



## The Red Tape Divide: How Paperwork Burdens Hit Rural Communities Harder

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Medicaid is a vital lifeline for rural communities. At the same time, Medicaid eligibility requirements to verify assets create some unique barriers for people in rural communities that are less common in more “urban” or “metropolitan” areas. Technology and automation play a critical role in these divides, but states have options to ease the effects.

One significant barrier that rural Medicaid applicants and enrollees face is electronic asset verification – an automated process that can be incredibly helpful when it works and leave behind others in piles of paperwork when it does not.

**Electronic asset verification refers to the process of using an asset verification system (AVS) to collect information to determine a person’s assets when seeking to establish Medicaid eligibility on the basis of age or disability status, as eligibility in these categories has asset limits. Other eligibility categories, like those for children, do not.**

This paper provides a brief overview of asset tests and the history of electronic asset verification. It then discusses how AVS, although generally beneficial, is structured in a way that can sometimes leave behind rural Medicaid applicants and enrollees. The discussion pays particular attention to the different characteristics of rural financial institutions and the prevalence of heirs’ property in the rural south. Finally, it offers a number of possible policy solutions that seek to ensure that the streamlining benefits of AVS can be equally enjoyed by all.

### Medicaid Matters for Rural Health, But It Can Be Difficult to Get and Keep

Medicaid covers nearly 1 in 4 people living in rural areas; in 6 states, at least half of Medicaid enrollees live in rural areas.<sup>1</sup> In particular, rural residents of southern states are generally more likely to have Medicaid coverage than rural residents of non-southern states.<sup>2</sup> Residents of rural areas are also disproportionately older and more likely to have a disability than

residents of metro areas.<sup>3</sup> These unique characteristics suggest that more people in rural areas are likely eligible for Medicaid based on their age or disability status rather than their income, especially those in southern states which have not expanded Medicaid.<sup>4</sup> Eligibility in these age and disability-related categories, compared to those for parents, caretakers, and other adults, often has a higher paperwork burden because of asset tests and other requirements.

Some of the characteristics of rural life that are so valued can be the same features that make getting and staying enrolled in Medicaid more complicated for rural residents. The smaller banks that meet the needs of their communities in a way that larger financial institutions do not may not use the technology to allow needed electronic asset checks, and certain ways of passing down property like family farms and homes can create complicated ownership structures that can be a barrier to Medicaid eligibility. More generally, the distance to town and government buildings to submit paperwork, longer times for mail delivery from the city, and lack of broadband internet can generally make responding to Medicaid requests more strenuous and difficult to achieve within the required but brief timeframes.<sup>5</sup>

## Medicaid Resource Limits and the Asset Testing Process

Asset limits in Medicaid have changed over the years, as have the ways that agencies check a person's assets at Medicaid application and renewal. The Affordable Care Act (ACA) eliminated the Medicaid asset test for people who qualify for Medicaid via tax-related calculations of income and other certain criteria like being pregnant or younger than age 19.<sup>6</sup> These eligibility categories are often referred to as "MAGI-eligible," referencing the tax term for the income calculation used. This means that people who qualify for Medicaid through an income-based pathway do not have to prove that they have less than a certain amount of assets as part of establishing their Medicaid eligibility. But people who qualify for Medicaid based on being older adults or having a disability ("non-MAGI" populations) are, with few exceptions, still subject to asset limits as a condition of Medicaid eligibility.<sup>7</sup> In most cases, this means that these individuals must show that they have less than \$2,000 in "countable" assets on the first day of any given month (couples typically can have up to \$3,000 in assets) to be eligible for Medicaid.<sup>8</sup> Not all assets are "countable" – some are "exempt," meaning their value does not count toward the asset limit.<sup>9</sup>

Proving a non-MAGI applicant or enrollee's asset eligibility can be time consuming and difficult, as it may include obtaining and submitting paper documentation reflecting the nature and value of these countable assets to state agencies.<sup>10</sup> Establishing asset eligibility can be especially cumbersome for people applying for long-term services and supports (LTSS) like home-based services or nursing facility care, who often need to submit 5 years' worth of

documentation to show that they have not improperly transferred any assets during the “look-back period.”<sup>11</sup> Further, because Medicaid eligibility is redetermined on a periodic basis, non-MAGI enrollees are required to prove their eligibility **again** every time they renew their coverage. This means that many non-MAGI enrollees have to repeatedly obtain and submit relevant documentation to prove their asset eligibility.<sup>12</sup> In addition, the time period to collect and return this information can be very short relative to the complexity of the task, so it can become much more difficult in situations where people may not receive the letter timely because they use a post office box that they do not regularly visit, or if it is difficult or time-consuming to go to physical locations like the county tax office to get information that is not readily available electronically.

Producing bank statements or documentation reflecting the value of a house or vehicle, while arduous, is usually ultimately achievable, although doing so can quickly become much more difficult for the reasons described above. But Medicaid asset eligibility encompasses far more. Countable assets can include such wide-ranging things as oil and mineral rights, “Christmas Club” accounts, and rent that the applicant or enrollee has prepaid.<sup>13</sup> Collecting documentation to prove the value of these items can quickly become extremely time-consuming and burdensome, assuming it is possible at all. Determining which assets are countable and which are exempt is a complex process that requires strong knowledge of Medicaid eligibility rules, which can further complicate the reporting process and increase the burden on applicants and enrollees.

Moreover, not all property that constitutes an “asset” is necessarily liquid. For instance, although livestock and farm equipment can sometimes be countable assets, they are not always quickly and easily saleable. Thus, whatever monetary value they may be determined to have can be meaningless to the applicant or enrollee who does not have the time or wherewithal to try and sell them.

