

### Mitigation Plan Template for Ex Parte Renewal Compliance Issues, August 2023

**Area of non-compliance:** Federal renewal requirements at 42 C.F.R. §§ 435.916(a)(2) and 457.343 require that states complete a redetermination of eligibility based on available information for each individual in the household. Some states are conducting *ex parte* renewals at the household level, without regard to differing eligibility statuses and income thresholds for individuals within the household. As a result, while a state may have sufficient information during the *ex parte* process to renew Medicaid or Children’s Health Insurance Program (CHIP) coverage for some individuals in a multi-member household, states are sending renewal forms requesting information for all household members. If the renewal form is not returned, states are disenrolling all individuals in the household, including those determined to be eligible through the *ex parte* process. These actions violate the federal renewal requirements, and states must address them immediately.

This issue most commonly affects (1) children in households with at least one adult enrolled in Medicaid and (2) eligible individuals in households in which additional documentation is needed to verify eligibility for the other household members. States may identify other circumstances in which individuals in multi-member households are inappropriately disenrolled from their Medicaid and/or CHIP coverage due to incorrect systems programming or state processes that do not accurately account for individuals’ differing eligibility statuses or in which the state denies ongoing eligibility for one household member based on missing documentation needed only to renew eligibility for another. If identified, these areas of non-compliance must also be addressed.

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**Required state action:** States that are not operating in compliance with federal renewal requirements must immediately:

1. **Pause** disenrollments for those individuals for whom the *ex parte* renewal process is not currently compliant and whose Medicaid coverage may be terminated inappropriately due to improper implementation of renewal requirements (hereafter described as “affected individuals”), until the state implements mitigations or other updates to ensure that eligible individuals are not disenrolled.
2. **Reinstate** coverage for all affected individuals who have been disenrolled due to a failure to account for the individual’s eligibility status, independent of that of others in the household. States unable to quickly identify individuals within a household affected by this issue must reinstate coverage for the full household. When reinstating eligibility for affected individuals, the state must:
  - a. Provide retroactive eligibility back to the date of termination, without a gap in coverage; and
  - b. Notify affected individuals that their coverage has been reinstated and provide information about next steps, including what actions, if any, the beneficiary must take to obtain payment for unpaid medical bills and/or ensure that eligible services are covered for the period while the individual was disenrolled. The state may *not* require the individual to provide documentation of eligibility during this period.
3. **Implement** one or more mitigation strategies to prevent continued inappropriate terminations of eligibility until such time that the state has fixed all systems and processes to be compliant with the renewal requirements. States may select any of the Centers for Medicare & Medicaid Services (CMS)-identified mitigation strategies listed on pages 4 and 5 of the August 30, 2023, letter sent to State Medicaid Directors, or they may propose alternative state-developed mitigation strategies that ensure that eligible individuals are not disenrolled and demonstrate a path to full compliance with relevant federal requirements by the end of a state’s unwinding period. An alternative approach may not extend a state’s unwinding period beyond 3 additional months or permit further disenrollment of eligible individuals in a household that would require reinstatement.
4. **Fix** the state’s systems and processes to ensure that redeterminations are conducted appropriately for all individuals in the household.

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**Instructions for states in compliance:** States that are in compliance with the federal renewal regulations at 42 C.F.R. §§ 435.916(a)(2) and 457.343 and successfully complete a redetermination of eligibility based on available information for each individual in the household should send confirmation of their compliance to CMS. States may use the attestation found on page 3 of this document, though use of this template is not required. The attestation should be submitted via email to the CMS Unwinding Mailbox at [CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov) no later than September 13, 2023.

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**Instructions for states with areas of non-compliance:** States that have identified any areas of non-compliance related to the appropriate determination of eligibility for individuals in multi-member households must contact CMS no later than September 13, 2023, with additional information on the population of individuals affected and the state's plan and timeline for reinstatement and implementation of mitigation strategies described in the August 30, 2023, letter sent to State Medicaid Directors. If the state's assessment is not complete by September 13, 2023, please submit your preliminary assessment by that date. States that previously identified any areas of non-compliance but have since implemented mitigations or other fixes should also submit the requested information in the mitigation plan addendum to CMS.

