

CMS Medicaid and CHIP Eligibility Changes Under the Affordable Care Act Proposed Rule (CMS-2349-P)

Section-By-Section Summary -- September 27, 2011

MEDICAID		
Regulatory Section	Provision	Summary
§431.10, §431.11	Single State Agency. Organization for Administration.	Modifies existing regulations to allow government operated Exchanges to make Medicaid eligibility determinations. Sets forth single State agency responsibilities and written agreement requirements between State and Federal agencies when eligibility is delegated to another agency. Retains the requirement that agencies performing services for the Medicaid agency must not have the authority to change or disapprove any administration of that of the Medicaid agency. Solicits comments on potential changes regarding public agency role, particularly in the context of an Exchange operated by a nonprofit or contracting out eligibility determinations.
§433.10	Rates of FFP for program services.	Lays out the statutory Federal medical assistance percentages (FMAP) that will be available to States for coverage of low-income adults with incomes below 133% of the FPL ("newly eligibles") beginning on January 1, 2014 and the conditions under which these matching funds will be available. Defines "expansion States" and discusses the FMAPs available for such states.
§433.202, §433.204	Scope and Definitions Related to FFP for "Newly Eligibles"	Defines "newly eligible" for purposes of the increased FMAP available for coverage of newly eligible individuals beginning in 2014.
§433.206	Choice of Methodology. (FMAP)	Provides three potential approaches States may select in order to ensure that the appropriate FMAP is claimed for newly eligible individuals beginning in 2014: "threshold" methodology, "statistically valid sampling" methodology, and "CMS established FMAP proportion" methodology.
§433.208	Threshold methodology. (FMAP)	Provides the parameters for the threshold FMAP approach.

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§433.210	Statistically valid sampling methodology. (FMAP)	Provides the parameters for the statistically valid sampling FMAP approach.
§433.212	CMS established FMAP proportion.	Provides the parameters for the data-based FMAP approach.
§435.4	Definition and use of terms.	Revises the definition of “families and children” and adds definitions of “advance payments of the premium tax credit,” “Affordable Insurance Exchange,” “agency,” “caretaker relative,” “dependent child,” “effective income level,” “electronic account,” “household income,” “insurance affordability program,” “MAGI-based income,” “minimum essential coverage,” “modified adjusted gross income,” “pregnant woman,” “secure electronic interface,” and “tax dependent.”
§435.110	Parents and other caretaker relatives.	Revises the existing section 1931 eligibility category for low-income families to create a simplified parent/caretaker relative eligibility category that uses MAGI-based income standards. Provides for a simplified income standard for this group.
§435.116	Pregnant women.	Combines six existing eligibility groups for which pregnancy status and income are the only factors of eligibility to create a simplified pregnant women eligibility category that uses MAGI-based income standards. States may provide pregnancy-related services to women whose income is above the State-established standard for full coverage of pregnant women.
§435.118	Infants and children under age 19.	Combines seven existing eligibility groups for which age as a child and income are the only factors of eligibility to create a simplified children’s eligibility category that uses MAGI-based income standards. Provides a simplified income standard for infants, children ages 1-5, and children ages 6-18 under this group.

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§435.119	Coverage for Individuals ages 19-64 with income at or below 133 percent FPL.	Creates the new eligibility group for individuals over age 18 and under age 65, who are not pregnant, not eligible for any other mandatory eligibility group, and not enrolled in or entitled to Medicare, whose household income does not exceed 133% FPL using a MAGI-based income standard. Provides that coverage for a parent or caretaker relative may only be provided if all dependent children are enrolled in Medicaid, CHIP or other minimum essential coverage.
§435.218	Individuals above 133 percent FPL.	Creates a new optional eligibility group for individuals under age 65 who have income above 133% of the FPL using MAGI-based income standards and are not eligible for any other eligibility group based on the information provided on the application. Provides that States establish the upper income limit for eligibility and may choose to phase-in coverage over time.
§435.403	State Residence.	Revises and aligns the definition of residency for most adults and children to be consistent with the definition being proposed in the Exchange rule.
§435.603	Application of Modified Adjusted Gross Income (MAGI).	Implements the use of MAGI-based methods in determining Medicaid eligibility beginning in 2014. In nearly all cases, provides that States adopt tax MAGI rules to determine income in order to align with the proposed rule for premium tax credits available through the Exchanges; identifies the few areas in which MAGI-based income calculations for purposes of Medicaid eligibility diverge from tax rules. Defines which individuals in a household are included in the calculation of household income. Specifies that assets tests and disregards (except for the across-the-board disregard of 5% FPL) will no longer be permitted in determining eligibility for individuals for whom MAGI rules apply. Identifies populations exempt from application of MAGI and for whom current Medicaid financial methodologies would continue to be applied.