## **Easing the Burden for Some Through Electronic Asset Verification**

Recognizing the immense burden that requiring documentation of assets was imposing on applicants and enrollees (and states), Congress established in 2008 a requirement that, by the end of fiscal year 2013, states use AVS.<sup>14</sup> Adoption of AVS was slow and sporadic, but most states had implemented AVS by 2020, albeit to varying extents.<sup>15</sup>

In general, AVS significantly eases the process of establishing Medicaid eligibility for all parties. AVS is meant to facilitate automated, real-time Medicaid eligibility determinations with minimal burden on applicants, enrollees, and states. Instead of requiring applicants and enrollees to collect and submit documentation of their countable assets, eligibility workers can submit

inquiries through an AVS based on information provided by the applicant or enrollee. The AVS then searches for financial and property records and returns its findings to the eligibility worker, reducing the need for a burdensome and time-consuming paperwork review.<sup>16</sup> Of course, not all countable assets are electronically verifiable (for instance, the value of countable livestock). Nevertheless, for the most part, when AVS works as intended, it reduces administrative burden and facilitates faster, more efficient eligibility determinations.<sup>17</sup>

Although AVS has generally been beneficial to Medicaid applicants and enrollees, rural populations are frequently left out of its full benefits. First, AVS has not fully eliminated the burden on Medicaid applicants and enrollees of proving their asset eligibility.<sup>18</sup> Second, when AVS falls short, it often does so in ways that uniquely affect rural Medicaid applicants and enrollees, especially those in southern states, because of the different characteristics of financial institutions and the prevalence of heirs' property in the rural south.

## **How Electronic Asset Verification Can Leave Behind Smaller Banks**

Small community banks and credit unions are a vital part of the fabric of rural communities. Community banks in particular provide a variety of unique and important benefits. Their smaller footprint enables them to focus on and tailor their offerings to the communities in which they are located.<sup>19</sup> Because of their community focus, they are also able to develop important relationships with clients in a way that larger national institutions frequently are unable to do.<sup>20</sup> Rural banks also offer specialization in agricultural lending, making them particularly important in communities where many people own and operate farms.<sup>21</sup>

Smaller, locally-based financial institutions are extremely valuable in rural communities for their unique ability to serve those communities in a way that larger institutions often do not. But sometimes they do not have the infrastructure to fulfill AVS requests to the same extent as larger financial institutions.<sup>22</sup> This means that, in some cases, Medicaid applicants and enrollees in rural areas who use these smaller local institutions for their banking needs can be at a disadvantage when it comes to electronic asset verification.<sup>23</sup>

While AVS can generally return financial information within minutes or hours from large, national financial institutions, it can sometimes take up to 30 days to return the same information from smaller institutions such as rural banks and credit unions, which may not have automated processes for responding to AVS requests and may instead have to process and return them manually.<sup>24</sup> This extended wait time may lead eligibility workers to request documentation from the applicant while awaiting the results of the AVS, in order to meet renewal deadlines. Rural Medicaid applicants and enrollees, therefore, may be

disproportionately subjected to additional burden associated with proving their Medicaid eligibility, which can lead to erroneous denials or terminations.

Financial institutions also have little incentive to participate in AVS, meaning that rural Medicaid applicants and enrollees are broadly without recourse to address this structural problem. Some states have attempted to require banks to participate in AVS, but legislative efforts toward that end have all failed.<sup>25</sup> The current state laws and regulations that **do** pertain to AVS govern the conduct of applicants, enrollees, and state agencies, but none impose any requirements on financial institutions.<sup>26</sup> For instance, although some states make consent to use the AVS a condition of Medicaid eligibility for applicants and enrollees, no states mandate financial institutions' participation in AVS in a similar way.

In some cases, the problem is even more fundamental than the limitations of some smaller financial institutions. People in rural areas are more likely than people living in metro areas to be altogether "unbanked," meaning they do not have a checking or savings account at a bank or credit union.<sup>27</sup> In particular, rates of being unbanked are higher in the south than anywhere else in the United States, particularly in rural communities and communities of color in the region.<sup>28</sup> People with lower incomes are also unbanked at higher rates than the national average: 20 percent of households earning under \$30,000 a year are unbanked, as compared to just 8 percent of all U.S. households.<sup>29</sup> Among people who are unbanked, common reasons for not having a bank account include a lack of trust in banks, the amount and unpredictability of bank fees, inconvenience of bank locations, privacy concerns, and banks not offering needed products or services.<sup>30</sup> Because people who are unbanked do not hold assets in a financial institution, the utility of electronic asset verification is greatly limited for them.

The upshot of these difficulties is that people living in rural areas face more significant barriers to establishing their eligibility for Medicaid than people living in metropolitan areas. Rural Medicaid applicants and enrollees are more likely to have to wait longer and undertake additional work for their eligibility determinations. Given that their assets sometimes cannot be electronically verified as readily as those of people living in metropolitan areas, they are more likely to have to submit documentation reflecting the assets they have. Thus, they also face more opportunities to miss paperwork deadlines and lose or be denied coverage, especially given that the time period to return paperwork is often extremely brief. Sometimes, it is as short as 10 days. When paperwork is involved, its burden also falls more heavily on people living in rural communities than people living in metro areas for several reasons, including lack of access to broadband internet, the inconvenience of traveling to Medicaid offices, and office hours that do not accommodate community members' needs.<sup>31</sup>

The unique characteristics of rural populations mean that these barriers are more likely to impede Medicaid access for people of color, older adults, people with disabilities, and people with lower incomes. Thus, significant populations who need safety net services like Medicaid, who live in areas that are proportionately more likely to enroll in the services, are also the people who experience the most difficulty in obtaining them.

## The Impact of Passing Down Family Property

In some areas, it is common for property to be passed down without a will or clear title after the death of a family member and for that person's heirs and descendants to own the property together. Sometimes this continues through generations. Property transferred and owned in this way is frequently called "heirs' property," although it can go by many other names.<sup>32</sup> Heirs' property is a form of joint real property ownership (typically a tenancy-in-common) that is common in rural areas, and especially prevalent in Black communities across the south.<sup>33</sup> To understand the impact that heirs' property can have on Medicaid eligibility, some background on what heirs' property is, how it comes to exist, and its impact on Black wealth is helpful.

