

February 2023

Mercer Policy Flash

The Consolidated Appropriations Act of 2023

Impact on Medicaid & CHIP

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CAA 2023 and the Impact on Medicaid and CHIP

At the end of 2022, Congress passed, and the President signed into law, the Consolidated Appropriations Act of 2023 (CAA). In addition to the typical appropriations across the federal government, the CAA included multiple policies that impact Medicaid, the Children's Health Insurance Program (CHIP), and Behavioral Health (BH).

This Flash details the policies related to Medicaid and CHIP. ***There will be a future Flash to detail the CAA BH provisions.***

Medicaid and CHIP Eligibility

Unwinding and federal match

As part of the Families First Coronavirus Response Act (FFCRA), states received a 6.2% increase in the Medicaid federal medical assistance percentage (FMAP) through the end of the quarter following the end of the Coronavirus Disease 2019 public health emergency (PHE). However, states were subject to a continuous enrollment requirement as a condition of these increased federal funds and could not terminate eligibility for most individuals enrolled in Medicaid as of March 18, 2020.

The CAA severed the link between the Medicaid continuous enrollment requirement, the FMAP 6.2% increase and the end of the PHE. The continuous eligibility requirement will now end on March 31, 2023, and states will have up to 14 months to conduct eligibility redeterminations. The FMAP increase will be phased down over 2023.

Continuous eligibility for children

Prior to the CAA, states had the option to provide continuous eligibility for children in Medicaid and CHIP. Under the CAA, all states will be required to provide 12 months of continuous coverage for children under the age of 19 in Medicaid and CHIP. Children who are eligible for Medicaid will not be required to go

through a redetermination process until one year after they are first determined eligible. The provision will go into effect on January 1, 2024.

State option to provide Medicaid eligibility for 12 months postpartum

As part of the American Rescue Plan of 2021, Congress granted states the option to provide Medicaid eligibility for women up to 12 months postpartum. However, the option was only made available to states for five years. The CAA changed the law such that the state option is now permanent.

Pre-release services for incarcerated juveniles

The CAA will require states to provide services to eligible juveniles incarcerated in public institutions. Beginning 30 days prior to release, states must provide certain Early and Periodic Screening, Diagnostic, and Treatment services. While the CAA does not list all possible services, the services do appear to be limited to screening and diagnostic services that meet “reasonable standards of medical and dental practice”. However, the CAA does specifically identify behavioral health screening and diagnostic services as appropriate. Additionally, targeted case management services must be provided 30 days prior to, and 30 days after, release from an institution. The provision will go into effect on January 1, 2025.

State option to provide services to juveniles awaiting disposition of charges

Under the CAA, states may claim federal financial participation for screenings, diagnostic services, referrals and case management for juveniles while they are inmates of a public institution pending disposition of charges. The provision will go into effect on January 1, 2025.

Program Extensions

CHIP

Prior to the CAA, CHIP was funded through 2027. The CAA extends funding for CHIP through 2029.

Money Follows the Person

The Money Follows the Person (MFP) demonstration provides for enhanced federal financial participation for states to transition those receiving long-term services and supports (LTSS) from institutions to the community. Prior to the CAA, MFP was funded through the end of federal fiscal year 2023. The CAA extends funding for MFP through 2027. Additionally, if a state does not use a portion of its MFP funds within four years, those unused funds will be rescinded by CMS.

Protections against spousal impoverishment

Under Medicaid law, when one spouse requires LTSS but the other spouse is able to live in the community, some portion of the married couple’s resources is protected when determining LTSS eligibility. This allows the non-applicant spouse to avoid total depletion of their savings in order for the applicant spouse to qualify. As part of the Affordable Care Act (ACA), these protections were temporarily extended to spouses of individuals receiving home- and community-based services. The CAA further extends these protections from 2023 to 2027.

Coverage stability for children

As part of the ACA, a state could not put in place eligibility standards, methodologies, or procedures for Medicaid and CHIP that were more restrictive than what was in place for that state when the ACA was enacted in 2010 (also known as maintenance of effort [MOE]). States were subsequently required

to continue MOE for children, but that was slated to end after federal fiscal year (FFY) 2027. The CAA extended the MOE requirement for children in both Medicaid and CHIP through FFY 2029.

Express lane eligibility

The Children's Health Insurance Program Reauthorization Act of 2009 created the express lane eligibility option for states. States that exercise this option may rely on findings from other public programs, such as Temporary Assistance for Needy Families, when determining coverage for Medicaid and CHIP. While this option was supposed to end after FFY 2027, the CAA extended the option through FFY 2029.

Other affected Medicaid policies

Requirement for accurate provider directories

As part of the CAA, Medicaid and CHIP fee-for-service (FFS) programs and managed care plans must publish searchable provider directories online. These directories must be updated at least quarterly.

Types of providers that must be included in the directory are physicians, hospitals, pharmacies, providers of mental health services, providers of substance use disorders services, and LTSS providers. In addition to a provider's contact information, the directory must include a provider's cultural and linguistic capabilities, whether the provider is accepting new patients, whether the provider has accommodations for individuals with physical disabilities, and whether the provider offers covered services via telehealth. The Secretary of HHS may add additional required providers and information.

While provider directories were already required for state operated FFS programs since 2017, the CAA increases the requirements to mirror those put in place for managed care plans. These amendments go into effect on July 1, 2025.

Puerto Rico and other territories

The CAA changed many policies relating to US territories, including Puerto Rico. All territories were receiving a temporary increase in FMAP, much higher than regular FMAP at 55%. According to the CAA, Puerto Rico's FMAP will now be equal to 76% for five years and the other territories will have an FMAP of 83% indefinitely.

Additionally, the CAA increased the Puerto Rico block grant allotment for the next five years and will allow for an even greater amount if it takes several actions. These actions include raising rates for physician services through a directed payment program and appointing program integrity and contract and procurement oversight leads.

Questions for Your Specific State?

Please contact [Charlie Greenberg](#), [Eric Harkness](#), [Meredith Mayeri](#), or your Mercer policy specialist to discuss the potential impact of this new justice-related population opportunity on your specific state program. You may also email us at mercer.government@mercer.com.

View more information at <https://www.mercer-government.mercer.com>