pay back some or all of the extra assistance you got. Also, if you knowingly provide misleading information you may be disqualified from the program and prosecuted for fraud.

### Use PEAK® to manage Health First Colorado (Medicaid) online

Go to [CO.gov/PEAK](https://co.gov/PEAK) and create a username and password. You can:

- Sign up to get email or text notifications
- See what benefits you have and when they need to be renewed
- Report changes
- Go to the Mail Center and learn more about household and financial information we used to determine if you qualify for Health First Colorado or CHP+.
- Apply for other benefits



Use the Health First Colorado mobile app and take control of your coverage! Make an account at [CO.gov/PEAK](https://co.gov/PEAK), and then download the free Health First Colorado app.



Use the Health First Colorado app to:

- See if your coverage is active
- Learn about your benefits
- Update your information
- Find providers
- View your member ID card

Sign up to get helpful information about your Health First Colorado benefits by text! Text "JOIN" to 66596. Message and data rates may apply.

---

### If you disagree with our decision

We made our decisions by reviewing the information you gave us, including household size and income. We also get information from other state and federal sources. Visit the Mail Center on [CO.gov/PEAK](https://co.gov/PEAK) and click on the "Details" link next to this letter to see household and financial information we used to determine if you qualify for Health First Colorado or CHP+.



You have the right to appeal decisions about your benefits, including whether you qualify and how much assistance you get. Appeal means you tell a county or state office that you disagree with a decision and you want a hearing. You may be able to continue to get benefits while you appeal. See the box below for more information.

You have the right to represent yourself at your appeal hearing. You may also choose a lawyer, relative, friend or any other person to act as your authorized representative. You may be able to get free legal help, call Colorado Legal Services at 1-303-837-1313 or visit [coloradolegalservices.org](http://coloradolegalservices.org) for more information.

### **To disagree with a decision for Health First Colorado (Medicaid)**

You can request an informal meeting, appeal (ask for a formal hearing) or both. You may be able to address issues more quickly through an informal meeting (also called a county conference). If you also want to appeal, you must do it by the deadline below, even if you also want to try an informal meeting.

<b>To ask for an informal meeting for Health First Colorado (Medicaid)</b>	
<p>Deadline to request an <b>informal meeting</b> for Health First Colorado (Medicaid): <b>July 14, 2023</b></p>	<p>To ask for an informal meeting (county conference), you can call your county human services office and request one. Or, send a letter to your county with your name, address, telephone number, case number, and the reason you disagree with the decision. Send the letter to:</p> <p style="text-align: center;">JEFFERSON County 900 JEFFERSON COUNTY PKWY GOLDEN CO 80401-6001 Phone: (303) 271-1388</p>
<b>To appeal (ask for a formal hearing) for Health First Colorado (Medicaid)</b>	
<p>Deadline to appeal for Health First Colorado (Medicaid): <b>July 14, 2023</b></p>	<p>You can ask for a formal hearing with a judge (also called a State Fair Hearing) in any of these ways:</p> <ul style="list-style-type: none"> <li>• Mail, fax, or bring a letter to the Office of Administrative Courts with: <ul style="list-style-type: none"> <li>◦ Your name</li> <li>◦ Your signature (if mailing or faxing)</li> <li>◦ Your mailing address</li> <li>◦ Your daytime telephone number</li> <li>◦ The reason for your appeal</li> <li>◦ A copy of this notice. Be sure to keep a copy of the letter and this notice for your records.</li> </ul> </li> </ul> <p style="text-align: center;">Office for Administrative Courts 1525 Sherman Street, 4th Floor</p>

	<p>Denver, CO 80203 Phone: 1-303-866-2000 Fax: 1-303-866-5909</p> <ul style="list-style-type: none"> <li>You can also request an appeal online at: <a href="https://colorado.gov/oac/oac-form-links">Colorado.gov/oac/oac-form-links</a></li> </ul> <p>The Office of Administrative Courts will mail you the date, time and place for your hearing.</p>
<p><b>To ask for an expedited hearing for Health First Colorado (Medicaid) decisions</b></p>	<p>If you think waiting for a hearing might jeopardize your life or health, you have the right to ask for an expedited (faster) hearing. To request an expedited hearing, use the same process for requesting a regular appeal and hearing, but say that you want an expedited hearing and why it should be expedited.</p>
<p><b>Continuing your benefits during an appeal</b></p>	<p><b>Health First Colorado (Medicaid):</b> If you are receiving benefits and you appeal and ask for a formal hearing before your benefits end, you may continue to receive the Health First Colorado benefits you are already receiving until a final decision on your appeal is made. If you miss the deadline, you may be able to continue to receive benefits if your appeal is received within 10 days after your benefits end, you provide proof of a health or personal emergency with your request, and you explain why you missed the deadline.</p>

## Supporting Laws

- Health First Colorado (Medicaid): 42 CFR §435.916.

## Other programs you might qualify for

- Additional services through Health First Colorado:** If you or someone in your household has a disability or other special health care needs, you may qualify for more services through Health First Colorado. Contact your county department of human services to learn more, or visit [HealthFirstColorado.com](https://HealthFirstColorado.com).
- Other programs you can apply for through PEAK®:**
  - Help with paying utility bills.
  - Early childhood programs with benefits like healthy food, breastfeeding support, help paying for childcare, parenting support, school readiness and child developmental support.
  - WIC is a nutrition program for infants and children under the age of 5 and pregnant and postpartum women. WIC provides healthy foods, personalized nutrition education, breastfeeding support, and referrals to other services. Families receiving Colorado Works/ Temporary Assistance for Needy Families (TANF), Health First Colorado (Colorado's Medicaid Program) or SNAP automatically qualify and others qualify based on income. WIC benefits are free and do not need to be repaid. Call 1-800-688-7777 (se habla español), email

cdphe\_askwic@state.co.us or visit [www.coloradowic.com](http://www.coloradowic.com) to learn more or find the WIC clinic closest to you.

- SNAP which provides benefits on an electronic benefit card to help you purchase groceries.

Contact your county's human services agency or go to [CO.gov/PEAK](http://CO.gov/PEAK) for program information and application. If you applied for programs other than SNAP, Cash or Medical Assistance, you will receive a separate letter.

---

## If you think you have been treated unfairly or need communication aids and services

The Colorado Department of Health Care Policy & Financing does not discriminate on the basis of race, color, ethnic or national origin, ancestry, age, sex, gender, gender identity and expression, sexual orientation, marital status, religion, creed, political beliefs, or disability in any of its programs, services and activities.

Each organization provides auxiliary aids and services, to individuals with disabilities, and language services, to individuals whose first language is not English, when needed to ensure equal opportunity and meaningful access to programs, services and activities. Examples of aids and services include, but are not limited to, qualified sign language interpreters, information in other formats, foreign language interpreters, and information translated into other languages. Each organization will provide aids and services in a timely manner and free of charge.

To file a discrimination complaint, request free disability or language aids and services, or learn more about this policy, please contact:

**For Health First Colorado and Child Health Plan *Plus*:** Contact the Colorado Department of Health Care Policy & Financing, 504/ADA Coordinator, 1570 Grant St, Denver, CO 80203. Phone: 303-866-6010 or state relay 711. Fax: 303-866-2828. Email: [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us).

