



COLORADO

Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

September 21, 2021

The Honorable Michael Bennet
United States Senate
Washington, D.C. 20510

The Honorable John Hickenlooper
United States Senate
Washington, D.C. 20510

The Honorable Diana DeGette
United States House of Representatives
Washington, D.C. 20515

The Honorable Joe Neguse
United States House of Representatives
Washington, D.C. 20515

The Honorable Lauren Boebert
United States House of Representatives
Washington, D.C. 20515

The Honorable Ken Buck
United States House of Representatives
Washington, D.C. 20515

The Honorable Doug Lamborn
United States House of Representatives
Washington, D.C. 20515

The Honorable Jason Crow
United States House of Representatives
Washington, D.C. 20515

The Honorable Ed Perlmutter
United States House of Representatives
Washington, D.C. 20515

Via email

RE: Federal Statutory Change Needed to Ensure Colorado's Receipt of Federal Medical Assistance Percentage (FMAP) to Pay For Continuous Coverage of Colorado Medicaid and CHP+ Members During Unwinding of the Federal Public Health Emergency (PHE)

Dear Members of Colorado's Congressional Delegation:

As Colorado's single state agency for administration of Medicaid and Children's Health Insurance Program (CHIP or, in Colorado, CHP+), the Colorado Department of Health Care Policy & Financing (HCPF) strives to ensure access to healthcare for all qualifying Coloradans. During the COVID-19 pandemic, HCPF has adhered to federal guidance to prevent loss of healthcare coverage for Colorado residents. Now, as the pandemic begins to morph in the wake of the Delta variant, [federal guidance](#) requires HCPF and other states'



Medicaid agencies to make good faith efforts both to prepare for the conclusion of the federal public health emergency (PHE) and to help maintain healthcare coverage for Coloradans.

To accomplish these twin goals, we are requesting Congressional action be taken in 2021 for the FFY 2022 budget to specify that the Continuous Coverage requirements for Medicaid services provided under the Families First Coronavirus Response Act would expire on a specified date set by Congress, such as June 30, 2022, with enhanced 6.2% federal Medicaid funds continuing through December 2023. This would allow the proper time for Medicaid agencies to resume normal operations while enabling Federal Financial Participation (FFP) that significantly assists the coverage funding through the period of disenrollment administration and appeals. It also enables covering for healthcare services provided to CHIP members included in the Continuous Coverage requirements during those 18 months.

Specifically, a 12-18 month window of enhanced FFP will allow sufficient time for detailed unwinding activities by states including outreach to individual Coloradans whose coverage may be affected and will provide states with “increased budgetary stability and predictability during this challenging time,” as promised in a [January 22, 2021 letter](#) from the U.S. Department of Health and Human Services (HHS) to state governors. Colorado and other states’ Medicaid agencies need the enhanced FFP to actually effectuate the extended period of disenrollment. Without the funding, many states cannot employ the offered and appreciated disenrollment extension, which is severely needed to process eligibility redeterminations and covering the coverage costs for the substantial membership increases that resulted during the PHE. Further, providing states with a specific date when the Continuous Coverage requirements will expire allows states to plan for the complex operations to begin renewal activities for these individuals and removes the current uncertainty created by linking these activities to the PHE, which will expire at an unknown date, as the First Coronavirus Response Act does.

To bring attention to this issue, the Urban Institute issued a report ([What Will Happen to Unprecedented High Medicaid Enrollment after the Public Health Emergency](#), September 2021) estimating that the number of Medicaid enrollees nationally could decline by about 15 million people during 2022. This includes 8.7 million adults and 5.9 million children. Their figures show that by the end of 2021, 17 million more nonelderly people will be enrolled in Medicaid than before the pandemic, reaching a total of 76.3 million Medicaid enrollees younger than 65. The report further states that, “A recent change in guidance from the Centers for Medicare & Medicaid Services (CMS) gives states up to 12 months to restore normal income eligibility redeterminations for Medicaid enrollees once the PHE expires, instead of just 6 months under previous rules (CMS 2021). More gradual processing of enrollment over 12 months could reduce unnecessary losses of coverage by allowing more time for planning and outreach. However, the expected loss of the enhanced federal medical assistance percentage (FMAP) in March 2022 gives states a financial incentive to process enrollment more quickly.” They recommend good coordination between state Marketplaces and Medicaid agencies is essential to reduce unnecessary losses of health



coverage. This report reinforces the request described in this letter that the enhanced FFP continue during this extended period of disenrollment is critically needed.