When real property is passed down following the death of an owner who died without a will or estate plan in place ("intestate"), the title fractures at the moment of death between everyone to whom property would pass under the state's intestate laws, creating an heirs' parcel.<sup>34</sup>

**Example: Assume a widow with 4 children dies without a will or estate plan. Because the widow had no will or estate plan, the title to her home fractures at the moment of her death, and each child automatically inherits a 1/4 interest in the home as a tenancy-in-common. In property ownership terms, this means that each person owns their own share of the parcel and, when they die, their share is passed down as part of their estate. In contrast, married couples often own property as a "tenancy by the entirety," where, when one spouse dies, the other inherits the whole property.**

In an heirs' parcel situation, the title can continue to fracture for generations until such a point is reached that there could be potentially dozens of heirs, each with a very small interest in a piece of property initially owned by a long-dead ancestor. In one illustrative case, the title to an heirs' parcel had become so fractured over the course of generations that some heirs had only a 1/144 interest in the property.<sup>35</sup> Some heirs may not even be aware that they own some minuscule interest in a parcel. Often, though, heirs choose to keep inherited property in

the family rather than sell it – but the title gets complicated as successive generations continue that tradition.

Heirs' property is particularly prevalent in the rural south, and especially in rural southern Black communities, where it is the leading cause of Black land loss.<sup>36</sup> Moreover, heirs' property is concentrated in "persistent poverty" counties, which are counties that have had a poverty rate of 20% or more for over 30 years.<sup>37</sup> Heirs' property can also be a very unstable form of land ownership. For one thing, it is an arrangement that permits anyone with an interest in the land to force a sale at any point, forcing the other owners to sell their partial interest in the land even if one of them is currently living on it. While partial owners within a family may be hesitant to gain control over a parcel in this way because of family interests or relationships, predatory investors and real estate speculators have long used forced sale tactics to grab up Black-owned land, buying out even just 1 heir and then using a "partition sale" to force all other owners off of the land.<sup>38</sup>

The vulnerability of heirs' property to tax foreclosures also contributes to its instability as a form of land ownership. Families do not always arrange clear responsibility for who will pay taxes, or a designated person may fail to do so without the other owners' knowledge.<sup>39</sup> To compound the problem, property tax exemptions and relief programs often exclude homeowners who do not have "clear title" to the property, which is often the case with heirs' property.<sup>40</sup> Tax exemptions for agricultural land can relieve the burden in some cases, but heirs' property occurs in "urban" areas, too.<sup>41</sup>

Heirs' property can also create eligibility issues for Medicaid applicants and enrollees. The broader availability of electronic property records and greater use of AVS has increased the likelihood that electronic asset verification will return a disqualifying, previously-unknown small interest in an heirs' parcel.<sup>42</sup> While many states explicitly exempt "unknown" resources from eligibility determinations, once the AVS detects an asset, it must be dealt with. This can be time consuming, particularly when a person does not know about it or how to dispose of it, and lead to delayed access to needed care. To complicate matters, sometimes the AVS errs and a person must prove that the property is not theirs, which can be difficult.<sup>43</sup>

As a threshold matter, interests in heirs' property are typically worth little money. A first-of-its-kind study in 2023 determined that the average market value per acre of an heirs' parcel, inclusive of land and structures, was \$4,669.<sup>44</sup> In the case of multiple heirs, that value would be apportioned between heirs relative to the size of their interest in the property, meaning that the value of an individual's interest may be far less than the overall value of the parcel. But, in any case, Medicaid asset limits – which have not been updated since the 1980s and are

typically between \$2,000 and \$3,000 – are so restrictive that even the minuscule value of a fractional interest in an heirs' parcel can disqualify otherwise eligible people from coverage.<sup>45</sup>

**Returning to the example above: Assume that, when the widow died, her 4 children inherited her home and the 5-acre plot on which it sits. Based on the average market value per acre for an heirs' parcel, this hypothetical parcel's value would be \$23,335. The value of each child's 1/4 interest in the parcel would be just over \$5,800, and would make them ineligible for most non-MAGI Medicaid programs. Now assume 1 of the surviving children, who has 2 children of their own, also dies intestate. The 2 grandchildren now each own a 1/8 interest in the property, worth just over \$2,900. They would also be disqualified from most non-MAGI Medicaid programs.**

Applicants and enrollees with an interest in an heirs' parcel are then in the difficult position of having to dispose of their small property interest to become or remain eligible for Medicaid. But disposing of an interest in an heirs' parcel is an extremely expensive process. By one estimate, the cost of resolving heirs' property issues can exceed \$9,000 in some cases.<sup>46</sup> The time commitment required is also substantial. Even in relatively "simple" cases where all heirs can be located and agree on a resolution, "clearing title" can take months; in cases where there are disagreements or heirs who cannot be located, it can take much longer.<sup>47</sup> In some cases, locating all of the heirs in order to clear title to the property may not even be possible.<sup>48</sup> And when all is said and done, the small monetary value of an heirs' property interest is still far too modest to make any meaningful dent in the overall cost of needed health care services, especially long-term services and supports (LTSS).<sup>49</sup> Moreover, undertaking such a time-consuming process is simply not feasible when an applicant or enrollee urgently needs to establish their Medicaid eligibility so they can access vital services.

In addition to the time and money involved, resolving heirs' property issues can come at the cost of family relationships and self-determination. For instance, families may *want* to continue to maintain a parcel as heirs' property for cultural or other personal reasons.<sup>50</sup> Conflicts can arise where heirs do not agree about how to use the property or whether to sell it.<sup>51</sup> Clearing title also risks disrupting informal "kinship networks" that are often established among the different generations residing on an heirs' parcel, which have deep familial and social importance that defies quantification.<sup>52</sup> And forced sales can cause land loss if heirs cannot afford to purchase the property and keep it in the family.<sup>53</sup> Forcing an individual to upset their family's chosen arrangement and even risk losing family land – disrupting the development of generational wealth in the process – so they can qualify for Medicaid is fundamentally unfair.<sup>54</sup>

In spite of the time and money involved and the possible risks to the family's autonomy and harmony, many states require Medicaid applicants and enrollees to dispose of whatever property interests they may have in a tenancy-in-common, as heirs' property commonly is, if the value of that interest would put them over the asset limit.<sup>55</sup> Those states maintain this requirement even though, in most cases, disposing of the interest would be expensive, time-consuming, and cumbersome. Moreover, the small property interest is ultimately worth little, both because of its minimal valuation and because of the challenges associated with liquidating it for its cash value.