Civil rights complaints can also be filed with the U.S. Department of Health and Human Services Office for Civil Rights electronically through the Office for Civil Rights Complaint Portal available at [https://ocrportal.hhs.gov/ocr/cp/complaint\\_frontpage.jsf](https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf) or by mail, phone, or fax at: 1961 Stout Street Room 08-148 Denver, CO 80294, Telephone: 800-368-1019, Fax: 202-619-3818, TDD: 800-537-7697. Complaint forms are available at <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>

**This page was intentionally left blank**

# Help in your Language

Appendix A  
Page 8 of 32

Health First Colorado/CHP+: 1-800-221-3943 (State Relay: 711)

<b>Español</b>	ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística.
<b>Tiếng Việt</b>	CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn.
<b>繁體中文</b>	注意：如果您使用繁體中文，您可以免費獲得語言援助服務。
<b>한국어</b>	주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다.
<b>Русский</b>	ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода.
<b>አማርኛ</b>	ማሳሰቢያ: የሚናገሩት ቋንቋ አማርኛ ከሆነ የትርጉም አርዳታ ድርጅቶች በነጻ ሊያግዝዎት ተዘጋጅተዋል፡፡
<b>العربية</b>	ملحوظة: إذا كنت تتحدث انكر اللغة، فإن خدمات المساعدة اللغوية تتوافر لك بالمجان.
<b>Deutsch</b>	ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung.
<b>Français</b>	ATTENTION: Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement.
<b>नेपाली</b>	ध्यान दिनुहोस्: तपाईंले नेपाली बोल्नुहुन्छ भने तपाईंका निम्ति भाषा सहायता सेवाहरू निःशुल्क रूपमा उपलब्ध छ ।
<b>Tagalog</b>	PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad.
<b>日本語</b>	注意事項：日本語を話される場合、無料の言語支援をご利用いただけます。
<b>Oroomiffa</b>	XIYYEEFFANNAA: Afaan dubbattu Oroomiffa, tajaajila gargaarsa afaanii, kanfaltiidhaan ala, ni argama.
<b>فارسی</b>	توجه: اگر به زبان فارسی گفتگو می کنید، تسهیلات زبانی بصورت رایگان برای شما فراهم می باشد.
<b>Polski</b>	UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej.





June 14, 2023

Case Number: [REDACTED]

Dear [REDACTED],

**This letter is about your medical benefits. This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.**

---

### What you qualify for

#### Medical Assistance Benefits

We reviewed your information for your July 1, 2023 renewal of Medical Assistance benefits, and made a decision on June 14, 2023 at 12:15 AM. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact AFLTC Ongoing at 03 01 CentrePoint at (303) 636-1170 or 14980 E ALAMEDA DR STE 007 AURORA CO 80012-1542.

[REDACTED]  
CHP+ ID: [REDACTED]

[REDACTED] **does not qualify for:**

☒ **Child Health Plan Plus (CHP+).** You don't qualify because you have other health insurance.

---

### Other Health Insurance Options

**People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):**

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used

**QUESTIONS } Visit [CO.gov/PEAK](https://CO.gov/PEAK)**

Case Number/Correspondence ID: [REDACTED]

Page 1 of 6

Process Date: June 14, 2023



# STATE OF COLORADO

---



June 24, 2023

Case Number: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

---

What you qualify for

## **Medical Assistance Benefits**

We reviewed your information for Medical Assistance benefits and made a decision on June 24, 2023 at 8:41 PM. Some of your benefits have changed. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact Long Term Care TM at Adams - HSC at (720) 523-2800 or 11860 PECOS ST WESTMINSTER CO 80234.



[REDACTED]  
Health First Colorado ID: [REDACTED]

[REDACTED] **does not qualify for:**

- ✕ Health First Colorado (Colorado Medicaid) and Long-Term Services and Supports. As of June 30, 2023, benefits will end because you told us you no longer want this benefit.

**Get help:**

- You can apply again for Health First Colorado and CHP+ coverage at any time.
- Connect for Health Colorado may have financial help and coverage options for you. Visit [connectforhealthco.com](https://connectforhealthco.com).
- If you have questions or need help, contact your county department of health and human services or medical assistance site.

[REDACTED]  
Health First Colorado ID: [REDACTED]

[REDACTED]  
Your status has not changed. You don't have to do anything at this time.

---

## **Other Health Insurance Options**

**People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):**

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health

# STATE OF COLORADO



July 2023

Case Number:

Dear

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

---

## What you qualify for

### Medical Assistance Benefits

We reviewed your information for Medical Assistance benefits and made a decision on July 20, 2023 at 8:31 PM. Some of your benefits have changed. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact Boulder County Conf at Boulder County at (303) 441-1000 or 515 COFFMAN ST LONGMONT CO 80501-5409.

Health First Colorado ID:

Your status has not changed. You don't have to do anything at this time.

Health First Colorado ID

### Qualifies for:

- ✓ Health First Colorado (Colorado Medicaid). Your benefits start on September 1, 2023. View and print your member ID card using the Health First Colorado mobile app or the [CO.gov/PEAK](https://CO.gov/PEAK) website. You will get a card in the mail.

**As not qualify for:**

- X** Health First Colorado (Colorado Medicaid) and Long-Term Services and Supports. As of August 31, 2023, you don't qualify because you don't meet the Social Security criteria for disability.

**Get help:**

- You can apply again for Health First Colorado and CHP+ coverage at any time.
- Connect for Health Colorado may have financial help and coverage options for you. Visit [connectforhealthco.com](https://connectforhealthco.com).
- If you have questions or need help, contact your county department of health and human services or medical assistance site.

---

## **Other Health Insurance Options**

### **People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):**

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## **Reporting your changes and managing your benefits online**

### **Report changes to your information**

For most programs, you must report changes for your household that could affect your benefits.

Examples of changes to report:

- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes



June 15, 2023

Case Number: [REDACTED]

[REDACTED]

Dear [REDACTED]

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

### What you qualify for

#### Medical Assistance Benefits

We reviewed your information for your July 1, 2023 renewal of Medical Assistance benefits, and made a decision on June 14, 2023 at 9:39 PM. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact AFLTC Ongoing at 03 01 CentrePoint at (303) 636-1170 or 14980 E ALAMEDA DR STE 007 AURORA CO 80012-1542.

[REDACTED]

Health First Colorado ID: [REDACTED]

#### does not qualify for:

- ☒ Health First Colorado Medicaid Buy-In. You don't qualify because you did not give us all the information we need to decide if you qualify for benefits.

You have 90 days from the date your health coverage ended to provide the information and documents we need. If you wait longer than 90 days, you will need to reapply. Please provide all information we asked for in the "Request for More Information" letter. If you don't have the letter anymore, contact your local county office or get it online at [CO.gov/PEAK](https://CO.gov/PEAK) in your PEAK mailbox. If you don't have a PEAK account, follow the instructions on [CO.gov/PEAK](https://CO.gov/PEAK) to create one.

### Other Health Insurance Options

**QUESTIONS** } Visit [CO.gov/PEAK](https://CO.gov/PEAK)

Case Number/Correspondence ID: [REDACTED]

Page 1 of 7

Process Date: June 15, 2023

## **People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):**

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## **Reporting your changes and managing your benefits online**

### **Report changes to your information**

For most programs, you must report changes for your household that could affect your benefits.

Examples of changes to report:

- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes pregnant, has or adopts a child, or joins or leaves the household for any reason
- If someone gets health coverage through an employer, COBRA, Medicare, VA Health or another source
- If someone is incarcerated

### **To report changes**

- **Health First Colorado or CHP+:** Report changes within 10 days of the change by calling (303) 636-1170 or going to [CO.gov/PEAK](https://CO.gov/PEAK). If you do not report changes correctly and on time, you may have to pay back some or all of the extra assistance you got. Also, if you knowingly provide misleading information you may be disqualified from the program and prosecuted for fraud.