Issue: Medicaid and CHP+ Continuous Coverage Requirements & Federal Financial Participation (FFP) are Linked By Statute to the Federal Public Health Emergency

- **Continuous Coverage and Colorado's Receipt of 6.2% Enhanced FFP for Medicaid Services**

The Continuous Coverage requirements and enhanced 6.2% Federal Financial Participation (FFP) for Medicaid services provided under the Families First Coronavirus Response Act (FFCRA, P.L. 116-127) are linked to continuation of the [COVID-19 Public Health Emergency](#) (PHE) Declaration that was issued and has been renewed by HHS in 90-day increments starting January 31, 2020.

- The federal Continuous Coverage requirement will end at the **end of the month** in which the PHE ends. At this point, HCPF, and all state Medicaid Agencies, must begin the redetermination process to disenroll members who are no longer eligible for Medicaid, but currently have Medicaid coverage through the Continuous Coverage requirements. (For example, if the PHE ends in January 2022, the Continuous Coverage requirements ends on January 31, 2022.)
- Enhanced 6.2% FFP for Medicaid services ends at the **end of the quarter** in which the PHE ends. That is, FFCRA's Medicaid funding enhancement is available through the end of the quarter in which the public health emergency ends. (For example, if the PHE ends in January 2022, under FFCRA, the enhanced FFP will end on March 31, 2022.)
- To end the Continuous Coverage requirement CMS has provided general guidance that states will have 12 months to complete the redetermination and renewal process for individuals now covered by Medicaid. HCPF believes this 12-month process could in reality take up to 18 months. Colorado will need more than a year to process redeterminations to avoid resetting a member's annual renewal date or requesting a second renewal within the same year and to complete associated Medicaid eligibility appeals for nearly one-third of Colorado's Medicaid members. It is best for states not to reset a member's annual renewal date, since this creates a future work management imbalance as a disproportionate number of renewals will occur over a few months during the year rather than distributed evenly throughout the year as they have been historically. In addition, requesting a second renewal within the same year to avoid this situation is a violation of the provision of the Affordable Care Act (ACA).

Though states have used the enhanced 6.2% FFP for Medicaid services to help support the increased caseloads caused by the COVID-19 pandemic and the Continuous



Coverage requirements, it is important to note that Colorado cannot shift those federal funds between state fiscal years. Therefore, if the state gains federal funds in the prior fiscal year, but Medicaid caseloads remain high as the Continuous Coverage requirements are no longer in effect and redeterminations are being processed, the state will not have the ability to use federal funds in the prior state fiscal year to cover the expense that occurs in the current state fiscal year.

The Centers for Medicare and Medicaid Services (CMS) has also mandated that at the end of the PHE, states are required to redetermine all individuals kept on Medicaid based on the Continuous Coverage requirements. CMS would like to see states assist with transitioning individuals to marketplace coverage when possible if they no longer qualify for Medicaid. CMS explicitly does not want operational issues to lead to unnecessary coverage losses for current Medicaid members. Without the continuation of the enhanced 6.2% FFP, states will need to complete the Continuous Coverage requirements as quickly as possible, increasing the likelihood of lost coverage, placing children at increased risk, which is a tragedy given the impact of the Delta variant on children.

Congress, too, enacted the FFCRA intending to ensure continuous coverage for Americans affected by the pandemic and to bolster states' ability to pay for that coverage through the enhanced federal match (FFP). **Without enhanced FFP, states will struggle during the months after the PHE concludes to afford both processing a flood of eligibility redeterminations and providing continuous coverage for current Medicaid members, including for membership increases that resulted from the PHE.** (For example, if the PHE ends in January 2022, states will continue to have pandemic-related expenses through December 2022 related to increased membership as they redetermine eligibility and terminate or transition to other coverage, when appropriate, for those members under the Continuous Coverage requirements. The enhanced FFP that offsets medical services costs for those members ends on March 31, 2022; however, the states will continue to incur a financial hardship from April 2022 through December 2022, including through the appeals period, during which coverage continues.)