While many states do have exemptions from the requirement to liquidate an interest in a jointly-owned property, those exemptions are very limited. In general, they apply only where the applicant or enrollee disposing of their interest would cause another owner or owners to become unhoused, or where another owner or owners somehow blocks the applicant or enrollee from disposing of their interest.<sup>56</sup> As such, they are of limited use in heirs' property situations: A tenant-in-common disposing of their own interest is unlikely to directly cause loss of housing for another owner or owners, and the nature of a tenancy-in-common makes it improbable that another owner or owners could successfully block the Medicaid applicant or enrollee from disposing of their own interest.

**Looking back at our example of the widow's property with heirs: If one of the grandchildren lives in the home and an uncle who is one of the original heirs is applying for Medicaid, it is unlikely he could claim that selling his interest would cause the loss of housing for the grandchild unless selling his interest would cause the sale of the house. Instead, it is more likely that the other heirs may be forced to try to buy his interest at fair market value, which may or may not be possible either because of family finances or because they are not in contact with 1 or more of the heirs to complete the necessary processes.**

Heirs' property issues, therefore, create risks associated with establishing Medicaid eligibility that, for the most part, uniquely affect people living in rural areas. These risks disproportionately imperil the ability of Black and lower-income Medicaid applicants and enrollees to successfully establish their initial or continuing eligibility for the program.

## Policy Approaches to Address AVS-Related Problems

The simplest way to address AVS-related issues would be abolishing the Medicaid asset test altogether. As a general matter, asset tests are bad policy.<sup>57</sup> Their complexity discourages eligible people from enrolling in Medicaid, they waste state resources, they impede individuals from achieving financial security, and they disproportionately harm people of color.<sup>58</sup> Eliminating the Medicaid asset test would obviate the need for asset verification – electronic or otherwise – and would make the process of establishing Medicaid eligibility simpler and more equitable. States have had longstanding authority to disregard resources for non-MAGI applicants and enrollees, but few have used it.<sup>59</sup>

States could also update their Medicaid eligibility and enrollment policies to maximize the utility of AVS while limiting its potential harmful impacts on rural Medicaid applicants and enrollees. For instance, while states generally cannot accept self-attestation of assets, they do have the option to establish a reasonable period within which a financial institution that participates in the state's AVS must return information as part of both their application and *ex parte* renewal processes.<sup>60</sup> If the financial institution does not return information within that period, the state is permitted to rely on attested asset information, rather than continuing to wait for information to be returned through the AVS or requiring the applicant or enrollee to produce documentation of their assets.<sup>61</sup> This enables speedier eligibility determinations and quicker, easier access to vital services. And states are not without recourse if later information indicates that the applicant or enrollee had resources over the limit; they may treat the new information as a possible change in circumstances and conduct an eligibility redetermination.<sup>62</sup>

Eliminating the asset test or relying on attested asset information when permissible are both relatively simple policies that would greatly reduce the burden on Medicaid applicants and enrollees associated with establishing their eligibility, as well as the time and resource costs for states associated with processing and evaluating resource-related information.

States could also mount renewed efforts to expand their AVS-related legislation and rulemaking to require financial institutions to participate in AVS, as well as parameters for doing so. Implementing such policies would eliminate some of the difficulties that arise when an applicant or enrollee has assets in a non-participating financial institution or when a participating financial institution fails to meaningfully engage in the electronic asset verification process.

There are also plentiful potential ideas for addressing the unique risks posed by heirs' property. Short of doing away with the Medicaid asset test, raising the resource limit would be a step toward ameliorating heirs' property issues. Not only would doing so improve Medicaid

access broadly, but, given the modest average value of an heirs' parcel, raising the asset limit even to just \$10,000 would disqualify fewer applicants and enrollees who have a fractional interest in an heirs' parcel.<sup>63</sup> Doing so would also encourage financial security by allowing applicants and enrollees the opportunity to build up savings, strengthen their financial resiliency, and develop generational wealth instead of forcing them to live in "asset poverty" as a condition of accessing Medicaid.<sup>64</sup> The same authority that permits states to disregard resources altogether also permits them to impose a less-restrictive resource standard (*i.e.*, raising the resource limit).<sup>65</sup> States can also choose to exempt certain property, such as tenancy-in-common (the typical arrangement in heirs' property situations), from the asset test.

The current moment is opportune for states to consider how they address heirs' property issues in their Medicaid eligibility policies: awareness of heirs' property is steadily increasing, with multiple cities and states developing initiatives and legal aid projects specifically dedicated to helping people resolve heirs' property issues. These projects are gaining broad reach, with city-level efforts spanning from Philadelphia to Detroit and state-level efforts emerging across the southern states.<sup>66</sup> While such efforts work to address the general problem, changing the Medicaid policies can ameliorate the harms in the interim to the people who need the program.

## Conclusion

Electronic asset verification is a welcome modernization effort that is broadly successful at what it does. However, there are gaps in its efficacy that uniquely affect people living in rural areas, posing special risks for people living in the rural south. Because of the unique characteristics of rural residents, these gaps disproportionately risk impeding (and often do impede) Medicaid access for people of color, people with disabilities, older adults, and people with lower incomes – meaning many people with significant needs for safety net services like Medicaid are also the ones most likely to experience difficulty in accessing it. States have numerous reform options to maximize the utility of their AVS and reduce barriers to Medicaid access, all while minimizing their own administrative burden. Most of these interventions would be relatively simple to implement under existing authority and would increase access to the lifeline of Medicaid, especially for those in rural communities.

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**ENDNOTES**

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<sup>1</sup> Rhiannon Euhus et al., *5 Key Facts About Medicaid Coverage for People Living in Rural Areas*, KFF (Jun. 26, 2025), <https://www.kff.org/medicaid/issue-brief/5-key-facts-about-medicaid-coverage-for-people-living-in-rural-areas/>.

<sup>2</sup> *See id.* (3 of the 5 states with the highest rates of rural coverage were in the U.S. Census Bureau’s “South Region”).