### **Use PEAK® to manage Health First Colorado (Medicaid) online**

Go to [CO.gov/PEAK](https://CO.gov/PEAK) and create a username and password. You can:





June 14, 2023

[REDACTED]

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

### What you qualify for

#### **Medical Assistance Benefits**

We reviewed your information for Medical Assistance benefits and made a decision on June 14, 2023 at 7:05 AM. Some of your benefits have changed. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact CO MEDICAL ASST PRGM at CO Medical Asst Prgm at (800) 359-1991 or 655 Bannock ST Denver CO 80204.

#### **[REDACTED] qualifies for:**

- ✓ Health First Colorado (Colorado Medicaid). Your benefits start on July 1, 2023. View and print your member ID card using the Health First Colorado mobile app or the CO.gov/PEAK website. You will get a card in the mail.
- ✓ Health First Colorado Medicaid Buy-In. Your benefits start on August 1, 2023. View and print your member ID card using the Health First Colorado mobile app or the CO.gov/PEAK website. You will get a card in the mail.

#### **[REDACTED] does not qualify for:**

- X** Health First Colorado (Colorado Medicaid) and Long-Term Services and Supports. As of June 30, 2023, you don't qualify because you did not give us all the information we need to decide if you qualify for benefits.

**Get help:**

- You can apply again for Health First Colorado and CHP+ coverage at any time.
- Connect for Health Colorado may have financial help and coverage options for you. Visit [connectforhealthco.com](https://connectforhealthco.com).
- If you have questions or need help, contact your county department of health and human services or medical assistance site.

---

## Other Health Insurance Options

### People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://ConnectforHealthCO.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## Reporting your changes and managing your benefits online

### Report changes to your information

For most programs, you must report changes for your household that could affect your benefits.

Examples of changes to report:

- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes



# STATE OF COLORADO



July 16, 2023

Case Number: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

---

## What you qualify for



### Medical Assistance Benefits

We reviewed your information for your August 1, 2023 renewal of Medical Assistance benefits, and made a decision on July 15, 2023 at 10:32 PM. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact Long Term Care at Jeffco-AAS at (303) 271-1388 or 900 JEFFERSON COUNTY PKWY GOLDEN CO 80401-6001.

[REDACTED]  
Health First Colorado ID: [REDACTED]

### [REDACTED] does not qualify for:

- X** Health First Colorado (Colorado Medicaid). You don't qualify because you did not give us all the information we need to decide if you qualify for benefits.

You have 90 days from the date your health coverage ended to provide the information and documents we need. If you wait longer than 90 days, you will need to reapply. Please provide all information we asked for in the "Request for More Information" letter. If you don't have the letter anymore, contact your local county office or get it online at CO.gov/PEAK in your PEAK mailbox. If you don't have a PEAK account, follow the instructions on CO.gov/PEAK to create one.

---

## Other Health Insurance Options

**QUESTIONS }** Visit CO.gov/PEAK

Case Number/Correspondence ID: [REDACTED]

Page 1 of 7

Process Date: July 16 2023

## People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## Reporting your changes and managing your benefits online

### Report changes to your information

For most programs, you must report changes for your household that could affect your benefits. Examples of changes to report:

- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes pregnant, has or adopts a child, or joins or leaves the household for any reason
- If someone gets health coverage through an employer, COBRA, Medicare, VA Health or another source
- If someone is incarcerated

### To report changes

- **Health First Colorado or CHP+:** Report changes within 10 days of the change by calling (303) 271-1388 or going to [CO.gov/PEAK](https://CO.gov/PEAK). If you do not report changes correctly and on time, you may have to pay back some or all of the extra assistance you got. Also, if you knowingly provide misleading information you may be disqualified from the program and prosecuted for fraud.

### Use PEAK® to manage Health First Colorado (Medicaid) online

Go to [CO.gov/PEAK](https://CO.gov/PEAK) and create a username and password. You can:

# STATE OF COLORADO



July 16, 2023

Case Number: [REDACTED]

Application Authorization Number: [REDACTED]

Dear [REDACTED]

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

## What you qualify for


### Medical Assistance Benefits

We reviewed your information for Medical Assistance benefits and made a decision on July 15, 2023 at 11:49 PM. Some of your benefits have changed. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact Connect for Health Colorado at 1-855-PLANS-4-YOU (1-855-752-6749) or TTY: 1-855-346-3432. Or, go to [ConnectForHealthCO.com](https://connectforhealthco.com) to find free, in-person help.

[REDACTED]  
Health First Colorado ID [REDACTED]

### does **not** qualify for:

-  Health First Colorado (Colorado Medicaid). You don't qualify because you did not give us all the information we need to decide if you qualify for benefits.

You have 90 days from the date your health coverage ended to provide the information and documents we need. If you wait longer than 90 days, you will need to reapply. Please provide all information we asked for in the "Request for More Information" letter. If you don't have the letter anymore, contact your local county office or get it online at [CO.gov/PEAK](https://CO.gov/PEAK) in your PEAK mailbox. If you don't have a PEAK account, follow the instructions on [CO.gov/PEAK](https://CO.gov/PEAK) to create one.

- X** Health First Colorado Medicaid Buy-In. As of July 31, 2023, you don't qualify because we did not receive your renewal information. If you want to see if you still qualify, you have 90 days from the date your coverage ended to provide the renewal information without having to reapply.

If you don't have your renewal letter anymore, contact your local county office or go to CO.gov/PEAK. If you don't have an account, follow the instructions on CO.gov/PEAK to create one.

Health First Colorado may offer help with unpaid medical expenses during the month(s) you did not have coverage. Please contact your county office for more information.

---

## Other Health Insurance Options

### People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## Reporting your changes and managing your benefits online

### Report changes to your information

For most programs, you must report changes for your household that could affect your benefits.

Examples of changes to report:

- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes

# STATE OF COLORADO



06/21/2023

Connect for Health Colorado  
Verifications  
P.O. Box 35681  
Colorado Springs CO 80935  
1-855-PLANS-4-YOU (855-752-6749)

Case Number: [REDACTED]

## Request for More Information

Dear [REDACTED]

We need more information to make a decision about your household's benefits. **Please send the information below by the due date listed** or your benefits may be denied or may end. If this happens, you will get a separate letter to tell you which benefits were denied, when your current benefits will end, and what you can do to appeal.

### Information We Need

Please send the information requested for each person below. For instructions about how to send this information, see the section, **"Where to Send the Information."**

To choose the right type of proof to send for each item, first check if there is a note in the "Notes" section below the item. If there is no note and you are not sure what we need, please call us for more information.

Information needed for [REDACTED]

Information to send	Due date for each program: send one copy by the earliest date listed
Proof of income from [REDACTED] which could be paystubs, employer statement, or other proof from your employer.	07/07/2023 for Medical Assistance
Notes for Medical Assistance:	

### Where to Send the Information

Send copies, not original documents. **Write your case number on every page of each document you send or upload.** See page 1 of this letter for your case number.

Choose one of these ways to send your information:



1. Upload the information to [CO.gov/PEAK](https://CO.gov/PEAK). If you do not have an account, you can create one.
2. Mail:  
Connect for Health Colorado  
Verifications  
P.O.Box 35681  
Colorado Springs CO 80935
3. Fax: 1-855-346-5175

---

### For Questions and Help

Contact Connect for Health Colorado at 1-855-PLANS-4-YOU (855-752-6749) (TTY: 855-346-3432) if you need help or can't return the documents by the due date. We may be able to give you extra time if you are having trouble getting the documents.