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§435.905	Availability of program information.	Adds “electronic” as a format in which program information should be made available to the public (in addition to the paper and oral formats currently provided for).
§435.907	Application.	Establishes a key element of the streamlined, coordinated eligibility determination system with options for individuals to apply via the internet, by phone, mail, fax, and in person. Provides for the use of either the single streamlined application for all insurance affordability programs developed by the Secretary or an alternative streamlined application developed by the State and approved by the Secretary. Provides for the use of supplemental forms or an alternative application for use by individuals whose eligibility is not MAGI-based. Proposes that Social Security Numbers (SSNs) may not be required for non-applicants, but permits that SSNs be requested on a voluntary basis. (Current rules that require SSNs for applicants are retained.)
§435.908	Assistance with application and redetermination.	Codifies that States will assist individuals with completing the application and redetermination process through a variety of means, including by phone, by mail, on line and in person. Provides that the assistance be accessible to individuals living with disabilities and those who are limited English proficient.
§435.911	Determination of eligibility.	Provides that individuals under 65 applying for coverage be first evaluated for Medicaid eligibility using simplified, MAGI-based income standards. Individuals not eligible based on MAGI must be evaluated for Medicaid eligibility through other pathways (e.g. disability, assistance with Medicare cost-sharing) and enrolled in a qualified health plan through the Exchange with advance payment of a premium tax credit as appropriate.

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§435.916	Periodic redeterminations of Medicaid eligibility.	Provides that eligibility be redetermined once every 12 months, unless information becomes available to suggest an earlier review. Provides for a data-driven review using information already available to the agency in the electronic account or from other reliable data sources. For individuals whose eligibility cannot be renewed based on available information, a streamlined, pre-populated form must be provided and individuals would have the opportunity to respond online, by phone, mail, or in person. Provides that individuals determined ineligible for Medicaid will be assessed for eligibility for other insurance affordability programs and for electronic transfer of account information. Provides for timely reporting of and action on changes in an individual's circumstances.
§435.940, §435.945	Basis and scope. General requirements. (Verification)	Proposes rules for verifying eligibility to achieve a data-driven, coordinated eligibility and enrollment process consistent across insurance affordability programs, and also meet statutory requirements in place prior to the Affordable Care Act. Codifies existing policy regarding attestation of information.
§435.948	Verifying financial information.	Provides that when verification is needed, States access data through electronic sources. If such data is not available, States may request additional information, including paper documentation, from individuals. Retains current rules regarding electronic data sources required under §1137 of the Act to access when useful to verifying income.
§435.949	Verification of information through an electronic service.	Directs the Secretary to establish an electronic service through which States will obtain information from other federal agencies to verify eligibility for Medicaid or other insurance affordability programs. Provides that States obtain relevant information through the electronic service if available and that States may propose alternative mechanisms for collecting and verifying information.

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§435.952	Use of information and requests of additional information from individuals.	Lays out the process for States to promptly evaluate the information received through the data sources and from the applicant as necessary. Provides that additional verification (including paper documentation) will only be sought if information obtained via electronic data sources is not reasonably compatible with information provided by the applicant or is not otherwise available.
§435.956	Verification of other non-financial information.	Provides that States are permitted to accept self-attestation to verify residency and other non-financial eligibility criteria, except for citizenship and immigration status; immigration documents may not be used as the only source for verification of residency; and States shall accept self-attestation of pregnancy, age, and birth date unless the State has information that is not reasonably compatible with the information provided by the applicant.
§435.1200	Medicaid agency responsibilities.	To ensure coordination of coverage across insurance affordability programs, provides that States enter into agreements with other agencies providing health coverage. Provides that individuals have access to coordinated information on their coverage options and the ability to conduct business with the State through an Internet website that is accessible to individuals with disabilities and who are limited English proficient. Provides for electronic transfer and prompt eligibility determination for individuals identified as eligible for Medicaid by any of the other insurance affordability programs, and vice versa. For individuals who are being determined eligibility on a basis other than MAGI, such as disability, provides for coordinated a coordinated eligibility determination for other insurance affordability programs while a Medicaid determination is pending. Provides that the Medicaid agency will certify for the Exchange all criteria necessary for it to determine Medicaid eligibility.