<sup>3</sup> *See* Tracey Farrigan et al., *Rural America at a Glance: 2024 Edition* 6, U.S. Dept. of Agriculture Econ. Res. Serv. (Nov. 2024), <https://ers.usda.gov/sites/default/files/laserfiche/publications/110351/EIB-282.pdf?v=22613>; *see also* Katrina Crankshaw, *Disability Rates Higher in Rural Areas Than Urban Areas*, U.S. Census Bureau (Jun. 26, 2023), <https://www.census.gov/library/stories/2023/06/disability-rates-higher-in-rural-areas-than-urban-areas.html>.

<sup>4</sup> Even in states that have not expanded Medicaid, residents of rural areas are covered by Medicaid at a higher rate than residents of metro areas: according to 2020-21 county-level coverage estimates for “non-elderly adults,” 14 of the then 15 non-expansion states covered rural residents at a higher rate than residents of metro areas. For purposes of this analysis, “rural” areas were counties with less than 50,000 people. *See* Aubrianna Osorio et al., *Medicaid’s Coverage Role in Small Towns and Rural Areas*, Geo. U. Ctr. for Children & Families (Aug. 17, 2023), <https://ccf.georgetown.edu/2023/08/17/medicaids-coverage-role-in-small-towns-and-rural-areas/>.

<sup>5</sup> *See* Ashton Cain et al., *A Snapshot of Broadband Access in Rural Communities*, U.S. Dep’t of Health & Hum. Servs. Off. of Planning, Research, and Eval., Admin. for Children & Families (Dec. 2022), [https://acf.gov/sites/default/files/documents/opre/broadband\\_special\\_topic\\_brief\\_jan2023.pdf](https://acf.gov/sites/default/files/documents/opre/broadband_special_topic_brief_jan2023.pdf), Heather Hahn et al., *Strategies for Improving Public Benefits Access and Retention* 8, Urban Inst. (Jan. 2023), <https://www.urban.org/sites/default/files/2023-01/Strategies%20for%20Improving%20Public%20Benefits%20Access%20and%20Retention.pdf>; Annie Lowrey, *The Time Tax*, THE ATLANTIC (Jul. 27, 2021), <https://www.theatlantic.com/politics/archive/2021/07/how-government-learned-waste-your-time-tax/619568/>; Justin Schweitzer, *How to Address the Administrative Burdens of Accessing the Safety Net*, Ctr. for American Progress (May 5, 2022), <https://www.americanprogress.org/article/how-to-address-the-administrative-burdens-of-accessing-the-safety-net/>.

<sup>6</sup> CMS, *Eligibility Policy*, <https://www.medicaid.gov/medicaid/eligibility-policy> (last visited May 29, 2026).

<sup>7</sup> See Shandra Hartly, *A Cut by Any Other Name: How "Strengthening" Asset Tests Hurts Medicaid* 1, Nat'l Health L. Prog. (Jul. 2025), <https://healthlaw.org/resource/a-cut-by-any-other-name-how-strengthening-asset-tests-hurts-medicaid/>.

<sup>8</sup> See generally, e.g., Ctr. on Budget & Pol'y Priorities, *State Landscape: Detailing Eligibility & Enrollment Practices in Medicaid, SNAP, TANF, and WIC* (Jun. 27, 2025), <https://www.cbpp.org/research/health/state-landscape-detailing-eligibility-enrollment-practices-in-medicaid-snap-tanf#>. Additionally, some non-MAGI eligibility pathways have less restrictive asset limits. See Ctr. on Budget & Pol'y Priorities, *Non-MAGI Medicaid Eligibility: Core Concepts for Enrollment Assistants* 13, Beyond the Basics (Apr. 16, 2024), <https://www.healthreformbeyondthebasics.org/wp-content/uploads/2024/04/Non-MAGI-Medicaid-Eligibility.pdf>.

<sup>9</sup> U.S. Dep't of Health & Hum. Servs., Admin. for Community Living, *Medicaid Eligibility*, (Feb. 13, 2023), <https://acl.gov/ltc/medicare-medicaid-and-more/medicaid/medicaid-eligibility>.

<sup>10</sup> See Farah Erzouki & Jennifer Wagner, *Using Asset Verification Systems to Streamline Medicaid Determinations*, Ctr. on Budget & Pol'y Priorities (Jun. 23, 2021), <https://www.cbpp.org/research/health/using-asset-verification-systems-to-streamline-medicaid-determinations>.

<sup>11</sup> See *id.*

<sup>12</sup> A significant portion of the non-MAGI population does not go through the same process if they receive Supplemental Security Income (SSI) because Medicaid eligibility is automatically conferred on recipients in certain states known as "Section 1634" or "SSI criteria" states. In those states, CMS does not require independent asset verification since Medicaid eligibility is determined based on findings from the Social Security Administration (SSA), which includes asset testing. See U.S. GOV'T ACCOUNTABILITY OFF. (GAO), GAO-21-473R, MEDICAID: INFORMATION ON THE USE OF ELECTRONIC ASSET VERIFICATION TO DETERMINE ELIGIBILITY FOR SELECTED BENEFICIARIES 5-6 (Apr. 23, 2021), <https://www.gao.gov/assets/720/713909.pdf>.

<sup>13</sup> See generally, e.g., State of Tenn., Div. of TennCare, *ABD Countable and Excluded Resources* (Aug. 1, 2025), <https://www.tn.gov/content/dam/tn/tenncare/documents/ABDCountableAndExcludedResources.pdf>.

<sup>14</sup> 42 U.S.C. § 1396w.

<sup>15</sup> See Medicaid & CHIP Access & Payment Comm'n (MACPAC), *State Compliance with Electronic Asset Verification Requirements* 1 (Oct. 2020), <https://www.macpac.gov/wp->

[content/uploads/2020/10/State-Compliance-with-Electronic-Asset-Verification-Requirements.pdf](#) [hereinafter “State Compliance with Electronic Asset Verification Requirements”]; *see also* 42 U.S.C. § 1396w(a)(3)(ii)(V).

<sup>16</sup> *See* Erzouki & Wagner, *supra* note 10.

<sup>17</sup> *See, e.g.*, State Compliance with Electronic Asset Verification Requirements, *supra* note 15, at 9; Erzouki & Wagner, *supra* note 10.

