

# THE UNWINDING: NEW POLICY CHANGES AND IMPLICATIONS FOR COVERAGE

COVERAGE NOW ENDS MARCH 31, 2023 BUT WITH IMPORTANT SAFEGUARDS

## Advocacy Action Guide for AAP Chapters

### Overview

The continuous coverage requirement of the Families First Coronavirus Relief Act (FFCRA) required states to maintain coverage of anyone enrolled in Medicaid or a Medicaid-expansion Children's Health Insurance Program (CHIP) since the law's enactment on March 18, 2020. In exchange, the federal government raised the federal medical assistance percentage (FMAP, or federal match) on state Medicaid spending by 6.2 percentage points to help offset the costs of continuous coverage. Under previous guidance, the Centers for Medicare and Medicaid Services (CMS) gave states 12 months to begin (and 14 months total to complete) eligibility redeterminations for all Medicaid enrollees during the subsequent "Unwinding" period, following the end of the PHE. **The 2022 omnibus spending package (H.R. 2617), however, now makes important policy changes to the Unwinding, including:**

- **Ending the continuous coverage requirement such that states may start the process of redeterminations and disenrolling individuals on April 1, 2023**
- **Delinking the federal FMAP increase from the end of the PHE, and creating a ramp down through calendar year 2023**
- **Tying this extended FMAP funding to a new maintenance of effort (MOE) for states**
- **Codifying that states can take up to 1 year to begin redeterminations**
- **Requiring new state transparency and data reporting**
- **Giving CMS new authority to enforce Unwinding procedures**

This document summarizes these important changes and highlights opportunities for state advocacy to maximize coverage retention (for more on the Unwinding generally, please see our previous [Advocacy Action Guide](#)).

### Ending the Continuous Coverage Requirement on March 31, 2023

The FFCRA's continuous coverage is no longer tied to the end of the PHE—the omnibus package changed federal law to end the requirement on March 31, 2023, thus establishing April 1 as the earliest start date for disenrollments. Of note, CMS clarifies in a new [January 5, 2023 guidance](#) that its [earlier guidance](#) on the exact timing of redetermination initiation and disenrollments continues to apply. This means that states can *initiate* the redetermination process as early as *two months prior* to the April 1 start date (thus allowing states to disenroll individuals on April 1). States can

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also choose to begin redeterminations *the month in which the continuous enrollment period ends (March 2023) or a month after the continuous enrollment period ends (April 2023)*. The length of a state's renewal process (60- or 90-days) will determine when any actual disenrollments would take place for those who are no longer eligible (ie, 60 or 90 days after the state begins redeterminations, at earliest April 1.)

This does not mean that all Medicaid enrollees will lose coverage as of April 1, even in states that begin disenrollments then. States have to make redeterminations for all Medicaid enrollees, which will take considerable time in most states. As such, the redetermination process for an individual enrolled in Medicaid could begin at any time over the course of the subsequent 12 months, following the state's start date. States can choose to prioritize different populations, such as those most likely to lose coverage or those with special needs, for redeterminations.

In its [January 5, 2023 guidance](#), CMS reminds states that prior to beginning their unwinding periods, they are expected to submit certain documentation to CMS, including documents related to renewal distribution, system readiness, and baseline data.

For more information and illustrative timeline examples of state redetermination initiation and disenrollment activity, chapters are encouraged to review the appendices of the [January 5, 2023 guidance](#).

### **FMAP Extension and Phase Down**

The omnibus package now delinks the 6.2 percentage point FMAP increase from the end of the PHE but, importantly, extends an increased FMAP to states for all of 2023. Specifically, the 6.2 percentage point FMAP will now be phased down according to the following schedule:

- January – March 2023: 6.2 percentage point increase continues
- April – June 2023: FMAP increase is lowered to 5 percentage points
- July – September 2023: FMAP increase is lowered to 2.5 percentage points
- October – December 2023: FMAP increase is lowered to 1.5 percentage points

While this will end the increased federal support states have received since FFCRA's passage, it helps states avoid the fiscal cliff that would have cut off this funding at the end of the quarter in which the PHE ends. This new schedule will give states the opportunity to financially plan and extends federal support for all of 2023.

