



Ending Medicaid's Enhanced Maintenance-of-Effort Provisions

Background: In March 2020, during the early part of the COVID-19 pandemic, the U.S. Congress passed the [Families First Coronavirus Response Act](#) and then the Coronavirus Aid, Relief, and Economic Security ([CARES](#)) Act. The [“maintenance of effort” \(MOE\) provisions](#) authorized in the Families First Act and then enhanced by the CARES Act were to provide a 6.2 percentage point increase in the normal share of Medicaid payments provided to states through the Federal Medical Assistance Percentage (FMAP).

These provisions require that those eligible for Medicaid must be kept on the program up to 90 days after the [declaration](#) of a public health emergency for COVID-19 ends whether they age out of an eligibility group, have an increase in income, or other reasons noted by the [Kaiser Family Foundation](#) (more info at [Medicaid.gov](#)). The Health and Human Services declaration, which is set to [expire on January 20, 2021](#), should not be renewed by the secretary as this enhanced MOE could represent an increased cost to taxpayers to fund more people on Medicaid along with an increased dependence on the program for people not meant to be on it.

Overview of the declaration, eligibility, and state's intent to qualify per [Medicaid.gov](#):

- Declaration A.1: *“The [HHS] Secretary’s public health emergency declaration for COVID-19 was effective on January 27, 2020, so the emergency period as defined in section 1135(g)(1)(B) began then, and continues through any renewal of the HHS Secretary’s public health emergency declaration.”*
- Eligibility F.22: *“Until the end of the month in which the public health emergency ends, states cannot terminate Medicaid coverage for beneficiaries for failure to pay premiums and still get the temporary increase in FMAP.”*
- Intent C.18: *“If the state intends to qualify for the temporary 6.2 percentage point FMAP increase authorized under section 6008 of the FFCRA, it must also waive copays for testing services and treatments for COVID-19, including vaccines, specialized equipment, and therapies, for any quarter in which the temporary increased FMAP is claimed.”*

Overview of the Medicaid eligibility criteria per [KFF](#):

- *“States must meet five conditions to receive the enhanced federal matching funds during the COVID-19 public health emergency.*
- *“First, states must apply Medicaid eligibility standards, methodologies, and procedures that are no more restrictive than those in effect on January 1, 2020. States also must not increase Medicaid premiums above those in effect on January 1, 2020, except that a state could receive the enhanced funds from March 18 through April 17, 2020 if a premium in effect during this period is higher than those in effect on January 1, 2020. This provided a 30-day grace period for states to restore premiums to the amount required on January 1st. In addition, states must reimburse individuals for any higher premiums charged after January 1st to receive the enhanced FMAP. States also must cover coronavirus testing and COVID-19 treatment, including vaccines, specialized equipment, and therapies, without cost-sharing while they receive the increased funds. States also cannot increase*

political subdivisions' contributions to the non-federal share of Medicaid costs beyond what was required on March 1, 2020.

- *“Finally, states must provide continuous eligibility through the end of the month in which the public health emergency ends for those enrolled as of March 18, 2020 or at any time thereafter during the public health emergency period, unless the person ceases to be a state resident (including those deceased) or requests a voluntary coverage termination. Medicaid eligibility during this time must continue “regardless of any changes in circumstances or redeterminations at scheduled renewals that would otherwise result in termination.” For example, individuals who age out of an eligibility group, who have changes in income, who lose eligibility for benefits that may affect their Medicaid eligibility such as Supplemental Security Income, whose whereabouts become unknown, or who fail to pay premiums must maintain Medicaid eligibility during the public health emergency period. Additionally, after the public health emergency period ends, states cannot collect any premiums that were due but unpaid during the continuous eligibility period. In response to any changes in circumstances during the public health emergency period, states can increase the level of assistance provided, such as moving an individual to another eligibility group that provides additional benefits, but states cannot move an individual to a group that is eligible for fewer benefits. The continuous eligibility requirement does not apply to individuals determined only presumptively eligible for Medicaid.”*

Recommendations: Given that the public health emergency declaration due to COVID-19 should end and the high cost to taxpayers of the enhanced MOE provisions to Medicaid, we recommend the following to end this [potential degradation of state Medicaid programs and devastation of state budgets](#):

- The HHS secretary should allow the declaration to expire on January 20, 2021, with the anticipated much-improved health situation following the arrival of the COVID-19 vaccines, improved therapeutics, and better utilization of hospital resources.
- The enhanced MOE should not be used as a way to permanently expand Medicaid under the Affordable Care Act (ACA) as [research](#) finds expanding Medicaid does not improve care and raises costs.