<sup>18</sup> *See generally* Medicaid and CHIP Access and Payment Comm’n (MACPAC), *Increasing the Rate of Ex Parte Renewals* (Sept. 2023), <https://www.macpac.gov/wp-content/uploads/2023/09/Increasing-the-Rate-of-Ex-Parte-Renewals-Brief.pdf> [hereinafter “Increasing the Rate of Ex Parte Renewals”].

<sup>19</sup> *See* Matt Hanauer, et al., *Community Banks’ Ongoing Role in the U.S. Economy* 2-3, Fed. Res. Bank of Kan. City (2021), <https://www.kansascityfed.org/documents/8159/EconomicReviewV106N2HanauerLytleSummersZiadeh.pdf>.

<sup>20</sup> Fed. Deposit Ins. Corp., *FDIC Community Banking Study* 1-1 (Dec. 2012), <https://www.fdic.gov/resources/community-banking/report/2012/2012-cbi-study-1.pdf>.

<sup>21</sup> Fed. Res. Sys., *The Evolution of Community Bank Business Model Series: Rural Banks Endure in the Face of Challenges*, Community Banking Connections (2021), <https://www.communitybankingconnections.org/articles/2021/i4/the-evolution-of-community-bank-business-model-series-rural-banks-endure-in-the-face-of-challenges>.

<sup>22</sup> *See* State Compliance with Electronic Asset Verification Requirements, *supra* note 15, at 8.

<sup>23</sup> Fed. Deposit Ins. Corp., *FDIC Podcast Special Series: Banking on Inclusion* 3 (Jan. 6, 2023), <https://www.fdic.gov/news/podcasts/transcripts/fdic-podcast-ep35.pdf>; *see also* Bd. of Governors of the Fed. Res. Sys., *Perspectives from Main Street: Bank Branch Access in Rural Communities* 4, (Nov. 2019), <https://www.federalreserve.gov/publications/files/bank-branch-access-in-rural-communities.pdf> (between 2012 and 2017, rural areas lost 14 percent of bank branches as opposed to a net loss of 9 percent in metro areas).

<sup>24</sup> *See* GAO, *supra* note 12, at 4; Erzouki & Wagner, *supra* note 10; *see also* State Compliance with Electronic Asset Verification Requirements, *supra* note 15, at 8.

<sup>25</sup> *See* State Compliance with Electronic Asset Verification Requirements, *supra* note 15, at 8.

<sup>26</sup> *See, e.g.*, OR. ADMIN. R. 461-115-0700(5)(a)(C)(i), WASH. ADMIN. CODE § 182-503-0055.

<sup>27</sup> *See* David Benson et al., U.S. Fed. Res., *How Do Rural and Urban Retail Banking Customers Differ?*, (June 12, 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/how-do-rural-and-urban-retail-banking-customers-differ-20200612.html>; *see also* Paola Boel & Peter Zimmerman, Fed. Res. Bank of Cleveland, *Unbanked in America: A Review of the Literature*,

Econ. Comment. (May 26, 2022), <https://www.clevelandfed.org/publications/economic-commentary/2022/ec-202207-unbanked-in-america-a-review-of-the-literature> (definition of “unbanked”).

<sup>28</sup> Consumer Fin. Protection Bureau, *Banking and Credit Access in the Southern Region of the U.S.* 2 (Jun. 2023), [https://files.consumerfinance.gov/f/documents/cfpb\\_ocp-data-spotlight\\_banking-and-credit-access\\_2023-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ocp-data-spotlight_banking-and-credit-access_2023-06.pdf).

<sup>29</sup> Jane K. Cover et al., *The Geography of Fringe Banking* 3, Univ. of Wash. (Sept. 2011), <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=a27073df6ebe0c5e3d32149de2c3d19c33ee8f10>.

<sup>30</sup> Fed. Deposit Ins. Corp., *2023 FDIC National Survey of Unbanked and Underbanked Households* 3 (Nov. 2024), <https://www.fdic.gov/household-survey/2023-fdic-national-survey-unbanked-and-underbanked-households-report>.

<sup>31</sup> See Cain et al., *supra* note 5; Hahn et al., *supra* note 5; Lowrey, *supra* note 5; Schweitzer, *supra* note 5.

<sup>32</sup> See, e.g., Ryan Thomson & Adam Rabinowitz, *Resolve Heirs Property Before It’s Too Late: Op-Ed from Alabama Heirs Property Alliance*, AL.com (Jan. 7, 2025), <https://www.al.com/opinion/2025/01/resolve-heirs-property-before-its-too-late-op-ed-from-alabama-heirs-property-alliance.html>.

<sup>33</sup> Cassandra Johnson Gaither, U.S. Dept. of Agric., U.S. Forest Serv., “*Have Not Our Weary Feet Come to the Place for Which Our Fathers Sighed?*” *Heirs’ Property in the Southern United States* 2 (Oct. 2016), [https://www.srs.fs.usda.gov/pubs/gtr/gtr\\_srs216.pdf](https://www.srs.fs.usda.gov/pubs/gtr/gtr_srs216.pdf).

<sup>34</sup> See Jon Gorey, *Understanding Heirs Property*, Lincoln Inst. of Land Pol’y (Jul. 11, 2025), <https://www.lincolninstitute.edu/publications/land-lines-magazine/articles/understanding-heirs-property/>. “Intestate laws” govern how property is distributed to the legal heirs of a person who died without a will or other probate process. All states have them, although they are not the same in all states.

<sup>35</sup> See, e.g., Nicholas Phillips, *How “Tangled Titles” Freeze Wealth in Black Neighborhoods (and Probably Elsewhere in St. Louis, Too)*, ST. LOUIS MAG. (May 16, 2023), <https://www.stlmag.com/news/solutions/a-problem-in-deed-tangled-titles/>.

<sup>36</sup> See Johnson Gaither, *supra* note 33, at 8; see also The Housing Assistance Council, *A Methodological Approach to Estimate Residential Heirs’ Property in the United State* 5 (Dec. 11, 2023), [https://www.fanniemae.com/sites/g/files/koqyhd191/files/2023-12/heirs-property-research-report\\_0.pdf](https://www.fanniemae.com/sites/g/files/koqyhd191/files/2023-12/heirs-property-research-report_0.pdf) (up to 42 percent of the property in some southern counties may be heirs’ property).