Sincerely,

Connect for Health Colorado  
1-855-PLANS-4-YOU (855-752-6749) (TTY: 855-346-3432)



Use the Health First Colorado mobile app and take control of your coverage! Make an account at [Colorado.gov/PEAK](https://Colorado.gov/PEAK), and then download the free Health First Colorado app.



Use the Health First Colorado app to:

- See if your coverage is active
- Learn about your benefits
- Update your information
- Find providers
- View your member ID card

Sign up to get helpful information about your Health First Colorado benefits by text! Text "JOIN" to 66596. Message and data rates may apply.



May 15, 2023

Case Number: (b)(6)

(b)(6)

DENVER CO 80249-8553

Dear (b)(6)

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

---

### What you qualify for



#### Medical Assistance Benefits

We reviewed your information for your June 1, 2023 renewal of Medical Assistance benefits, and made a decision on May 15, 2023 at 11:45 AM. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact LTC Castro at Denver/FAD/ Division at (720) 944-4347 or 1200 FEDERAL BLVD DENVER CO 80204-3221.

(b)(6)

Health First Colorado ID: (b)(6)

(b)(6) **does not qualify for:**

- ☒ Health First Colorado (Colorado Medicaid). As of May 31, 2023, you don't qualify because you are over the income limit.

#### Get help:

- You can apply again for Health First Colorado and CHP+ coverage at any time.
- Connect for Health Colorado may have financial help and coverage options for you. Visit [connectforhealthco.com](https://connectforhealthco.com).
- If you have questions or need help, contact your county department of health and human services or medical assistance site.

**QUESTIONS }** Visit [CO.gov/PEAK](https://CO.gov/PEAK)

Case Number/Correspondence ID: (b)(6)

Page 1 of 6

Process Date: May 15, 2023

(b)(6)

Health First Colorado ID: (b)(6)

(b)(6) does **not** qualify for:

- ✗ Health First Colorado (Colorado Medicaid). You don't qualify because you are over the income limit.

---

## Other Health Insurance Options

### People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

## Reporting your changes and managing your benefits online

### Report changes to your information

For most programs, you must report changes for your household that could affect your benefits.

Examples of changes to report:

- Household address
- Income
- If your household changes because someone in your household marries, divorces, becomes pregnant, has or adopts a child, or joins or leaves the household for any reason
- If someone gets health coverage through an employer, COBRA, Medicare, VA Health or another source
- If someone is incarcerated

QUESTIONS } Visit [CO.gov/PEAK](https://CO.gov/PEAK)

Case Number/Correspondence ID: (b)(6)

Page 2 of 6

Process Date: May 15, 2023

8 of 12



May 18, 2023

Case Number: [REDACTED]

Application Authorization Number: [REDACTED]

[REDACTED]  
(b)(6)

Dear [REDACTED]

**This letter is about your medical benefits.** This letter tells you what you qualify for and next steps. It also has information about your right to appeal these decisions.

---

### What you qualify for



#### Medical Assistance Benefits

You applied for Medical Assistance benefits on May 1, 2023 and we made a decision on May 18, 2023 at 1:50 PM. The people in your household may have qualified for different benefits. The boxes below tell you about these benefits.

For questions about the Medical Assistance you qualify for, contact Connect for Health Colorado at 1-855-PLANS-4-YOU (1-855-752-6749) or TTY: 1-855-346-3432. Or, go to [ConnectForHealthCO.com](https://ConnectForHealthCO.com) to find free, in-person help.

[REDACTED]  
Health First Colorado ID: [REDACTED]

[REDACTED] **does not** qualify for:

- ☒ **Payment of Medicare Part D Premiums and Co-Pays/Deductibles.** You don't qualify because you are over the income limit.

Health First Colorado ID: [REDACTED]

[REDACTED]

- ☒ **Health First Colorado (Colorado Medicaid).** Your benefits start on May 1, 2023. View and print your member ID card using the Health First Colorado mobile app or the [CO.gov/PEAK](https://CO.gov/PEAK) website.

**QUESTIONS } Visit [CO.gov/PEAK](https://CO.gov/PEAK)**

Case Number/Correspondence ID: [REDACTED]

Page 1 of 7

Process Date: May 18, 2023

You will get a card in the mail.

**does not qualify for:**

- X** Health First Colorado (Colorado Medicaid). As of May 31, 2023, you don't qualify because you are over the income limit.

**Get help:**

- You can apply again for Health First Colorado and CHP+ coverage at any time.
- Connect for Health Colorado may have financial help and coverage options for you. Visit [connectforhealthco.com](https://connectforhealthco.com).
- If you have questions or need help, contact your county department of health and human services or medical assistance site.

---

### Other Health Insurance Options

**People in your household who DO NOT qualify for Health First Colorado or Child Health Plan Plus (CHP+):**

You may choose to enroll in a private health insurance plan through an employer, a private broker, or Connect for Health Colorado.

You may qualify for financial assistance through Connect for Health Colorado that can be used to lower the price of a private health insurance plan.

- Information from your application may have been sent to Connect for Health Colorado. You must sign up for a plan within 60 days of the last day of your Health First Colorado or CHP+ coverage.
- Learn more at [ConnectforHealthCO.com](https://connectforhealthco.com) or call 1-855-752-6749.
- If you would like to seek in-person assistance with your health insurance options you may find assistance at <https://connectforhealthco.com/we-can-help/>.

Even if people in your household qualify for Medical Assistance benefits, you can choose to buy a full price private health insurance plan. This is optional. Health First Colorado and CHP+ members do not have to consider, or enroll in, other health insurance options. If you choose to buy private health insurance, it could affect your Health First Colorado or CHP+ Medical Assistance benefits. To learn more, go to <https://connectforhealthco.com/get-started/health-first-colorado/>.

---

### Reporting your changes and managing your benefits online

#### Report changes to your information

For most programs, you must report changes for your household that could affect your benefits.

Examples of changes to report:

- Household address
- Income

**QUESTIONS } Visit CO.gov/PEAK**

Case Number/Correspondence ID: **████████████████████**

Page 2 of 7

Process Date: May 18, 2023



STATE OF COLORADO OFFICE OF ADMINISTRATIVE HEARINGS 1525 Sherman Street, 4 <sup>th</sup> Floor Denver, CO 80203 (303) 866-2000	<div style="text-align: center;"> <b>RECEIVED</b>   <b>MAY 25 2023</b>   <b>Office of Administrative Courts</b>          ▲ COURT USE ONLY ▲       </div>
<div> <div>(b)(6)</div> <div>individually and on behalf of her daughter,</div> <div>(b)(6)</div> </div> <p><b>Appellants:</b></p> <p><b>v.</b></p> <p><b>Rocky Mountain Human Services and the Colorado Department of Healthcare Policy and Financing</b></p> <p><b>Appellee:</b></p>	
<div>(b)(6)</div>  Tel: (b)(6) E-mail: (b)(6)	Case Number
<p style="text-align: center;"><b>APPEAL OF DENIAL OF PUBLIC BENEFITS AND REQUEST FOR HEARING</b></p>	

Appellants (b)(6) individually and on behalf of her daughter (b)(6) respectfully submit the following Appeal of Public Benefits and Requests for Hearing. Appellant also requests a Scheduling Conference for the expeditious and orderly management of this Appeal.

