



## Top Ten List: Medicaid Eligibility & Enrollment in Light of COVID-19

Jane Perkins and Sarah Somers

During the COVID-19 pandemic, states have taken steps to enable Medicaid eligibility and enrollment. Many of these actions are being taken with federal emergency permission. However, many of them are available to states even without an emergency and can thus be preserved after the emergency ends. Here are ten actions that advocates can take to maximize eligibility and enrollment during and after the COVID-19 emergency.

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- 1. Monitor how your state has used the emergency federal authorities to expand Medicaid eligibility.** When the Secretary of the Department of Health and Human Services (HHS) declared a Public Health Emergency (PHE), this opened the door for states to request permission to make temporary changes to their Medicaid programs. These changes were made using [Section 1135](#) of the Social Security Act (SSA), which allows states to modify certain Medicaid requirements through [waivers](#) or disaster-relief [State Plan Amendments](#), and/or [Appendix K](#) to Section 1915(c), which allows states to amend 1915(c) waivers during emergencies. States also have had access to [Section 1115](#) of the SSA, which allows waivers for experimental purposes.

Monitor how your state has used these authorities to address Medicaid eligibility and enrollment. For example, has the state expanded eligibility to otherwise uninsured people so that they can obtain COVID-related services, see 42 U.S.C. §§ 1396a(a)(10)(A)(ii)(XXIII)? Has the state extended eligibility to any optional eligibility groups listed in 42 U.S.C. §§ 1396a(a)(10)(A)(ii)? How is the state informing and reaching out to people made eligible through these changes? Develop flyers that clearly inform people of the Medicaid changes and how they can take advantage of them. Charlotte Center for Legal Advocacy Center is using a [flyer](#) (and [Spanish version](#)) that addresses Medicaid and other benefits and is being sent to current and former clients, agency contacts, and social media outlets. County agencies have helped with distribution. Additionally, advocates should encourage their state unemployment insurance agencies to [help link](#) unemployment benefits applicants to Medicaid coverage.

2. **Determine all potential categories of eligibility.** Medicaid applicants that may fit into more than one category of eligibility are entitled to choose the category under which their eligibility is considered. See 42 C.F.R. § 435.404. When determining eligibility during the pandemic, Medicaid programs should ensure that assessors provide individuals with this choice. This is particularly true for applicants for the category for uninsured individuals to receive COVID-related services who may qualify for a category that includes more expansive benefit coverage.
3. **Maximize self-attestation.** To qualify for Medicaid, applicants must fit within a covered population group and meet income, residency, and citizenship/immigration requirements. See 42 U.S.C. § 1396a(a)(10)(A). [During the PHE](#), it may be difficult or impossible to obtain documentation of information (e.g., date of birth, household size, income, residency). States can accept self-attestation for all eligibility criteria except citizenship and immigration status. In the alternative, states can ease verification requirements. For instance, states can alter their standards so that discrepancies between the income an applicant attests and the income a data-matching source reveals do not hold up the application. States can also elect to conduct post-enrollment verification of income, within a timeframe specified by the state. States can stop checking income-based data sources, such as IRS, SSA databases, and state databases, between regular renewal periods.
4. **Ensure the unemployment disregard.** During the pandemic, most people receiving unemployment benefits (approved claims and extensions) are to receive [Pandemic Unemployment Compensation](#), \$600 weekly supplements. This supplement is not income for Medicaid purposes. Advocates should verify right away that their state has made the needed eligibility modifications to disregard this income. Under current law, the Compensation should apply to benefits received between March 29 and July 31, 2020. Advocates should encourage their state to automatically deduct \$600 a week of income from applicants that receive unemployment benefits, rather than the state relying on applicants to correctly identify whether and how much income they receive from Pandemic Unemployment Compensation.
5. **Ensure enrollment and eligibility for immigrants.** The Administration's repeated targeting and harassment of immigrant communities means that individuals in these groups may hesitate to seek or delay Medicaid coverage and health care during the emergency. There are a [number of steps you can take](#), e.g.: (1) [Inform clients who are immigrants that COVID testing will not affect public charge](#). The U.S. Citizenship and Immigration Services (USCIS) recently clarified that it will not consider COVID-19 testing, treatment, or preventive care (including any eventual vaccines) when deciding public charge determinations, regardless of whether the services are covered by Medicaid. (CITE) (2) [Encourage states to extend the reasonable opportunity period](#). Applicants typically have 90 days to document their citizenship/immigration status if the information cannot be verified through the state's databases. Through a state plan amendment, states can extend the reasonable opportunity period while the individual is making a good faith effort to obtain documents or the agency cannot complete the process within 90 days due to the PHE. (3) [Make eligibility and enrollment accessible](#)

to limited English speaking people. States can receive federal matching funding for language services.

