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Medi-Cal Eligibility Division Information Letter No.: I 23-07

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS

SUBJECT: Updated Guidance on Continuous Coverage for Individuals Enrolled in Medicare Savings Programs during the COVID-19 Public Health Emergency Period

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to provide counties with updated guidance from the Centers for Medicare and Medicaid Services (CMS) regarding eligibility actions for certain individuals enrolled in Medicare Savings Programs (MSPs) during the COVID-19 Public Health Emergency (PHE) period.

Background: Section 6008 of the [Families First Coronavirus Response Act \(FFCRA\)](#) authorizes states to claim a temporary 6.2 percent increase to its federal medical assistance percentage (FMAP) during the COVID-19 emergency period so long as certain statutory conditions are met. This includes the condition at FFCRA section 6008(b)(3), which precludes a state from receiving the temporary FMAP increase if it fails to maintain coverage for beneficiaries enrolled in Medi-Cal on or after March 18, 2020 through the end of the month in which the PHE period ends, unless the individual requests a voluntary termination of eligibility, ceases to be a resident of the state, or is reported to be deceased. CMS initially issued guidance to the states noting that “any reduction in medical assistance would be inconsistent with the requirement at section 6008(b)(3) of the FFCRA.” Pursuant to this original guidance, DHCS issued MEDIL [20-08](#), MEDIL [20-14](#), and MEDIL [20-18](#), instructing counties to delay the processing of Medi-Cal annual redeterminations, discontinuances, and negative actions for Medi-Cal programs, including MSPs.

On November 6, 2020, CMS published an interim final rule (IFR) titled [Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency](#). (See [Code of Federal Regulation § 433.400](#).) The IFR allowed states to transition individuals enrolled under a Medicare Savings Program (MSP) whose eligibility conditions changed to a different MSP with lesser coverage without violating Section 6008(b)(3) (e.g., a county could move an individual in the Qualified Medicare Beneficiary (QMB) program to the Specified Low-Income Medicare Beneficiary (SLMB) program).

DHCS issued guidance to the counties regarding the IFR policy changes via [ACWDL 21-16](#), and counties began transitioning beneficiaries between MSPs as applicable on or around that time.

Due to a recent court order issued in *Carr v. Becerra*, No. 22-cv-0098 (D. Conn.), a federal lawsuit challenging the IFR, CMS has notified DHCS that it will refrain from enforcing the IFR with respect to Medi-Cal beneficiaries enrolled in MSPs through March 31, 2023. CMS reinstated its previous Section 6008(b)(3) guidance in effect prior to the IFR with respect to MSP-enrolled beneficiaries, which precludes a state's receipt of the temporary FMAP increase if it transitions individuals enrolled in a MSP into another MSP providing lesser coverage during the PHE period.

Updated Policy

Effective January 31, 2023 and through March 31, 2023, counties shall cease to transition individuals enrolled in MSP programs to MSP programs providing lesser coverage. Movement from Qualified Medicare Beneficiary program (QMB) to Specified Low-Income Medicare Beneficiary program (SLMB) or QMB/SLMB to Qualifying Individual (QI) will be considered a negative action and shall not be processed until a full annual renewal is completed during the continuous coverage unwinding period as outlined in [ACWDL 22-18](#).

DHCS will promptly provide additional guidance to counties as further information is provided by CMS. Please note this may include guidance regarding required changes, if any, to individuals who were transitioned from one MSP to another MSP with lesser coverage prior to January 31, 2023.

If you have any questions or require additional information, please contact Janis Kimball at (916) 345-8060 or by email at Janis.Kimball@dhcs.ca.gov.

Original Signed By
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