1. (b)(6) is a 16-year old resident of Denver, Colorado. As she is a minor, she is cared for by her mother and natural guardian, (b)(6)
2. Rocky Mountain Human Services ("RMHS") is a contractor of the State of Colorado, providing case management services to the Colorado Department of Healthcare Policy and Financing (hereinafter referred to as the "Department")
3. (b)(6) is an individual with multiple disabilities who is eligible for Medicaid services. Her diagnoses include, but are not limited to: (b)(6)

(b)(6)

(b)(6) All of these present active problems and more require complex care coordination (Z71.89).

1/2/12

(b)(6)

4. (b)(6) qualifies for, and has received services under, the Home and Community Based Services – Children's Extensive Services ("CES") waiver for several years. Under the CES waiver, (b)(6) received, among other services, Medicaid Long Term Home Health Services ("LTHH").
5. To be eligible for LTHH, the services must be medically necessary, provided for by skilled (licensed) caregivers following an established plan of care. A person qualifies for LTHH when the only other alternative for that person's medical care is in the hospital.
6. (b)(6) is approved for and receives, Colorado Nurse Aide ("CNA") level of care, and Private-Duty Nursing ("PDN") provided by an RN or LPN. (b)(6) is eligible for 56 hours per week of CNA care and qualifies for 168 hours of PDN per week.
7. Ms. (b)(6) is (b)(6) mother and is a licensed CNA who provides (b)(6) CNA hours weekly, under Colorado's authorized rules allowing parents and other family members of minors to provide skilled LTHH Medicaid services.
8. Ms. (b)(6) and the other nurses that care for (b)(6) do so through an agency, AMI Services, Inc. that coordinates medical approval for (b)(6) care between Colorado Medicaid and (b)(6) medical providers.
9. AMI Services, Inc. must certify (b)(6) Plan of Care every sixty (60) days. The last certification was on April 27, 2023.
10. RMHS last certified (b)(6) eligibility for the CES waiver in April or May 2023
11. Eligibility for LTHH depends upon continued eligibility for Health First Colorado (Colorado Medicaid) and the CES Waiver.
12. There is no dispute (b)(6) is currently eligible for CES and Colorado Medicaid (including LTHH) as a result of her disabilities.
13. The Department requires periodic recertification of eligibility for Medicaid. To this end, it issues renewals for applications of Medical Assistance Benefits. Ms. (b)(6) received such an application on or around March 15, 2023, for re-eligibility determination due on June 1, 2023.

2/1/2

14. Ms. (b)(6) completed her recertification application on or around May 05, 2023 and turned it in. On or around May 20, 2023, Ms. (b)(6) received the following notice (Exhibit 1), from the Department, which determined that Ms. (b)(6) were ineligible for Health First Colorado because "[s]he and (b)(6) are over the income limit."
15. This notice appears to be a clerical error that based re-eligibility for (b)(6) on the finances of her mother, in violation of the HCBS-CES waiver eligibility criteria, set forth in 10 CCR 2505-10 8 100.
16. The loss of LTHH and CES benefits will be highly detrimental to (b)(6) and will force her guardian, Ms. (b)(6) to place (b)(6) in a hospital or similar facility to receive care.
17. This appeal is filed within ten (10) days of the receipt of the recertification denial. There has been no required Notice of Action (803) received from RMHS. This failure to issue any Notice of Action is defective in and of itself, but (b)(6) should keep her benefits during the pendency of this appeal pursuant to 10 CCR 2505-10 8.507.
18. Even if the Court were to determine that there was a proper Notice of Action and that the appeal was outside the ten (10) day period found in 10 CCR, the loss of benefits during the pending appeal would result in a serious impact in the recipient's life, health and safety, so benefits should continue during the pendency of the appeal on this basis as well. See 10 CCR 2505-10 8.507.
19. Given the issues at stake, Appellant respectfully requests that this Court set this matter in for an early Scheduling Conference.

WHEREFORE, (b)(6) for herself and on behalf of her daughter, (b)(6) appeals the Department's denial of a Public Benefits and requests a hearing with this Court. Appellants also request an Order from this Court that (b)(6) benefits continue without interruption during the pendency of the this appeal.

Respectfully submitted on May 25, 2023

(b)(6)  
(b)(6) Guardian of (b)(6)

Certificate of Service

I hereby certify that on May 25, 2023, a true and correct copy of the foregoing Appeal of Denial of Public Benefits and Request for Hearing was sent via email to the following:

[CASE MANAGEMENT SUPERVISOR]

RMHS

(b)(6)

(b)(6)

Guardian of (b)(6)

7/2/23

# STATE OF COLORADO



06/13/2023

(b)(6)

DENVER CO 80249-8553

## Continuation of Benefits during your Appeal

Dear (b)(6):

This letter is to let you know that we have received your Health First Colorado (Colorado's Medicaid Program) appeal. The Health First Colorado (Colorado's Medicaid Program) benefits for (b)(6) will be continued until a Final Agency Decision has been made regarding your appeal. No further action is needed to continue your benefits.

If you lose your appeal, your benefits will end on the last day of the month printed on the Final Agency Decision. If you lose your appeal, you may have to pay back any continued benefits you have received since your benefit termination date.

You may request to stop receiving continued benefits by writing to:

Health Care Policy & Financing  
1570 Grant Street  
Denver, CO 80203  
Attn: Eligibility Appeals

If you choose to stop receiving continued benefits and you win your appeal, you are entitled to the corrective action as outlined in the Final Agency Decision. This means benefits may be restored back to the date they were terminated.

Sign up to get helpful information about your Health First Colorado benefits by text! Text "JOIN" to 66596. Message and data rates may apply.



# Appendix B

## July 20, 2023 meeting of state partners

Colorado's Executive Director of the Department of Health Care Policy and Financing, Kim Bimestefer, convened our regional managed care entities, known as Regional Accountable Entities or RAEs,<sup>1</sup> several case management agencies, and disability advocates on July 20, 2023. The meeting was held remotely. CCLP's Legal Director, Bethany Pray, was one of the invitees in attendance. Several participants spoke frankly about high rates of termination for people on waivers due to processing issues and other problems. Excerpted notes from that meeting follow.

Rocky Mountain Health Plans RAE CEO Patrick Gordon said that counties in their region are backlogged with paper applications, and that counties are doing "90-day retros" frequently, which is "incredibly disruptive to services and provider payment."<sup>2</sup> He also said there is a big gap in terms of the lack of assistance available to people with filling out the renewal packets; the RAEs are charged with contacting and reminding people but they cannot provide that assistance.

The CEO of a second RAE, Colorado Community Health Alliance (CCHA), Amy Yutzy, reported that call wait times at the county or state are too long and the RAE is unable to provide the type of help that people need when they call. They are seeing many people on waivers lose coverage, with a main reason being "whereabouts unknown," even though whereabouts are, in fact, known. Cara Hebert, Manager of Stakeholder Engagement at CCHA, says that long-term care processing for renewals is backlogged and they are seeing members disenrolled when they should not be.

Case management agency Developmental Pathways CEO Matt Van Auken reported that 7% of the 477 individuals in their LTSS caseload lost coverage and reported that some individuals' cases were closed mid-month, prior to their annual renewal date. He also reported that children with Medicaid through foster care or supported adoption had all lost coverage instead of getting ex parte renewals, due presumably to a glitch in the state's Trails child protection system.<sup>3</sup> Matt Van Auken asked for LTSS enrollees to be prioritized and called this a crisis.

Shari Repinski CEO Rocky Mountain Human Services, another case management agency, agreed that there was a county backlog with inputting renewal information for LTSS enrollees.