- Continuous Coverage for Colorado CHIP (CHP+) Members
 - CMS authorized Colorado to apply the Continuous Coverage requirements to members enrolled under the Children's Health Insurance Program (CHIP or, in Colorado, CHP+) through a State Plan Amendment (SPA). That SPA authority ends on the same date that the PHE ends. Therefore, states will not be authorized to draw any federal matching FFP funds for these members during the process of redetermination for CHP+ and Medicaid coverage, or disenrollment if appropriate. This will cause significant financial hardship for states that, like Colorado, have opted to continue healthcare coverage for children under CHP+ during the PHE. Colorado projects that, as with Medicaid members, it will take at least 12 - 18 months to properly



redetermine eligibility for CHP+ members' coverage under the Continuous Coverage requirements, and to process the resulting appeals. During this time, children younger than 12 years old might, tragically, lose CHP+ coverage, which is a tragedy given the impact of the Delta variant on children.

Suggested Solution:

HCPF requests to delink the Continuous Coverage requirements and the enhanced 6.2% Federal Financial Participation (FFP) for Medicaid services provided under the Families First Coronavirus Response Act (P.L. 116-127) from the COVID-19 Public Health Emergency (PHE). This would allow the PHE-initiated FFP to continue, as will all the beneficial waivers issued by HHS and CMS to help healthcare providers and state Medicaid Agencies, as the COVID-19 crisis continues; it concurrently allows states to begin the process of returning to normal eligibility and coverage operations.

- HCPF requests Congressional action in the federal FY 2022 budget process, to ensure that Colorado and other states' receive the enhanced 6.2% Federal Financial Participation (FFP) for Medicaid services, as originally provided for under the Families First Coronavirus Response Act (P.L. 116-127), continues for at least 12 to 18 months (18 months is preferred) to complete the redetermination process for individuals covered through the Continuous Coverage requirements; this change will also allow states to follow federal guidance to begin the process of returning to normal eligibility and coverage operations.
- Congress should set a date when the Continuous Coverage requirements expire, giving states at least 60 days (120 days is preferred) to prepare once the law is enacted. Such a date would be required to be set in legislation, such as June 30, 2022, September 30, 2022, or December 31, 2022 if the bill was enacted in 2021. States would then have at least 12 to 18 months (18 months is preferred) from that specified date to complete the Medicaid redetermination and terminations, when appropriate, following guidance that CMS has already issued.
- Congress should authorize the continuation of the enhanced 6.2% Federal Financial Participation (FFP) for Medicaid services provided under the Families First Coronavirus Response Act (P.L. 116-127) for at least 12 - 18 months (18 months is preferred) following the set date that the Continuous Coverage requirements are allowed to expire. This would provide adequate funding for states to complete the redetermination process and provide funding for the increased caseload that has already occurred and continues to grow, affording coverage during the re-determination and appeals periods.



- We also request Congressional action to allow states that have opted to apply the Continuous Coverage requirements to members enrolled under CHIP and Colorado's CHP+ to follow the same 12 - 18 month (18 months is preferred) process to properly redetermine eligibility as for members covered under Medicaid, and for FFP to continue for healthcare services provided to CHIP and Colorado's CHP+ members during those 12 months.

As an example, Congressional action taken in 2021 for the FFY 2022 budget, would specify that the Continuous Coverage requirements for Medicaid services provided under FFCRA would expire on June 30, 2022 with enhanced 6.2% FFP continuing through December 2023. In addition, FFP would continue for healthcare services provided to CHIP members included in the Continuous Coverage requirements during those 18 months. This action would provide a specified date for states to begin the process to properly end the Continuous Coverage requirements, allow states the FFP needed to maintain services to that population during the 18 month redetermination and appeals process, and allow states to properly transition individuals to marketplace coverage.

As an alternative to the suggestions above, at minimum, we request Congressional action so that states are allowed to maintain the enhanced 6.2% FFP for members enrolled under Medicaid and to maintain the FFP for members enrolled under CHIP as the state follows the 12 - 18 month process to properly redetermine eligibility once the PHE ends. The continuation of federal funds is critical to affording the coverage and operations associated with these healthcare programs and to make the proper connections to other coverage following the end of the PHE.

Thank you for this opportunity to provide comments on the potential effects of the PHE unwinding on Coloradans served by Medicaid and CHP+. Please direct any questions to HCPF's Federal Policy & Rules Officer/Federal Liaison, Amy Winterfeld at amy.winterfeld@state.co.us.

Sincerely,



Kim Bimestefer
Executive Director