CMS has provided the template beginning on page 4 of this document to facilitate states' reporting, though use of the template is not required. If using another format than this template, please include the information requested in the bullets below. States may submit the completed template or required information in other formats via email to the CMS Unwinding Mailbox at [CMSUnwindingSupport@cms.hhs.gov](mailto:CMSUnwindingSupport@cms.hhs.gov).

- Population(s) affected by the state's failure to complete a redetermination of eligibility based on available information for each individual in the household, regardless of the eligibility of others in the household unit.
- The number of affected individuals in each population
- Description of the state's current process for conducting *ex parte* renewals for a household with affected individuals
- Description of the state's plan for pausing disenrollments until the state implements mitigations or other updates to ensure that eligible individuals are not disenrolled. If the state does not need to pause future disenrollments, the state should explain why.
- Confirmation that all affected individuals will have their coverage reinstated, and the number of individuals who will have coverage reinstated. States unable to quickly identify affected individuals within a household must reinstate coverage for the full household.
- Confirmation that individuals with coverage reinstated will be provided instructions for obtaining payment for unpaid medical bills and/or ensure eligible services are covered while the individual was disenrolled.
- Timeline for when coverage reinstatement will occur.
- Which mitigation strategies the state will implement, which populations the strategies will be implemented for, and the implementation timeline(s). States may select any of the CMS-identified mitigation strategies listed on pages 4 and 5 of the August 30, 2023, letter sent to State Medicaid Directors, or they may propose alternative state-developed mitigation strategies that ensure that eligible individuals are not disenrolled and demonstrate a path to full compliance with relevant federal requirements by the end of a state's unwinding period.
- Description of the state's initial plans related to the system fix(es) the state will use to conduct *ex parte* renewals at the individual level, including whether the fix will be temporary or permanent (CMS will request additional information related to the system fix[es] used)

## Section 1: State Attestation for Completing Compliant *Ex Parte* Renewals

State:

Medicaid Director:

State point of contact for attestation:

Date of submission:

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**Background:** Federal Medicaid renewal regulations require that states complete a redetermination of Medicaid or CHIP eligibility based on available information for each individual in the household, regardless of the eligibility of others in the household unit: “[t]he agency must make a redetermination of eligibility without requiring information from *the individual* if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency” (emphasis added). Regulations related to the determination of eligibility at 42 C.F.R. §§ 435.911(c) and 457.350(b)(1) also specify that the agency must furnish Medicaid for each individual determined eligible at application and redetermination of eligibility, if found eligible. Further, while states may need to obtain information, such as income, from all household members, to renew eligibility for those whose eligibility cannot be established via the *ex parte* process, states may not require additional information to renew coverage for those who should have already been determined eligible based on other available reliable information. Requesting additional information under these circumstances is inconsistent with 42 CFR 435.916(e), which specifies that “the agency may request from beneficiaries only the information needed to renew eligibility.” As a result, any state that conditions renewal of Medicaid eligibility for individuals in the household on the return of a renewal form, when such individuals’ eligibility has already been established based on available information via the *ex parte* process, is out of compliance with federal renewal requirements and may be ineligible to claim the temporary FMAP increase under section 6008(f)(2)(A) of the FFCRA.

**Attestation:** If the state is in compliance with the above federal regulations, select the following boxes to attest that each statement is true:

- The state completes a redetermination of Medicaid and CHIP eligibility based on available information for *each individual* in the household, regardless of the eligibility of others in the household unit.
- The state does not require information needed only to determine Medicaid or CHIP eligibility for *an individual* if able to do so based on reliable information contained in the individual's account or other more current information available to the agency.
- The state does not condition renewal of Medicaid or CHIP eligibility for individuals in the household on the return of a renewal form, when such individuals’ eligibility has already been established based on available information via the *ex parte* process.
- Since April 1, 2023, no eligible individuals have been disenrolled from Medicaid or CHIP due to a failure to account for the individual’s eligibility status, independent of that of others in the household.