Kelly Morrison in Weld County, which is both a case management agency and eligibility partner, said there was already a priority system for LTSS enrollees in most counties but that they can't do ex parte renewals for LTSS because a lot of things have to be checked, such as burial trusts. She said people are falling off coverage because it takes extra weeks to get the information input to the system and by the time they are able to do that, people have already lost coverage.

---

<sup>1</sup> Colorado's regional managed care entities combine the functions of a Prepaid Inpatient Health Plan (PIHP) and a Primary Case Management Entity. The seven PIHPs deliver behavioral health services and provide primary care case management services through regional networks of primary care practices.

<sup>2</sup> CCLP believes Mr. Gordon was referring to redeterminations during the 90-day period post-termination.

<sup>3</sup> HCPF Eligibility Director Marivel Klueckman confirmed at a later point in the call that there had been a statewide glitch in the Trails child protection system that has been fixed. CCLP asked how those families had been noticed about the resumption of coverage but did not receive an answer.

HCPF Eligibility Director Marivel Klueckman identified that they would be making changes to the renewal packet because they had learned that packets were as long as 100 pages when there were multiple household members.

CCLP renewed its request that LTSS terminations are suspended until the problems are resolved and backlogs can be dealt with. HCPF Director Kim Bimestefer said at the close of the meeting that they were not willing to pause terminations and wanted to continue to address problems as they arose.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

A.M.C., by her next friend, C.D.C., *et al.*,

Plaintiffs,

v.

STEPHEN SMITH, in his official capacity as  
Deputy Commissioner of Finance and  
Administration and Director of the Division  
of TennCare,

Defendant.

Civil Action No. 3:20-cv-00240  
Chief District Judge Crenshaw  
Magistrate Judge Newbern

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.01, Defendant respectfully moves this Court for summary judgment in his favor and against Plaintiffs. This motion is supported by an accompanying memorandum of law and statement of undisputed material facts.

July 10, 2023

Respectfully submitted,

Jonathan Skrmetti  
Attorney General and Reporter

Meredith Bowen TN BPR #34044  
Assistant Attorney General  
Matthew Dykstra TN BPR #38237  
OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 20207  
Nashville, TN 37202  
(615) 741-1366  
meredith.bowen@ag.tn.gov

/s/ Michael W. Kirk  
Michael W. Kirk\*  
Nicole J. Moss\*  
William V. Bergstrom\*  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, NW  
Washington, D.C. 20036  
(202) 220-9600  
mkirk@cooperkirk.com  
nmoss@cooperkirk.com  
\*Appearing *pro hac vice*

*Counsel for the Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served via the Court's electronic filing system on this 10th day of July, 2023.

Brant Harrell  
Gordon Bonnyman, Jr.  
Michele M. Johnson  
Laura E. Revolinski  
Madeline D. Wiseman  
Vanessa Zapata  
TENNESSEE JUSTICE CENTER  
211 7<sup>th</sup> Avenue N., Ste. 100  
Nashville, TN 37219

Jennifer M. Selendy  
Faith E. Gay  
Andrew R. Dunlap  
Babak Ghafarzade  
Amy Nemetz  
Bret Matera  
David Coon  
SELENDY & GAY PLLC  
1290 Avenue of the Americas  
New York, NY 10104

Elizabeth Edwards  
Sarah Grusin  
Jane Perkins  
NATIONAL HEALTH LAW PROGRAM  
200 N. Greensboro St., Ste. D-13  
Carrboro, NC 27510

Gregory Lee Bass  
NATIONAL CENTER FOR LAW AND  
ECONOMIC JUSTICE  
275 Seventh Avenue, Suite 1506  
New York, NY 10001

/s/ Michael W. Kirk

Michael W. Kirk

*Counsel for the Defendant*





Refer to: Request Number **2023-01153-FOIA-OS**

**September 6, 2023**

***Sent via email:***

Christopher C. Torres  
Chief of Civil Litigation, AHCA  
Florida Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, FL 32308  
**[christopher.torres@ahca.myflorida.com](mailto:christopher.torres@ahca.myflorida.com)**

Dear Mr. Torres:

This acknowledges receipt of your August 28, 2023, Freedom of Information Act (FOIA) request, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division concerning *"Records and/or communications related to the U.S. Department of Health and Human Services ("HHS") and the Florida Health Justice Project ("FHJP"), the National Health Law Program ("NHLP"), and their attorneys, agents, and employees, (as counsel of record for Plaintiffs), regarding the subject matter of litigation that was recently brought against both AHCA and the Florida Department of Children and Families ("DCF"), Chianne D, et al. v. Weida, et al., No. 3:23-cv-00985 (M.D. Fla.), challenging Medicaid redeterminations of recipient eligibility pursuant to 42 U.S.C. § 1396a(3) and its implementing regulation, 42 C.F.R. § 431.210(b). Specifically, the Requester requests the following Records in the possession of HHS and/or the HHS Office for Civil Rights from January 1, 2023, through the date of production of the Records: 1.Records related to or containing HHS's communications with or regarding the Florida Health Justice Project and/or the National Health Law Program and litigation challenging Florida's Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards. 2.Records related to or containing HHS's internal communications concerning Florida's Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards. 3.Records related to or containing HHS's communications concerning Florida's Medicaid redeterminations of recipient eligibility with the following individuals: Katy DeBriere, Miriam Harmatz, Lynn Hearn, Sarah Grusin, Miriam Heard, Amanda Avery, and Jane Perkins. 4.Records related to litigation CMS or HHS is currently involved in regarding States' Medicaid redeterminations of recipient eligibility. (Date Range for Record Search: From 01/01/2023 To 08/28/2023)"*.

We received your request on **August 28, 2023** and are also referring it to the Centers for Medicare and Medicaid Services (CMS) for direct response to you. Upon receipt, CMS will log your request, and provide you with a new tracking number for your reference. You may check the status of your request with CMS at 410-786-5353 or at [FOIA\\_Request@cms.hhs.gov](mailto:FOIA_Request@cms.hhs.gov).

Because you seek records which require a search in another office, Office for Civil Rights(OCR), “unusual circumstances” apply to your request, automatically extending the time limit to respond to your request for ten additional days. See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2012 & Supp. V. 2017). Further, we estimate needing more than 10 additional days to respond to your request and so, in the next paragraph of this letter we are offering you an opportunity to narrow your request, in case narrowing the request would enable us to respond to the request sooner. The actual time needed to process your request will depend on the complexity of our records search and on the volume and complexity of any material located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Our current workload is approximately 3000 cases.

Your request is assigned to the complex track. In an effort to speed up our records search, you may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located. You may also wish to await the completion of our records search to discuss either of these options.

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the HHS FOIA office via email at [foiarequest@hhs.gov](mailto:foiarequest@hhs.gov).

If you are not satisfied with any aspect of the processing and handling of this request, you have the right to seek dispute resolution services from:

HHS FOIA/PA Public Liaison  
FOI/Privacy Acts Division  
Assistant Secretary for Public Affairs (ASPA)  
Office of the Secretary (OS)  
U.S. Department of Health and Human Services (HHS)  
Telephone: (202) 690-7453  
E-mail: [HHS\\_FOIA\\_Public\\_Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)

If you are not already submitting your requests through our Public Access Link (PAL), we recommend all future requests and appeals be submitted through PAL -



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs  
Washington, D.C. 20201

<https://requests.publiclink.hhs.gov/>. Submitting requests through PAL automatically logs your requests into our tracking system and provides you with a tracking number. Your PAL account will allow you to track the progress of your request, receive your documents directly through the portal, and securely submit privacy-sensitive or business-sensitive documents.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Arianne Perkins", is positioned above the printed name.