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CHIP		
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§457.10	Definitions and use of terms.	Replaces the term "family income" with "household income," adds definitions for "Affordable Insurance Exchange," "household income," "insurance affordability program," "modified adjusted gross income," "secure electronic interface," and "single, streamlined application."
§457.80	Current State child health insurance coverage and coordination.	Provides that CHIP programs will ensure coordination with other insurance affordability programs, both in determining eligibility for those programs and in ensuring that individuals do not experience gaps in coverage.
§457.300, §457.301, §457.305	Basis, scope and applicability. Definitions and use of terms. State plan provisions.	For consistency and coordination, applies the Medicaid eligibility and enrollment provisions in the NPRM to separate CHIP programs. Provides for coordination with the Exchanges and adds new definitions of "family size," and "Medicaid applicable income level." Provides that the CHIP state plan include a description of the State's methodology for determining MAGI for CHIP children as well as the policies regarding enrollment and disenrollment.
§457.310	Targeted low-income child.	Modifies the definition to provide that a child determined ineligible for Medicaid as a result of the elimination of income disregards be considered a targeted low-income child eligible for CHIP.
§457.315	Application of modified adjusted gross income and household definition.	Provides that CHIP programs will use the new MAGI-based financial methodologies, consistent with the MAGI-based methods to be used in Medicaid, in determining eligibility for CHIP.
§457.320	Other eligibility standards.	Provides that CHIP programs use a modified residency definition consistent with Medicaid and the Exchange.

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§457.330	Application.	Provides that CHIP programs will use the same single, streamlined application that is being developed for purposes of enrolling in health coverage through the Exchange and Medicaid. Provides that the application may only request a Social Security Number for non-applicants on a voluntary basis and in a manner that makes clear how the SSN will be used and that it is not required as a condition of eligibility for the child.
§457.335	Availability of program information and Internet Web site.	Provides that States furnish, in electronic and paper formats and orally as appropriate, information about CHIP eligibility requirements, covered benefits, and other program rules available to all applicants. Provides that all materials will be accessible to individuals with disabilities and those who are limited English proficient and that the State will maintain a website presence designed to assist CHIP enrollees and applicants in applying for the program and renewing their coverage, as well as selecting a health plan.
§457.340	Application for and enrollment in CHIP.	Provides that States afford families an opportunity to apply for CHIP coverage without delay using a single, streamlined application and enrollment assistance must be offered. Assistance will be provided through a variety of means including by phone, by mail, online and in person. Provides that SSNs would be required for all CHIP applicants (but not required for non-applicants), in order to align with Medicaid rules. Provides that States determine the effective date for CHIP eligibility to ensure coordination and transition between programs and to avoid gaps or overlaps in coverage.

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§457.343	Periodic redetermination of CHIP Eligibility.	Provides that eligibility be redetermined once every 12 months unless information becomes available to suggest an earlier review. Provides for a data-driven review using information already available to the agency in the electronic account or from other reliable data sources. Provides that individuals determined ineligible for CHIP will be assessed for eligibility for other insurance affordability programs and provides for electronic transfer of account information and the timely reporting of and action on changes in an individual's circumstances.
§457.348	Determination of Children's Health Insurance Program eligibility from other applicable health coverage programs.	Provides that for individuals identified as eligible for CHIP by any of the other insurance affordability programs, the agency will receive account information electronically and complete an eligibility determination without delay. Gives States the option to accept eligibility determinations for CHIP from all insurance affordability programs. Provides that the CHIP agency will certify for the exchange all the criteria necessary to determine CHIP eligibility.
§457.350	Eligibility screening and enrollment in other insurance affordability programs.	Provides that the CHIP State plan include a description of the coordinated enrollment system to ensure effective screening for all other insurance affordability programs. Provides that for individuals identified as eligible for Medicaid or other insurance affordability programs, account information will be promptly transferred electronically to the appropriate program. For individuals potentially eligible for Medicaid on a basis other than MAGI, provides that the CHIP agency will complete a CHIP eligibility determination while the Medicaid eligibility determination is pending. Provides that States have the option to allow CHIP programs to make eligibility determinations for advance premium tax credits for the Exchange.

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§457.353	Monitoring and evaluation of screening process.	Provides that States monitor and establish a mechanism to evaluate the process to ensure that children who are screened potentially eligible for a particular coverage option are in fact enrolled in that coverage without delay.
§457.380	Eligibility verification.	Provides that, in parallel to the Medicaid provisions regarding data-driven verification, States are permitted to accept self-attestation to verify residency and other non-financial eligibility criteria, except for citizenship and immigration status. Permits additional verification, including paper documentation, when information obtained via electronic data sources is not reasonably compatible with information provided by the applicant or is not otherwise available.

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