<sup>37</sup> Sean Doolittle, *The Lurking Dangers of Heirs' Property*, B.C. L. SCH. MAG. ONLINE (May 28, 2024), <https://lawmagazine.bc.edu/2024/05/the-lurking-dangers-of-heirs-property/>.

<sup>38</sup> See, e.g., Ansley Quiros & Allie R. Lopez, *The Quest for Racial Equity Has Always Been Different for Rural Americans*, TIME MAG. (Dec. 17, 2023), <https://time.com/6340527/black-land-loss/>. The Uniform Partition of Heirs Property Act, which has been enacted in 24 states, Washington, D.C., and the U.S. Virgin Islands, seeks to prevent or at least reduce this behavior by providing a series of due process protections for the remaining tenants-in-common in such situations. Uniform L. Comm'n, *Partition of Heirs Property Act*, <https://www.uniformlaws.org/committees/community-home?communitykey=50724584-e808-4255-bc5d-8ea4e588371d>; see also Land Trust Alliance Ctr., *Partition of Heirs Property Act* (last updated Jun. 29, 2021), <https://landtrustalliance.org/resources/learn/explore/partition-of-heirs-property-act>.

<sup>39</sup> See, e.g., Thomson & Rabinowitz, *supra* note 32; Andrea Bopp Stark & Odette Williamson, *Property Tax Foreclosures on Heirs Property: The Devastating Consequences and Recommendations for Prevention* 7-12, Nat'l Consumer L. Ctr. (Aug. 2023), [https://www.nclc.org/wp-content/uploads/2023/08/202308\\_Property-Tax-Foreclosures-on-Heirs-Property.pdf](https://www.nclc.org/wp-content/uploads/2023/08/202308_Property-Tax-Foreclosures-on-Heirs-Property.pdf).

<sup>40</sup> See Portia Johnson et al., *Heirs' Property in Alabama* 23-25, Ala. Heirs' Prop. Alliance (2024), [https://www.aces.edu/wp-content/uploads/2024/09/HE-0852-Heirs-Property\\_COMPRESSED\\_091624L-G.pdf](https://www.aces.edu/wp-content/uploads/2024/09/HE-0852-Heirs-Property_COMPRESSED_091624L-G.pdf); see also Amalie Zinn, *What Is Heirs' Property, and Why Does It Matter for Equitable Homeownership?*, Urban Inst. (Dec. 13, 2023), <https://housingmatters.urban.org/articles/what-heirs-property-and-why-does-it-matter-equitable-homeownership>.

<sup>41</sup> See, e.g., Pickens County Assessor, *Agriculture*, Pickens County, S.C., <https://pickensassessor.org/agriculture/>; see also Gorey, *supra* note 34; Aaron Moselle, *Philly is Spending Millions to Help Low-Income Residents Resolve Tangled Titles*, WHYY (Sept. 7, 2022), <https://whyy.org/articles/philadelphia-spending-7-million-help-low-income-residents-tangled-titles/>.

<sup>42</sup> See, e.g., Reid K. Weisbord & Stewart E. Sterk, *The Commodification of Public Land Records*, 97 NOTRE DAME L. REV. 507 (2022), <https://papers.ssrn.com/sol3/Delivery.cfm?abstractid=3794846>.

<sup>43</sup> See GAO, *supra* note 12, at 6.

<sup>44</sup> Even with this knowledge, it is still difficult to extrapolate the average size and thus the average value of an entire heirs' parcel. Heirs' property is a highly state-specific issue: The same study identified 77,462 heirs' parcels covering almost 2.7 million acres in Texas, but just

108 heirs' parcels covering 193 acres in Rhode Island. This suggests that the average size of an heirs' parcel is less than 2 acres in Rhode Island, but more than 34 acres in Texas. See G. Rebecca Dobbs & Cassandra Johnson Gaither, *How Much Heirs' Property Is There? Using LightBox Data to Estimate Heirs' Property Extent in the U.S.*, 38 J. RURAL SOC. SCI. 10 (Dec. 2023), available at [https://srdc.msstate.edu/sites/default/files/2023-06/dobbs\\_johnson-gaither\\_pre-print-manuscript-6.5.23.pdf](https://srdc.msstate.edu/sites/default/files/2023-06/dobbs_johnson-gaither_pre-print-manuscript-6.5.23.pdf). Additionally, estimates of the amount of heirs' property in a given area can vary depending on the methodology used to identify heirs' parcels. See, e.g., Johnson Gaither, *supra* note 33, at 4.

<sup>45</sup> Noelle Cornelio et al., *Increasing Medicaid's Stagnant Asset Test for People Eligible for Medicare and Medicaid Will Help Vulnerable Seniors*, 40 HEALTH AFF. 1943 (Dec. 2021), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.00841>.

<sup>46</sup> See Moselle, *supra* note 41.

<sup>47</sup> See Jennifer Harrington, *The Problem with Heirs' Property*, Iowa St. Univ. Ctr. for Agric. L. & Tax'n (Feb. 27, 2022), <https://www.calt.iastate.edu/article/problem-heirs-property>.

<sup>48</sup> See Nketiah Berko & Sarah Bolling Mancini, *Keeping it in the Family: Legal Strategies to Address the Challenge of Heirs Property and Prevent Home Loss* 7, Nat'l Consumer L. Ctr. (Jan. 2024), [https://www.nclc.org/wp-content/uploads/2024/01/202401\\_Report\\_Heirs-Property-Keeping-it-in-the-Family.pdf](https://www.nclc.org/wp-content/uploads/2024/01/202401_Report_Heirs-Property-Keeping-it-in-the-Family.pdf).

<sup>49</sup> While all non-MAGI Medicaid enrollees are subject to asset limits (with few exceptions), LTSS are the most expensive Medicaid services. Medicaid is also the primary payer of LTSS in the United States. See, e.g., U.S. Dept. of Health and Hum. Servs., HHS Off. of the Assistant Sec'y for Plan. & Evaluation, *Long-Term Services and Supports for Older Americans: Risks and Financing*, 2022 6-8 (Aug. 2022), <https://aspe.hhs.gov/sites/default/files/documents/08b8b7825f7bc12d2c79261fd7641c88/ltss-risks-financing-2022.pdf>; see also Priya Chidambaram & Alice Burns, *10 Things About Long-Term Services and Supports (LTSS)*, KFF (Jul. 8, 2024), <https://www.kff.org/medicaid/issue-brief/10-things-about-long-term-services-and-supports-ltss/>.

