# 10 Issues for Advocates to Monitor during the Medicaid Continuous Coverage Unwinding

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State Medicaid agencies are beginning with the process of unwinding the continuous Medicaid coverage provisions enacted to adapt to the COVID-19 pandemic. Some states will begin terminating Medicaid coverage as soon as April 1, 2023. Below are some key issues that advocates should monitor in the months to come.

1. **Remember the new deadline for the end of continuous coverage provisions.** Medicaid terminations were suspended until the PHE ended (with some limited exceptions). However, the newly enacted Consolidated Appropriations Act delinked the continuous enrollment provisions from the PHE and stated that continuous Medicaid eligibility will end on March 31, 2023.[1]. See Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Division FF, Title V, Subtitle D, § 5131.
2. **Verify when your state plans to restart Medicaid redeterminations after the continuous enrollment provisions end.** The unwinding process refers to the 12 month period that states have to begin redeterminations after the continuous enrollment provisions end and the 14 month period that states have to complete redeterminations.[2] States can restart redeterminations in February, March, or April 2023, and Medicaid terminations can begin anywhere between April and July of 2023.[3]
3. **Review Your State's Unwinding Plan and its Renewal Redistribution Plan.** States are not required to publish unwinding plans, but some states have. If your state's unwinding plan is available, review it to identify when redeterminations will start and how your state will prioritize redeterminations. Will your state begin redeterminations with specific enrollee populations, such as those who are likely to remain Medicaid-

[1] https://www.medicaid.gov/federal-policy-guidance/downloads/cib010523.pdf

[2] https://www.medicaid.gov/resources-for-states/downloads/covid19allstatecall03082022.pdf

[3] https://www.medicaid.gov/federal-policy-guidance/downloads/cib010523.pdf

eligible or those who will likely be eligible for other insurance programs, *e.g.*, Marketplace enrollment? Or, will your state prioritize cases based on time, perhaps processing cases that have been pending the longest? Also, there are reporting requirements that will be mandatory for states such as: the renewal distribution plan; baseline unwinding data, and systems readiness artifacts. Review your state's monthly reporting to learn more about the total number of renewals that your state began in a given month and how your state is processing applications.[4]

4. **Investigate whether your state is complying with the requirement to conduct ex parte eligibility redeterminations.** Ex parte renewal processes streamline redeterminations by requiring states to use data sources already available to establish eligibility without requesting additional information from enrollees.[5] CMS guidance urges states to expand the number and type of data sources that are being utilized so that even more renewals can be completed ex parte. Subsequently, fewer enrollees will be subject to procedural denials. [6]
5. **Review notices of action that your state will send to enrollees**. Ensure that notices comply with 42 C.F.R. § 431.210 notice requirements:
    - Plain language – Is the language confusing or insufficient?
    - Relevant dates – Is the date on the notice consistent with the mailing date, or has the notice been post-dated?
    - Is there a clear statement of specific reasons supporting the agency's decision?
    - Are specific regulations cited that support the agency's action?
    - Is the notice accessible to individuals with disabilities and those with limited English proficiency?

Remember: A notice that simply requires an enrollee to call agency staff is insufficient.

6. **Check for MAGI population protections.** Populations whose income eligibility is based on their modified adjusted gross income, or MAGI, have several specific protections that streamline their redetermination processes, such as:
    - States must send pre-populated forms.
    - States may only ask about information related to the specific facts that call into question the enrollee's eligibility.
    - MAGI enrollees must have at least 30 days to return renewal information that was requested, and

[4] https://www.medicaid.gov/resources-for-states/downloads/unwinding-data-specifications.pdf

[5] https://www.kff.org/medicaid/issue-brief/10-things-to-know-about-the-unwinding-of-the-medicaid-continuous-enrollment-provision/

[6] https://www.medicaid.gov/federal-policy-guidance/downloads/sho22001.pdf

- Redeterminations should be conducted at least (but no more than) every 12 months, unless the agency receives information that indicates ineligibility.

7. **Verify deadlines to request a fair hearing.** States must allow enrollees reasonable time, not to exceed 90 days from the mailing date of the notice, to request a fair hearing to challenge an adverse agency decision.[7] During the PHE many states extended the timeline for fair hearings using a temporary waiver authority. After that waiver authority ends, enrollees who received a notice with the extended timeline will still have that amount of time to request a fair hearing. See SHO# 22-001.
8. **Monitor accessibility and LEP issues.** People with disabilities and those with limited English proficiency (LEP) are at higher risk of losing eligibility due to procedural terminations. Are renewal and termination notices, as well as other state communications, accessible to persons in these populations consistent with 42 C.F.R. §§ 435.905(b) and 457.340(e)? Has the state hired qualified bilingual staff and made oral and written interpretation available?[8] Are alternative format notices and other reasonable accommodations available?
9. **Confirm that the state allows multiple modalities to receive information.** If an enrollee has to provide renewal information, states are required to accept that information through any of the modes of submission available for submitting an application. Multiple modalities include online, by telephone, by mail, or in person. [9] See 42 C.F.R. §§ 435.907(a) and 457.330 for modes of submission.
10. **Review relevant guidance related to the Unwinding.** Here are some key guidance and resources to read and bookmark for reference:
    1. CMS PHE Landing Page
    2. COVID-19 PHE Unwinding FAQs for State Medicaid and CHIP Agencies
    3. SHO# 22-001 RE: Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children's Health InsuranceProgram (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency
    4. Key Dates Related to the Medicaid Continuous Enrollment Condition Provisions in the Consolidated Appropriations Act, 2023 Key Dates Related to the Medicaid Continuous Enrollment Condition Provisions in the Consolidated Appropriations Act, 2023
    5. NHeLP PHE Unwinding Landing Page

As states resume Medicaid redeterminations and renewals, there will be hearing delays, wrongful denials, insufficient notices, lost documents, long call-center wait times leading to

[7] 42 C.F.R.§ 431.221 (d)
[8] https://www.medicaid.gov/resources-for-states/downloads/system-automation-resource-guide.pdf
[9] Medicaid and Children's Health Insurance Program Renewal Requirements

unanswered questions, and other issues. .Advocacy will be crucial. NHeLP and our partners will be supporting advocates on the ground to ensure a smooth unwinding process that preserves Medicaid coverage for all people who remain eligible.