### **New Maintenance of Effort (MOE) for States to Receive Extended FMAP**

Importantly, for states to continue to receive the newly extended 2023 FMAP increases, they must meet new MOE requirements, including:

- Continuing to follow all federal eligibility redetermination requirements. Notably, this includes strategies approved by CMS under Section 1902(e)(14)(a) waivers, which allow states to implement procedures to better facilitate renewals and ensure due process protections. CMS maintains a [table of all approved Section 1902\(e\)\(14\)\(a\) waiver strategies by state](#).
- Updating enrollee contact information using the US Postal Service's [National Change of Address \(NCOALink\)](#) database or other reliable sources of contact information, attempting to ensure their contact lists are accurate.
- Not disenrolling anyone on the basis of returned mail unless the state has also made a good-faith effort via a different modality to contact the individual.

A state that does not meet these requirements will lose the FMAP increase for the entire quarter in which it fails to meet these requirements.

### **Codifying 1 Year for States to Initiate Redeterminations**

In its March 2022 guidance, CMS had made the important clarification that states had up to 12 months to begin

redeterminations on all enrollees, taking up to 14 months in total to complete them. The omnibus package codifies that states have a full year to begin eligibility redeterminations.

### **New State Transparency and Data Reporting Requirements**

In addition to the above MOE requirements, the omnibus package also requires states to collect and report on key Unwinding data, with a specific, separate penalty for non-compliance. States are required to report monthly on the following metrics beginning April 1, 2023 through June 30, 2024:

- Number of eligibility renewals initiated
- Number of beneficiaries renewed on *ex parte* basis (using other data sources)
- Number of individuals whose Medicaid, CHIP, or pregnancy-related coverage was terminated, including the number of individuals whose coverage was terminated for procedural reasons (ie, required paperwork not returned, returned mail, etc)
- Number of children enrolled in a separate CHIP program (for states that have these)
- Number of individuals whose accounts were received, determined eligible, and enrolled in Marketplace coverage or a Basic Health Program (BHP) plan (BHP applies to NY and MN only)
- Total call center volume, average wait times, and average call abandonment rate (as determined by the Secretary) for each call center of the state
- Other information related to eligibility and renewals as determined by the Secretary

The law requires HHS to make such reporting publicly available. States will be penalized .25 percentage points for each quarter in which the state fails to meet the above reporting requirements, up to a maximum of 1 percentage point. These reporting requirements are separate from the above MOE requirements and create meaningful transparency and oversight about how the Unwinding proceeds. Moreover, such data reporting will allow CMS and advocates to “hot spot” areas of concern.

### **New CMS Authority to Enforce Unwinding Procedures**

From April 1, 2023 to June 30, 2024, if the Secretary of HHS determines that any state does not comply with any eligibility redetermination and reporting requirements, the Secretary may require the state to submit a corrective action plan within 14 days; CMS then would have 21 days to approve the plan and the state would have 14 subsequent days to implement it. The Secretary may also require the state to suspend all or some terminations of eligibility for procedural reasons until the state takes the appropriate corrective action. Notably and in addition to the above monetary penalties, the Secretary may impose a penalty of up to \$100,000 for each day that a state remains out of compliance.

### **Summary and Chapter Opportunities for Advocacy**

Taken together, the 2022 omnibus package codifies into federal law several strategies previously recommended for states to provide oversight and transparency to the Unwinding period. While the law does set an established start date of April 1, 2023 for redeterminations to begin, it also provides a financial glide path for states toward the end of increased federal assistance and averts a federal fiscal cliff. Moreover, the law creates significant new transparency and oversight protections, as well as penalties for states that do not comply with new MOE, data reporting, or other eligibility renewal standards. Finally, it gives CMS the authority to enforce Unwinding procedures, including the ability to put states on a corrective action plan, pause procedural disenrollments, and fine states for noncompliance. In total, these represent guardrails around the Unwinding period that strive to make it a more orderly process and provide safeguards to eligible individuals to retain coverage.