<sup>50</sup> See Portia Johnson et al., *Clarifying Title to Heirs Property*, Ala. Coop. Extension Sys. (Sept. 17, 2024), <https://www.aces.edu/blog/topics/home/clarifying-title-to-heirs-property/>.

<sup>51</sup> See Harrington, *supra* note 47.

<sup>52</sup> See, e.g., Jennifer Pindyck et al., *Family Homesteads with Tangled Titles Are Contributing to Rural America's Housing Crisis*, THE CONVERSATION (Jun. 11, 2025), <https://theconversation.com/family-homesteads-with-tangled-titles-are-contributing-to-rural-americas-housing-crisis-254679>.

<sup>53</sup> See Gorey, *supra* note 34.

<sup>54</sup> See, e.g., Juana Summers et al., *How Buying a Home Became a Key Way to Build Wealth in America*, NAT'L PUB. RADIO: ALL THINGS CONSIDERED (Jan. 4, 2023),

<https://www.npr.org/2023/01/04/1146960942/how-buying-a-home-became-a-key-way-to-build-wealth-in-america>.

<sup>55</sup> See, e.g., Ga. Div. of Family and Children Servs., *2302 Ownership of Resources in ABD Medicaid* (Apr. 2020), <https://pamms.dhs.ga.gov/dfcs/medicaid/2302/>.

<sup>56</sup> See, e.g., ALA. ADMIN. CODE § 560-X-25-.06(2)(e)(3); 90 KY. ADMIN. REGS. 20:025; Miss. Div. of Medicaid, *Eligibility Pol'y and Procedures Manual* 3087 (Jan. 2018),

<https://medicaid.ms.gov/wp-content/uploads/2020/07/Chapter-300-Resources.-Entire-Section.-Bookmarked-w-TOC.pdf>. But see Ark. Dep't of Hum. Servs., *Medical Services Policy*

*Manual* 318 (Feb. 16, 2017), [https://humanservices.arkansas.gov/wp-content/uploads/Complete\\_Medicaid\\_Policy\\_Manual.pdf](https://humanservices.arkansas.gov/wp-content/uploads/Complete_Medicaid_Policy_Manual.pdf) (when property is jointly owned by a

tenancy-in-common, "[t]he value of the individual's interest will be considered a countable resource, regardless of the other owners' desire to sell").

<sup>57</sup> See Hartly, *supra* note 7, at 1-2.

<sup>58</sup> See *id.*

<sup>59</sup> 42 U.S.C. § 1396a(r)(2); CMS, *Dear State Medicaid Director* (Dec. 7, 2021) (SMD# 21-004),

<https://www.medicaid.gov/Federal-Policy-Guidance/Downloads/smd21004.pdf>; see also, e.g.,

Kim Glaun, *Medicaid Programs to Assist Low-Income Medicare Beneficiaries: Working Paper on Medicare Savings Programs in Arizona*, Kaiser Comm'n on Medicaid and the Uninsured (Dec. 2002),

<https://www.kff.org/wp-content/uploads/2013/01/medicaid-programs-to-assist-low-income-medicare-beneficiaries-working-paper-on-medicare-savings-programs-in-arizona-background-paper.pdf>.

<sup>60</sup> States are not required to electronically verify assets for individuals seeking coverage under a Medicare Savings Program (MSP). 42 C.F.R. § 435.952(e).

<sup>61</sup> See 42 U.S.C. § 1396a(e)(14)(A); see also CMCS, *Use of Unwinding-Related Strategies to Support Long-Term Improvements to State Medicaid Eligibility and Enrollment Processes* 10

(Nov. 14, 2024), <https://www.medicaid.gov/federal-policy-guidance/downloads/cibe1411142024.pdf>.

<sup>62</sup> 42 C.F.R. § 435.916(d).

<sup>63</sup> Raising the SSI asset limit to \$10,000 was the subject of several recent legislative proposals.

See Supplemental Security Income Restoration Act of 2024, H.R. 7138, 118th Cong. (2024), SSI Savings Penalty Elimination Act, S. 2767, 118th Cong. (2023); SSI Savings Penalty

Elimination Act, H.R. 5408, 118th Cong. (2023).

<sup>64</sup> See, e.g., Chantel Boyens et al., *Why a Universal Asset Limit for Public Assistance Programs Would Benefit Both Participants and the Government*, Urban Inst. (Mar. 20, 2024), <https://www.urban.org/urban-wire/why-universal-asset-limit-public-assistance-programs-would-benefit-both-participants-and-government>; see also Aleta Sprague & Rachel Black, *State Asset Limit Reforms and Implications for Federal Policy 2*, New America Foundation (Oct. 2012), [https://static.newamerica.org/attachments/3826-state-asset-limit-reforms-and-implications-for-federal-policy/SpragueBlackFinal10.31.12\\_0.557490fb36df433a80bd5cb2f3885e5d.pdf](https://static.newamerica.org/attachments/3826-state-asset-limit-reforms-and-implications-for-federal-policy/SpragueBlackFinal10.31.12_0.557490fb36df433a80bd5cb2f3885e5d.pdf).

<sup>65</sup> 42 U.S.C. § 1396a(r)(2).

<sup>66</sup> See, e.g., Moselle, *supra* note 41; Vinita Wagh & Juan Sandoval, *Keeping Your Family Home: Addressing the Challenges of Inherited Properties in Detroit*, Detroit Future City (Feb. 2024), [https://detroitfuturecity.com/wp-content/uploads/2024/02/Keeping-Your-Family-Home\\_Feb-2024.pdf](https://detroitfuturecity.com/wp-content/uploads/2024/02/Keeping-Your-Family-Home_Feb-2024.pdf); Ala. Legal Servs., *Heirs' Property Resources*, <https://legalservicesalabama.org/heirs-property/>; Ctr. for Heirs' Prop. (S.C.), *Legal Work*, <https://www.heirsproperty.org/legal/>.