Arianne Perkins  
Director, Initial FOIA Requests  
FOI/Privacy Acts Division



RON DESANTIS  
GOVERNOR

JASON WEIDA  
SECRETARY

August 28, 2023

**ONLINE SUBMISSION ONLY**

FOIA Officer/Director  
Office of the Secretary  
Freedom of Information and Privacy Acts Division  
U.S. Department of Health & Human Services  
Hubert H. Humphrey Bldg, Suite 729H  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Office for Civil Rights Headquarters  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Barbara Stampul, Regional Manager  
Office for Civil Rights  
U.S. Department of Health and Human Services  
Sam Nunn Atlanta Federal Center, Suite 16T70  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8909  
Email: [ocrmail@hhs.gov](mailto:ocrmail@hhs.gov)

**Re: Freedom of Information Act (FOIA) Request**

Dear Freedom of Information Officer:

This letter is submitted on behalf of the Florida Agency for Health Care Administration ("AHCA" or the "Requester"). The Requester submits this request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and 28 C.F.R. § 16 *et seq.* We request that a copy of the records detailed below be provided to us. We do not wish to inspect the records first.

**I. FOIA Request**

2727 Mahan Drive ■ Mail Stop #  
Tallahassee, FL 32308  
[AHCA.MyFlorida.com](http://AHCA.MyFlorida.com)



[Facebook.com/AHCAFlorida](https://www.facebook.com/AHCAFlorida)  
[Twitter.com/AHCA\\_FL](https://twitter.com/AHCA_FL)



The Requester requests records and/or communications related to the U.S. Department of Health and Human Services ("HHS") and the Florida Health Justice Project ("FHJP"), the National Health Law Program ("NHLP"), and their attorneys, agents, and employees, (as counsel of record for Plaintiffs), regarding the subject matter of litigation that was recently brought against both AHCA and the Florida Department of Children and Families ("DCF"), *Chianne D, et al. v. Weida, et al.*, No. 3:23-cv-00985 (M.D. Fla.), challenging Medicaid redeterminations of recipient eligibility pursuant to 42 U.S.C. § 1396a(3) and its implementing regulation, 42 C.F.R. § 431.210(b).

Specifically, the Requester requests the following Records<sup>1</sup> in the possession of HHS and/or the HHS Office for Civil Rights from January 1, 2023, through the date of production of the Records:

1. Records related to or containing HHS's communications with or regarding the Florida Health Justice Project and/or the National Health Law Program and litigation challenging Florida's Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards.
2. Records related to or containing HHS's internal communications concerning Florida's Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards.
3. Records related to or containing HHS's communications concerning Florida's Medicaid redeterminations of recipient eligibility with the following individuals: Katy DeBriere, Miriam Harmatz, Lynn Hearn, Sarah Grusin, Miriam Heard, Amanda Avery, and Jane Perkins.
4. Records related to litigation CMS or HHS is currently involved in regarding States' Medicaid redeterminations of recipient eligibility.

---

<sup>1</sup> "Records" as that term is defined under FOIA (5 U.S.C. § 552(f)(2)), existing in any format whatsoever, including, but not limited to, written correspondence, records kept in electronic format on computers and/or electronic storage devices, email correspondence (whether through .gov email addresses or private third-party services such as Gmail), records of telephone correspondence, records pertaining to in-person meetings, calendar or scheduling entries, videotapes, photographs, computer print-outs, telephone messages, or voicemail messages.

Records sought include, but are not limited to, inter- and intra-agency records and external records and communications, briefings, reports, memoranda, legal opinions, directives, policy statements, talking points, notes, and any other materials.





5. Records related to any subpoena issued or investigation commenced regarding States' redeterminations of recipient eligibility.

The Requestor asks that HHS process this request consistent with the Department of Justice's policy memorandum (directed to the heads of executive departments and agencies) emphasizing the presumption of disclosure under FOIA, as amended by the FOIA Improvement Act of 2016.<sup>2</sup>

## II. Application for Expedited Processing

The Requestor requests that HHS provide expedited processing of this FOIA request, which qualifies for expedited treatment pursuant to 45 C.F.R. § 5.27 and 5 U.S.C. § 552(a)(6)(E). There is an "urgency to inform the public concerning actual or alleged Federal Government activity" as it relates to issues of significant interest to the public and the above-mentioned litigation that has been brought against AHCA. Furthermore, the Requester is "primarily engaged in dissemination of information." 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 45 C.F.R. § 5.27.

AHCA is a state agency with a mission of "facilitating better health care for all Floridians." As part of that mission, AHCA is "responsible for the administration of the Florida Medicaid program, licensure and regulation of Florida's health facilities, and for providing information to Floridians about the quality of care they receive."<sup>3</sup> Dissemination of information about government activities, particularly with respect to healthcare, is a critical and substantial component of AHCA's mission. Because doing so is vital to its work, AHCA will disseminate any information obtained through this request to the public, contributing to the public's enhanced understanding.

Additionally, there is an urgency for the requested information to inform the public because of the pending lawsuit that has been filed against AHCA seeking preliminary and permanent injunctions prohibiting AHCA from enforcing federal law, *Chianne D, et al. v. Weida, et al., No. 3:23-cv-00985 (M.D. Fla.)*. The requested records in HHS's possession are likely to become relevant to the issues being litigated in this time-sensitive and important matter.

As required by federal regulation, 45 C.F.R. § 5.27(a), I hereby certify that the above information is true and correct to the best of my knowledge and belief.

## III. Request for a Public Interest Fee Waiver

---

<sup>2</sup> See Dep't of Justice Office of Information Policy, *Memorandum from The Attorney General*, March 15, 2022, available at <https://www.justice.gov/ag/page/file/1483516/download> (last visited September 10, 2022).

<sup>3</sup> See Florida Agency for Health Care Administration website, <https://ahca.myflorida.com/> (last visited Sept. 10, 2022).



The Requester requests a waiver of search, review, and duplication fees because disclosure of the requested records (1) “is likely to contribute significantly to public understanding of the operations or activities of the Government,” and (2) “is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

Specifically, the Requester is entitled to a waiver of fees because it satisfies the three factors outlined in HHS regulations. 45 C.F.R. § 5.54.

*First*, disclosure of the requested information here “would shed light on the operations or activities of the government,” *id.* § 5.54(b)(1), in connection with HHS because it clearly and directly concerns “identifiable operations or activities of the Federal Government,” *i.e.*, the issuance of a June 12, 2023, letter to U.S. Governors from HHS Secretary Xavier Becerra on Medicaid Redeterminations, as well as the agency’s position and actions taken in regard to those recommendations.

*Second*, as discussed above, because AHCA will disseminate any information obtained through this request to the public, disclosure of the requested information will likely “contribute significantly to public understanding” of the agency’s operations and approaches to States’ actions regarding Medicaid funding of certain services. *Id.* § 5.54(b)(2)(ii). Disclosure of this information will be “meaningfully informative about [HHS’s] operations or activities” because it is not already in the public domain, because, to date, HHS has not released the information sought in this FOIA request. § 5.54(b)(2)(i). It also pertains to HHS’s recent policies and activities that have recently come under heightened public scrutiny, making them of great significance to the public understanding of the agency’s operations and positions on those important issues. *Id.*

Furthermore, because the request pertains to prominent issues of great public interest, concern, and debate, including the litigation recently filed against AHCA, disclosure of these records will necessarily “contribute to the understanding of a reasonably broad audience of persons interested in the subject,” *id.* § 5.54(b)(2)(ii). AHCA’s “expertise in the subject area” and its substantial “ability and intention to effectively convey information to the public” demonstrates that disclosure here will contribute to the understanding of a broad audience of persons. As described above, AHCA is a state agency “responsible for the administration of the Florida Medicaid program, licensure and regulation of Florida’s health facilities, and for providing information to Floridians about the quality of care they receive.”<sup>4</sup> By definition, AHCA has the knowledge and expertise to understand the information sought and to facilitate its public dissemination quickly and effectively. And, as described, AHCA will disseminate this information to the public.