- 6. Maximize presumptive eligibility.** The Medicaid Act allows states to provide presumptive eligibility (PE) determinations through designated entities (typically health care providers or community-based entities). PE provides immediate, temporary Medicaid coverage to an individual who appears to be Medicaid eligible while the individual goes through the full determination process with the Medicaid agency. For PE options, see 42 U.S.C. §§ 1369r-1 – 1396r-1(c); *Id.* at § 1396a(a)(47) (authorizing Medicaid-participating hospitals to make PE determinations regardless of whether the state has elected to provide PE). There are a number of ways to maximize PE. States can designate themselves as a qualified entity and accept the PE application directly from applicants. States can also designate additional entities as qualified to make PE determinations, for example entities making determinations for Head Start or WIC, schools, tribal child support enforcement agencies, food and homeless shelters, correctional facilities, and entities that determine eligibility for federally assisted housing.
- 7. Pause collection of premiums and cost sharing.** Many states have opted to impose premiums and/or cost sharing in their Medicaid programs. For state options, see 42 U.S.C. §§ 1396o, 1396o-1. As a condition of receiving the enhanced federal Medicaid funding available through the Families First Coronavirus Response Act (FFCRA), states may not reduce benefits for anyone enrolled in Medicaid on or after March 18. This means that states cannot terminate Medicaid eligibility for failure to pay a premium. Advocates should monitor to ensure that beneficiaries are not being terminated. [When the PHE ends](#), advocates should remind the state agency that many beneficiaries may not have had wages for months and will likely have no savings on hand. Ask the state not to seek recoupment of unpaid premiums and to prohibit providers from treating unpaid copayments as legal liabilities of the enrollee.

During the PHE, a number of states have received permission to pause collection of some or all premiums/cost sharing. Determine whether your state has done so. Ask for written policies and directives and how they were disseminated. Monitor whether providers are aware of and following the directives. Suspension of premiums and cost sharing is an acknowledgement that these policies reduce access to coverage. Seek input from clients and providers and document instances when a client obtained a service that they would otherwise have missed because of a cost sharing requirement. Use this evidence to argue against reinstatement of premiums and cost sharing when the PHE ends.

- 8. Monitor Medicaid managed care systems.** In states that deliver services through managed care plans, monitor to ensure that individuals actually have access to needed services once they are enrolled in Medicaid. Individuals should be enrolled promptly in a plan or have immediate access through fee for service. Survey beneficiaries and providers to determine whether services are being provided.

9. **Ensure access for applicants.** With most social services offices and many other physical locations where individuals can apply for Medicaid closed, states need to ensure access to functioning websites where people can easily apply and that applications can be made by phone for those without internet access. Determine whether your states have issued guidance to local offices and caseworkers about ensuring access and performing outreach.
  
10. **Ensure proper redetermination and notice and appeal rights.** As noted above, many of the enrollment and eligibility changes states are making due to the PHE do not have to end when the PHE ends. If, however, a state does drop the eligibility change, then it should make an ex parte, pre-termination determination of whether the individual continues to qualify for Medicaid through another eligibility group. See 42 C.F.R. § 435.930(b). And if the state does decide to terminate coverage, then it must comply with written notice and, if applicable, fair hearing requirements. See U.S. Const. amend. XIV, § 1; *Goldberg v. Kelly*, 397 U.S. 254, 266 (1970); 42 U.S.C. § 1396a(a)(3); 42 C.F.R. pt. 431.

## Conclusion

Many changes that states are making during the pandemic do not have to be lifted when the pandemic ends. Regardless of the length of the pandemic, the country is facing difficult economic times. States may turn to Medicaid to make cuts to save money. Collecting data and information about people's experiences with Medicaid eligibility and enrollment could help preserve coverage.