DHCS
CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES
Michelle Baass | Director

DATE: July 3, 2023

Medi-Cal Eligibility Division Information Letter No.: I 23-40

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

SUBJECT: APPROVAL OF ADDITIONAL SECTION 1902(e)(14)(A) TEMPORARY FLEXIBILITY WAIVERS DURING THE CONTINUOUS COVERAGE UNWINDING PERIOD

The purpose of this Medi-Cal Eligibility Division Information Letter (MEDIL) is to instruct counties on the Centers for Medicare & Medicaid Services (CMS) approval for additional Section 1902(e)(14)(A) temporary waiver request strategies requested by the Department of Health Care Services (DHCS) to assist during the continuous coverage unwinding period.

Background
On June 13, 2023, Centers for Medicare & Medicaid Services (CMS) published additional "Strategies to Prevent Procedural Terminations" that states may request to assist in addressing the challenges as part of the transition to routine operations. CMS can authorize these strategies under Section 1902(e)(14)(A) of the Social Security Act ("1902(e)(14)(A) strategies").

During this transition period, DHCS requested CMS approval of the following 1902(e)(14)(A) strategies to further protect beneficiaries from inappropriate terminations and reduce state administrative burden:

- Ex Parte Renewal for Individuals With Income at or Below 100 Percent of the Federal Poverty Limit (FPL) and No Data Returned,
- Renewing Medicaid Eligibility, Based on Available Information, Establishing a New Eligibility Period When Contact is Made with Hard-to-Reach Populations

On June 29, 2023, CMS approved DHCS' Section 1902(e)(14)(A) waiver requests. This MEDIL outlines the select flexibility strategies that were approved. DHCS will release further guidance on any other flexibilities pending approval, if and when CMS approves them. The temporary flexibilities were effective June 1, 2023 and will continue throughout the continuous coverage unwinding period. The temporary flexibilities, described below, applies to all Medi-Cal and Children's Health Insurance Program populations.

Ex Parte Renewal for Individuals With Income at or Below 100 Percent of the Federal Poverty Limit (FPL) and No Data Returned

During the continuous coverage requirement, Medi-Cal members may have reported changes in their households. However, most negative actions during this period were halted, as well as the subsequent unwinding period. The 100 percent FPL waiver allows counties to complete the income determination for ex parte annual renewals during the continuous coverage unwinding period without requesting additional income verification when:

- The most recent income determination was based on a previously verified attestation of income at or below 100 percent of the FPL (including ex parte, electronic, or administrative verification) either:
    - at the initial application, or
    - the most recent renewal within the last 12 months prior to the start of the continuous coverage requirement (or no earlier than March 2019); and
- No data returned on ex parte from financial sources (income not e-verified), but all other eligibility criteria are verified; and
- No contradictory information is on file.

This waiver will streamline processing when the renewal packet is not generated, or returned without income verifications.

- If the renewal packet is auto-generate is returned without income verification(s), the county may utilize the waiver and review if the member meets the waiver criteria.
- If the packet is not generated, the county may utilize the waiver and review if the member meets the waiver criteria **without** generating a renewal packet.

The county must add a case narrative indicating the waiver was applied and proceed with the eligibility determination. If income is over 100% FPL, counties will continue with existing business processes to verify the income and complete the eligibility determination process.

For instances where there is conflicting information on file, or the county can see that a Medi-Cal member reported various income changes (even if the reported income change continued to be at or below 100 percent of the annual FPL) that was not electronically or administratively verified, the county must continue to follow normal business processes and request for a reasonable explanation or income verification to resolve the discrepancy.

This flexibility functions similar to the "Zero Income and No Data Returned" waiver flexibility (MEDIL 23-21).

Waiver Flexibility Examples

Example #1 – Single adult applicant with income below the 100 percent FPL continues to report income below 100 percent FPL during continuous coverage unwinding period.

- Individual A applied in January 2020 and at application, reported monthly income below 100 percent of the FPL for 2020.
- Income was e-verified via CalHEERS, and Individual A was found eligible for MAGI Medi-Cal.
- Individual A did not report any changes in income since the application was approved.
- The continuous coverage unwinding period begins, and Individual A's annual renewal is due in December 2023.
- The renewal process begins, and during auto ex parte using the original self-attested and previously verified case information, the income does not e-verify in CalHEERS.
- Individual A is sent the annual renewal forms to redetermine their eligibility.
- Individual A completes the annual renewal forms and continues to attest to income below 100 percent of the FPL
- The CEW reviews all paperwork and notices that the returned documents did not include a reasonable explanation or verification of income.
- The CEW does a manual review and finds no contradictory income information in the case file (such as other information reported for other programs, case narratives, or other documentation) or other available sources.

Outcome: Since there is no other conflicting information on file for the self-attested income, the waiver can be applied. In this case, the county can complete the determination using the self-attestation of income which is below 100 percent of the FPL.

Example #2 – Single Adult With Income at or Below 100 Percent of the FPL at Application, and Reports Changes in Circumstances for Income during the PHE.

- Individual B applied on September 2021 and reported in at application income below 100 percent of the FPL for 2021.