## Section 2: Mitigation Plan Addendum Template for States with Areas of Non-Compliance

State:

Medicaid Director:

State point of contact for mitigation plan:

Date of submission:

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### A. Issue description

A.1. Select the population(s) affected by the state's failure to complete a redetermination of eligibility based on available information for each individual in the household, regardless of the eligibility of others in the household unit (select all that apply):

- Children in households with at least one adult enrolled in Medicaid:
- Eligible individuals in households in which additional documentation is needed to verify eligibility for the other household members:
- Other (please specify):

A.2. Please provide a description of the state's current process for conducting *ex parte* renewals for a household with affected individuals:

### B. Plans for pausing disenrollments for affected individuals (*CMS will ask states about redistributing held terminations in future conversations with states*)

B.1. Will the state pause disenrollments until the state implements mitigations or other updates to ensure that eligible individuals are not disenrolled?

- Yes, procedural disenrollments only (please provide more information, including the planned length of time):
- Yes, all disenrollments (please provide more information, including the planned length of time):
- No (please specify why this is not needed):

### C. Plans to reinstate coverage for affected individuals who have been disenrolled

C.1. For how many individuals will coverage be reinstated? States unable to quickly identify affected individuals within a household must reinstate coverage for the full household.

C.2. When will coverage be reinstated?

C.3. How will individuals with coverage reinstated be notified and given instructions for obtaining payment for unpaid medical bills and/or coverage for services while disenrolled?

**D. Mitigation strategies and details about how the selected strategies will be implemented (states must select at least one)**

Mitigation Strategies	Additional Information	Implementation Timeline
<input type="checkbox"/> 1. Identify and renew eligibility for affected individuals prior to disenrollment (e.g., based on information from the initial <i>ex parte</i> process or through a manual process, checking data sources and renewing eligibility for any individual in a household who remains eligible) until a system fix is fully implemented	a. For which populations will this strategy be implemented? Select all that apply. <input type="checkbox"/> Children in households with at least one adult enrolled in Medicaid <input type="checkbox"/> Eligible individuals in households in which additional documentation is needed to verify eligibility for the other household members <input type="checkbox"/> Other (please specify): b. Additional information:	
<input type="checkbox"/> 2. Suspend renewals while the state implements needed systems and operational fixes, which may include implementation of mitigation strategy 1 above	a. For which populations will this strategy be implemented? Select all that apply. <input type="checkbox"/> All renewals <input type="checkbox"/> Children in households with at least one adult enrolled in Medicaid <input type="checkbox"/> Eligible individuals in households in which additional documentation is needed to verify eligibility for the other household members <input type="checkbox"/> Other (please specify): b. How many months will the state pause? c. How many months will the state extend its unwinding period as a result of this mitigation strategy? d. Additional information (including redistribution plans, if available):	
<input type="checkbox"/> 3. Extend Medicaid or CHIP eligibility for affected individuals for up to 12 months from the member's scheduled renewal during the unwinding period	a. For which populations will this strategy be implemented? Select all that apply. <input type="checkbox"/> Children in households with at least one adult enrolled in Medicaid <input type="checkbox"/> Eligible individuals in households in which additional documentation is needed to verify eligibility for the other household members <input type="checkbox"/> Other (please specify): b. For how long will eligibility be extended for affected individuals? c. Additional information:	

Mitigation Strategies	Additional Information	Implementation Timeline
<input type="checkbox"/> 4. Other (please specify):	a. For which populations will this strategy be implemented? Select all that apply. <ul style="list-style-type: none"> <li><input type="checkbox"/> Children in households with at least one adult enrolled in Medicaid</li> <li><input type="checkbox"/> Eligible individuals in households in which additional documentation is needed to verify eligibility for the other household members</li> <li><input type="checkbox"/> Other (please specify):</li> </ul> b. Additional information:	

**E. Plans to fix the state’s systems and processes (*CMS will request additional information related to the system fix(es) used to achieve full compliance*)**

E.1. Please provide initial plans related to the system fix(es) the state will use to conduct *ex parte* renewals at the individual level, including whether the fix will be temporary or permanent.

E.2. What is the estimated timeline(s) for these system fix(es)?

**F. Other notes/additional information, including other identified areas of non-compliance and proposed mitigations:**