Many of the state advocacy strategies outlined in our previous [Advocacy Action Guide](#) continue to apply, including the promotion of state media/outreach campaigns, advocating that the state take all 12 months to begin--and 14 months to complete--eligibility redeterminations, adopting specific 1902(e)(14)(A) waiver strategies to promote

retention, and encouraging a smooth transition of ineligible individuals to other coverage. **Most immediate, however, is the importance of:**

- **Spreading the news** that eligibility redeterminations will begin April 1, 2023
- Encouraging enrollees to **update their contact information** with the state
- Reminding enrollees to **complete and return any reenrollment forms** with updated info as soon as they receive them
- Encouraging families to **check eligibility for other coverage**, such as CHIP or Marketplace plan coverage, if they are no longer Medicaid-eligible,

If chapters have not done so recently, **review available state Medicaid Unwinding documents**, including operational plans, alerts to members, communication tools, and other resources. The Georgetown Center for Children and Families (CCF) maintains a [50-State Unwinding Tracker](#) that includes this information (direct links to state documents can be found in the associated [Google document](#)).

Now is also a good time for AAP chapters, together with coalition partners, to **reach out to state Medicaid offices** to discuss updated state plans on operationalizing the Unwinding in light of the new start date of April 1, 2023. States will be required to report specific data, as outlined above. This is an opportunity to understand the state's plan for such reporting, as well as plans for population prioritization during renewals that may affect disenrollment data.

Related, eligibility for other programs, such as that of WIC, may be determined based on an individual's Medicaid eligibility. Chapters are encouraged to monitor the effects of the Unwinding on participation in other programs for families with low-incomes, and work together with coalition partners to mitigate negative effects.

To **communicate with families about the Unwinding**, practices can utilize communications resources, such as [state Medicaid communication materials](#) (see Column F), resources found in the [CMS Unwinding Communications Toolkit](#) (including [CMS Unwinding Toolkit graphics](#) (a zip file)), customizable [social media messages from GMMB](#), and others. Also, be on the lookout for additional materials from AAP.

## We're Here to Help

AAP is here to help chapters on all facets of the Unwinding and will continue to provide chapters with updated resources and new information. We also want to hear from you! Please let us know what you are hearing on the ground at the state level; you can contact Dan Walter, MPA at [dwalter@aap.org](mailto:dwalter@aap.org) or Todd Fraley, JD at [tfraley@aap.org](mailto:tfraley@aap.org) with any information, questions, or for targeted assistance.

## Advocacy Tools and Select Resources

- AAP | [Unwinding Advocacy Action Guide \(May 2022 update\)](#)
- AAP | [Template Letter Requesting Seat at Unwinding Planning Table](#)
- AAP | [Checklist and Sample Questions for AAP Chapter Engagement in and Review of State Medicaid Agency Unwinding Operational Plans](#)
- AAP | [February 15, 2022 Webinar: Medicaid Redeterminations at the End of the PHE](#) (AAP login required)
- Georgetown Center for Children and Families (CCF) | [Unwinding the PHE Resources](#)
- Georgetown Center for Children and Families (CCF) | [Webinar Series: Unwinding the COVID-19 Medicaid Continuous Eligibility Provision](#)
- State Health & Value Strategies | [Resources and Tools Related to PHE Unwinding](#)
- State Health & Value Strategies | [Template Notices for Medicaid Continuous Coverage Unwinding](#)
- Kaiser Family Foundation (KFF) | [Implications for Ending the COVID-19 Public Health Emergency](#)
- CMS | [Unwinding and Returning to Regular Operations after COVID-19](#) (CMS landing page, select items below)
- CMS | [January 2023 Guidance](#)
- CMS | [March 2022 Guidance](#)

- CMS | [August 2021 Guidance](#)
- CMS | [December 2020 Guidance](#)
- CMS | [Strategies States and the U.S. Territories Can Adopt to Maintain Coverage of Eligible Individuals as They Return to Normal Operations](#)
- CMS | [Connecting Kids to Coverage: State Outreach, Enrollment and Retention Strategies](#)
- CMS | Medicaid and CHIP Continuous Enrollment Unwinding – Toolkit ([English](#)) ([Spanish](#)) and [Unwinding Graphics](#) (zip file)
- CMS | [Medicaid and CHIP Unwinding Planning Efforts: Summary of Best & Promising State Practices from CMS/State Discussions](#)
- CMS | [Strategic Approaches to Support State Fair Hearings as States Resume Normal Eligibility and Enrollment Operations After the COVID-19 PHE](#)
- CMS | [Overview of Strategic Approach to Engaging Managed Care Plans to Maximize Continuity of Coverage as States Resume Normal Eligibility and Enrollment Operations](#)