---

<sup>4</sup> See AHCA Website, <https://ahca.myflorida.com> (last visited September 12, 2022).





*Third*, this request is not “in the commercial interest of the requester.” *Id.* § 5.54(b)(3). AHCA does not have any commercial interest in the disclosure of the requested records. AHCA does not seek to commercially benefit from this information. Nor could it possibly do so. Rather, the dissemination of information to the public will be at no cost and for the purpose of educating the public and promoting AHCA’s mission.

#### **IV. Search and Processing of Requested Records**

Upon receipt of this request, please take all reasonable steps to preserve relevant public records while the request is pending.

Please search for responsive records regardless of format, medium, or physical characteristics. The Requester asks that responsive electronic records be produced electronically in their native file format, if possible, or the format most conducive to an expedited production. Alternatively, the Requester requests that the Records be provided electronically in text-searchable PDF, in the best image quality in HHS’s possession, and in separate, Bates-stamped files.

The Requester further requests that you provide an estimated date on which you will finish processing this request.

If this FOIA request is denied in whole or in part, please provide the reasons for the denial, pursuant to 5 U.S.C. § 552(a)(6)(A)(i).

If it is your position that any portion of the requested records is exempt from disclosure, we request that you provide a *Vaughn* index of those documents. *See Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the *Vaughn* index must “describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information.” *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). Pursuant to regulation, please clearly delineate any and all redactions in such a manner so that the justification for each redaction is apparent. If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the



Page 6 of 6

document is non-exempt, and how the material is dispersed through the document. *Mead Data Cent. v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977). Claims of non-segregability must be made with the same detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

For records available in electronic format, please email the documents to Christopher.Torres@ahca.myflorida.com. Please send all other requested documents to the attention of:

**Christopher Torres, Chief of Civil Litigation**  
**2727 Mahan Drive**  
**Mail Stop # 3**  
**Tallahassee, FL 32308**  
**Phone: (850) 412-3630**  
**Email: Christopher.Torres@ahca.myflorida.com**

Because of the time-sensitive nature of this request, the Requester asks that you strictly comply with the 20-day time limit established by FOIA and applicable regulations. *See* 5 U.S.C. § 552(a)(6)(A); 28 C.F.R. § 16.5(c). Please be advised that once this 20-day period has expired, you are deemed to have constructively denied this request, and we will consider the internal appeals process to be constructively exhausted. *See, e.g., Citizens for Ethics and Resp. in Gov't v. Fed. Election Comm'n*, 711 F.3d 180 (D.C. Cir. 2013).

The Requester also respectfully requests that documents be made available as soon as they are located and reviewed via a rolling production. The Requester will undertake to pay reasonable increased costs incurred as part of a rolling production.

If you have any questions about this request, please do not hesitate to contact either me, or Chief of Civil Litigation, Christopher Torres.

Sincerely,

Jason Weida,  
Secretary

2727 Mahan Drive • Mail Stop #  
Tallahassee, FL 32308  
AHCA.MyFlorida.com



Facebook.com/AHCAFlorida  
Twitter.com/AHCA\_FL

## Submit New Request

### Requester Contact

To modify request details please update your requester profile or contact the our office for assistance.

**Mr. Christopher C. Torres**

Chief of Civil Litigation, AHCA

Florida Agency for Health Care Administration

2727 Mahan Drive, MS #3

Tallahassee, FL 32308

Phone 8504123675

Christopher.Torres@ahca.myflorida.com

Requester Default Category: General Public

Action Office  
Request Type  
Delivery Mode  
Payment Mode

Office of the Secretary  
FOIA  
Download via PAL Account

Street1  
Street2  
City  
State  
State (Other)  
Country  
Zip Code

2727 Mahan Drive, MS #3  
Tallahassee  
Florida  
United States  
32308



The Requester requests records and/or communications related to the U.S. Department of Health and Human Services ("HHS") and the Florida Health Justice Project ("FHJP"), the National Health Law Program ("NHLPP"), and their attorneys, agents, and employees, (as counsel of record for Plaintiffs), regarding the subject matter of litigation that was recently brought against both AHCA and the Florida Department of Children and Families ("DCF"), Chianne D, et al. v. Weida, et al., No. 3:23-cv-00985 (M.D. Fla.), challenging Medicaid redeterminations of recipient eligibility pursuant to 42 U.S.C. § 1396a(3) and its implementing regulation, 42 C.F.R. § 431.210(b). Specifically, the Requester requests the following Records in the possession of HHS and/or the HHS Office for Civil Rights from January 1, 2023, through the date of production of the Records:

Request Description

1. Records related to or containing HHS's communications with or regarding the Florida Health Justice Project and/or the National Health Law Program and litigation challenging Florida's Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards.
2. Records related to or containing HHS's internal communications concerning Florida's Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards.
3. Records related to or containing HHS's communications concerning Florida's Medicaid redeterminations of recipient eligibility with the following individuals: Katy DeBriere, Miriam Harmatz, Lynn Hearn, Sarah Grusin, Miriam Heard, Amanda Avery, and Jane Perkins.
4. Records related to litigation CMS or HHS is currently involved in regarding States' Medicaid redeterminations of recipient eligibility.

Date Range for Record Search: From  
Date Range for Record Search: To  
Description Document

01/01/2023

08/28/2023

FOIA request - Chianne D. v. Weida (HHS).pdf

Willing Amount  
Willing to Pay All Fees

\$25  
No

Expedite Reason

The Requestor requests that HHS provide expedited processing of this FOIA request, which qualifies for expedited treatment pursuant to 45 C.F.R. § 5.27 and 5 U.S.C. § 552(a)(6)(E). There is an "urgency to inform the public concerning actual or alleged Fe

**AGENDA**  
**STANDING MEETING WITH THE DIRECTOR AND EXEC SEC TEAM**  
**September 21, 2023, 1:00 – 1:30 p.m.**

**FOIA (Donna and Harold)**

- (b)(5)

•

•

•

•

•

(b)(5)

Watch List FOIAs Updated and Current as 9-18-23 9:30am

FOIA/PIMS Number	Date Received	Requester	Description of Request	Incoming	Status
(b)(5)					

(b)(5)



(b)(5)					
2023-01153/23-000911	9/6/2023	Torres/Florida Agency for Health Care Administration	requests records and/or communications related to HHS and the Florida Health Justice Project ("FHJP"), the National Health Law Program		(b)(5)

			<p>(“NHLP”), regarding the subject matter of litigation that was recently brought against both AHCA and the Florida Department of Children and Families (“DCF”), Chianne D, et al. v. Weida, et al., No. 3:23-cv-00985 (M.D. Fla.), challenging Medicaid redeterminations of recipient eligibility pursuant to 42 U.S.C. § 1396a(3) and its implementing regulation, 42 C.F.R. § 431.210(b)</p>	(b)(5)
(b)(5)				