**TEMPORARY PROHIBITION ON ADMINISTRATIVE OVERPAYMENT RECOVERIES FROM MEDICAID MEMBERS**

**Talking Points for Counties**

**Issued 7/2023**

**Background**

On October 17, 2022, the Centers for Medicare and Medicaid Services (“CMS”) issued a Frequently Asked Question (“FAQ”) document entitled "[COVID 19-PHE Unwinding FAQs](https://www.medicaid.gov/federal-policy-guidance/downloads/covid-19-unwinding-faqs-oct-2022.pdf).” FAQ number 31 (“FAQ 31”) of this document says in part that: "States cannot recover or recoup the cost of services from a beneficiary, even if they have been found after an administrative or criminal proceeding to have committed Medicaid beneficiary fraud or abuse.”

This temporary prohibition (HC 23-046) means that no overpayment recovery from a current or past Health First Colorado/Medicaid member may proceed outside of the criminal court system, whether that be by formal administrative process, county demand or request, a new or ongoing repayment plan, or by any other non-criminal court. While FAQ 31 also prohibits criminal recoveries from Health First Colorado/Medicaid members, based on the Department’s conversations with CMS, there is no cause at this time for the Department to prohibit the recovery of payments ordered by a criminal court.

While the prohibition on all administrative overpayment recoveries is effective May 11, 2023, [HCPF Policy Memo 21-002](https://hcpf.colorado.gov/sites/hcpf/files/HCPF%20PM%2021-002%20Fraud%20Investigations%2C%20Overpayments%2C%20and%20Eligibility%20Terminations%20During%20the%20COVID-19%20Public%20Health%20Emergency.pdf) currently remains in effect and will remain in effect even after the PHE is officially over and will continue to prohibit overpayment recoveries from members for any period of ineligibility that falls within the PHE period. Health First Colorado/Medicaid members will not be responsible for medical assistance payments made on their behalf from the beginning of the COVID-19 health crisis through the end, as measured by the PHE period of March 18, 2020 through May 11, 2023. After the PHE has officially ended, counties still may not establish overpayment claims which occurred during the PHE period, no matter the reason they occurred.

**Talking Points**

**Q1: Why is this happening?**

**A1:** The State of Colorado received new guidance from the Federal Department that oversees the medical assistance programs. While the State of Colorado gets clarification on this new guidance, a pause has been implemented on recoveries for administrative overpayments (medical assistance claims).

**Q2: Am I in any kind of trouble?**

**A2:** You are not in trouble. This pause on collections is due to guidance received that may result in a change of rules.

**Q3: Will I be able to get something in writing?**

**A3:** A letter will be sent to you regarding this pause.

**Q4: How long will I not have to make any payments?**

**A4:** This pause is temporary. If you are required to start making payments again, you will receive a letter to notify you.

**Q5: Will my claims get terminated or canceled?**

**A5:** The collection on the claim is currently paused, however the claim status will not change until further guidance is received from the Federal Department of Health and Human Services.

**Q6: What should be done with my current payment plans?**

A6: As of May 11, 2023, no further payments may be collected from members on any previously established payment plans.

**Q7: I made payments to an existing payment plan, what will happen with those payments?**

A7: Those payments have been applied to the claim, however, they will not be returned at this time.

**Q8: Will I get a refund on the payments I have already made towards this claim?**

A8: Not at this time. Those payments have been applied to the claim.

**Q9: What happens if I do not make payments towards my medical assistance claim?**

A9: During the pause, no payments are required. There will not be repercussions for nonpayment.

**Q10: Will there be any fines or penalties for not paying on a claim?**

A10: While there is a pause on collecting repayments, no fines, fees or penalties will be associated with this claim.

**Q11: My claim was during the PHE, is my claim still valid?**

A11: If the claim is for coverage during the PHE period, the claim would not be valid. Any payments made to this claim will be refunded.