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Redetermination Chaos Likely Extends 14+ Months

Ex-Parte Review Kicks Off Kids ~ State Responses Due to CMS 9/13

Relevant Companies



Since April, states have disenrolled 5.9 M individuals from Medicaid (KFF [here](#)). There remains concern from advocacy groups and the Administration over the procedures states are using. On August 30, the Biden Administration sent letters to state Medicaid programs regarding their processes (see [here](#)). Additionally, on August 22, two Florida patient advocacy groups filed a lawsuit against the Florida Agency for Health Care Administration and the Department for Children and Families (see [here](#)).

»» Our Take & Next Up

State “ex-parte” forms (due 9/13 to CMS) likely will indicate states do not have an individual re-verification process. Overall, Redeterminations have been cumbersome and bureaucratic for states/plans/providers, most likely extending the process beyond 14 months. First, we had procedural disenrollments, then many states paused processes because of glitches in their electronic systems. Now, we are learning that ex-parte review is disenrolling more folks (e.g., kids) than should be because of household verification versus individual verification. States are due tomorrow, 9/13, to provide details to CMS about their review process, and whether it can check individuals versus households. We suspect most state systems lack sophistication and the issue will persist (see below for details). Medicaid Directors convene at NAMD Oct 1-3 in DC. We expect to hear updates from CMS then. Redeterminations will likely take longer than 14 months, given procedures, flawed processes and beneficiary education.

»» Key Points

Per recent KFF data, individual state disenrollment rates have started to stabilize with states at low disenrollment rates remaining low and higher disenrollment rates remaining high (see data [here](#)). Virginia’s disenrollment rate has remained low the whole unwinding starting at 15% in June and now at 16% still in September. On the other hand, Arkansas one of the first

states to start the unwinding has remained high the whole time with a 58% disenrollment rate back in June and a 60% disenrollment rate now in September.

In CMS's August 31 data release covering the month of May, the agency reported 178k individuals moved to marketplace exchanges in the first 2 months of the unwinding after losing coverage (see [here](#)). This is 3x times the number of individuals who enrolled in the marketplace in April after losing coverage. However, this data is from very early on in redeterminations, so it is not clear yet the extent of individuals switching to marketplace coverage. CMS will most likely release June marketplace enrollment numbers at the end of September.

CMS has discovered yet another problem with redeterminations — States are wrongfully removing kids from the Medicaid program, highlighted in the Biden Administration's recent letter to states on August 30 (see [here](#)). CMS has found that States are disenrolling all individuals in a household without examining each person's eligibility, kicking off children and other household members erroneously. This skews the numbers in the near-term as states will now be required to re-enroll individuals wrongfully terminated.

States must report back to CMS by tomorrow, September 13, or face risking civil money penalties or jeopardize the FMAP increase. States must either attest they are compliant with ex-parte renewals and not wrongfully terminating individuals or draft a mitigation plan for how they will fix their systems and re-enroll individuals.

States that are non-compliant must immediately take action by: (1) pausing procedural terminations (2) re-instating coverage for individuals procedurally disenrolled due to failure to account for individual's eligibility status independent of others in their household (3) fix state systems and (4) implement one or more mitigation strategies.

As a part of the mitigation strategies that states can implement, CMS is allowing States to extend their unwinding periods beyond the 14 months. For states that pause disenrollments for two months, they are allowed to extend their unwinding period for two additional months (see [here](#)).

On the legal front from a large state, a Florida lawsuit has emerged from 2 advocacy groups regarding procedural disenrollments, making this the first legal action for Redeterminations (see [here](#)). The attorneys claim that the notices Florida is using to alert individuals that Medicaid coverage is ending are not sufficient and the notices fail to appropriately explain why individuals have been determined ineligible. The plaintiffs are asking the court for two things (1) to restore Medicaid coverage to those who lost it due to deficient termination notices and (2) to prevent the state from continuing redeterminations without fixing their notification process.

Florida defended its program with a fact sheet advertising FL Medicaid office's capabilities (see [here](#)). The FL Medicaid office has answered 1.4 M calls from April-July, and that they made 231,000 calls to non-responsive Medicaid-enrolled households. The federal government has not said/done much in response to the lawsuit and only stated they "urge states to continue to take up strategies to help keep people covered and will not hesitate to hold states accountable that fail to follow federal requirements" (see Inside Health Policy [here](#)).

What happens to FMAP? States stuck with more members than expected will likely complain that the FMAP phase down hurts them. As a reminder, a temporary increase of 6.2% points to states' FMAP was made available in January 2020. The *Consolidated Appropriations Act 2023* phases down the enhanced matching funds through December 2023. The increased FMAP phases down to 5% points from April -June 2023, 2.5 % points from June - September 2023, and 1.5% points from October -December 2023 (see [here](#)). It will end entirely as of January 1, 2024. CBO estimates that federal spending will decrease by about 9% from FY 2023 to FY 2024, shifting the spending share to the states (see [here](#)).

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