- Income was e-verified via CalHEERS, and Individual B was found eligible for MAGI Medi-Cal.
- In January 2022, Individual B reported a change in circumstance and reported an increase to their earned income which places them at 160 percent of the FPL for 2022.
- The county did not process the Medi-Cal change as it would have led to a negative action for Medi-Cal.
- In 2023, the continuous coverage unwinding period begins, and Individual B's annual renewal is due in August 2023.
- During auto ex parte using the original self-attested and previously verified case information, does not e-verify in CalHEERS.
- Individual B is sent the annual renewal forms to redetermine their eligibility.
- Individual B completes the annual renewal forms and attests to the income on the annual renewal forms, citing no change to the original income reported at application.
- The CEW reviews all paperwork and notices that the returned documents did not include a reasonable explanation or verification of income. The CEW does a manual review and notices the conflicting information from the previously reported earned income.

Outcome: The 100 percent FPL income waiver does NOT apply as there is conflicting information on file from the reported change in circumstance during the PHE. The county would follow normal business processes to verify income by obtaining either a reasonable explanation or manual verification of income.

Redetermination of Medi-Cal Eligibility When Contact is Made with Hard-to-Reach Populations

Counties may experience difficulty in conducting renewals for individuals that are a part of vulnerable or hard-to reach population due to numerous barriers, including lack of a fixed address. Under 42 CFR § 435.916(d)(1)(ii), counties are allowed to begin a new renewal period when counties receives information about a change in a member's circumstances and it has enough information available to complete a change in circumstance eligibility redetermination (in accordance with ACWDL 22-18) with respect to all eligibility criteria or when the Medi-Cal member voluntarily provides needed information (e.g., an attestation of income).

Through the continuous coverage unwinding period, this authority allows counties to complete a Medi-Cal member's change in circumstance determination and move the annual renewal date out for twelve months (prior to a normally scheduled unwinding

renewal date) based on available information and establish a new period of eligibility anytime Medi-Cal members who are considered a part of the vulnerable or hard-to reach population make contact with the county.

Hard-to reach populations include any Medi-Cal member(s) where any kind of a barrier exists making it difficult for the member to make contact with the county or the county unable to successfully make contact with the Medi-Cal member or household. Hard-to reach populations can include, but are not limited to:

- Unsheltered Medi-Cal members or those without a fixed address,
- Aged, Blind, or Disabled individuals,
- Victims of Natural Disaster,
- Medi-Cal members that live in remote areas,
- Incarcerated Medi-Cal members,
- Migrant workers,
- Foster Care individuals, or
- Any population the county determines appropriate

The ability for counties to apply this waiver to the hard-to reach population is only allowable when the eligibility determination results are positive or neutral, unless the individual has reported or the county has obtained from external data sources any information indicating a change in circumstances that results in a determination of ineligibility or change/increase in Share-of-Cost.

Using the above parameters, this strategy may not be used to shorten renewal periods by:

- discontinuing a Medi-Cal member,
- moving the member to a Share-of-Cost (SOC), or
- increasing a SOC

This strategy will assist in minimizing procedural discontinuances for the vulnerable or hard-to reach populations and ensuring that coverage is not later lost due to a procedural reason.

If the county has made contact with a Medi-Cal member that is considered to be part of the vulnerable or hard-to reach population, and self-attested income does not electronically verify, if no waivers are applicable then the county must follow normal processing procedures and first attempt to obtain a reasonable explanation in order to resolve the income discrepancy (ACWDL 22-22). If the Medi-Cal member is unable to provide a reasonable explanation, the county would continue with requesting the required income verification. If the Medi-Cal member fails to provide the requested verification, counties must document the reported change in the Statewide Automated

Welfare System (SAWS) case file and not process the reported change, keeping the member in their existing Medi-Cal eligibility until the member's continuous coverage unwinding renewal.

Waiver Flexibility Examples

Example #1 – Single adult applicant completes and returns CalFresh SAR 7 during continuous coverage unwinding period.

- Individual A has Non-MAGI Medi-Cal and CalFresh with a Medi-Cal renewal date of March 2024.
- Individual A completes a SAR 7 for CalFresh in October 2023.
- The information reported for CalFresh would result in a neutral change to Medi-Cal.

Outcome: Since there is sufficient information on the SAR 7 to complete a Medi-Cal change in circumstance determination that would result in either no change or a neutral change to Medi-Cal, the CEW can complete a Medi-Cal eligibility determination and move the Medi-Cal renewal date to 12 months in the future.

Example #2 – Single adult applicant returns CalFresh SAR 7 during continuous coverage unwinding period but does not return income verification

- Individual B has Non-MAGI Medi-Cal and CalFresh with a Medi-Cal renewal date of January 2024.
- Individual B completes a SAR 7 for CalFresh in August 2023.
- Individual B reported a new job on the SAR 7 that would lead to a SOC if the change was applied to Medi-Cal prior to the continuous coverage unwinding renewal.

Outcome: Since processing the Medi-Cal change in circumstance determination prior to the continuous coverage unwinding renewal would lead to a SOC, the CEW will wait for the regularly scheduled renewal to complete the Medi-Cal eligibility determination.

Documentation of Flexibilities
In conjunction with standard application or renewal case notes, counties must ensure that proper narratives are included within the SAWS case file when any of the Section 1902(e)(14)(A) waivers are applied to a Medi-Cal member or household. Counties must ensure the case narratives describe what flexibility was applied and for whom.

DHCS will provide additional guidance when the Section 1902(e)(14)(A) waivers end.

Additionally, DHCS will be providing updates to related guidance in MEDIL 23-06 based on these flexibilities.

If you have any questions, or if we can provide further information, please contact Kathryn Floto by phone at (916) 345-8076 or by email at kathryn.floto@dhcs.ca.gov.

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