DEPARTMENT OF HEALTH AND HUMAN SERVICES
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Center for Medicaid & State Operations

CMSO Informational Bulletin

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SUBJECT: Opportunity to Disregard Making Work Pay and Other Income Tax Refunds and Refundable Tax Credits for Medicaid Eligibility

This Informational Bulletin is to provide a reminder about an opportunity for States related to disregarding income tax credits and refunds when determining eligibility for Medicaid. Individuals and families who apply for or are eligible for Medicaid may also receive tax credits and refunds that are designed to provide additional needed assistance. The American Recovery and Reinvestment Act (ARRA) provides for new tax credits, including a temporary refundable tax credit called the Making Work Pay (MWP) credit. Under ARRA, State Medicaid programs must disregard the MWP credit as income in the month it is received and as income and resources in the following two months. This disregard applies to both new applicants for assistance and ongoing beneficiaries. Guidance on these provisions was released in a letter to State Medicaid Directors on June 17, 2009 (available at http://www.cms.hhs.gov/SMDL/downloads/SMD061709.pdf)

Some or all of the proceeds of this tax credit, however, might continue to be available to families after the initial 3-month period during which the MWP credit is disregarded and it is of course helpful to low-income families to be able to save these assets, particularly in these uncertain economic times. States, therefore, may want to consider taking additional steps to ensure that the MWP tax credit, as well as other tax credits and refunds, do not jeopardize individuals' or families' eligibility for Medicaid benefits. Such actions would also simplify eligibility rules and program administration and prevent families from cycling off and then back on Medicaid.

Options Available to States

Under the Medicaid statute, States have the option to disregard amounts or types of income and resources that otherwise would be counted when determining eligibility. Specifically, section 1931 of the Social Security Act (the Act) allows States to use less restrictive income and resource disregards for low-income families and children. Section 1902(r)(2) of the Act allows States to use less restrictive income and resource disregards for many aged, blind and disabled-related eligibility groups, and for many families-related groups not covered under section 1931.

These authorities provide States the opportunity to ensure that tax refunds and tax credits, such as MWP, that are intended to help individuals and families, do not instead cause those families to lose Medicaid eligibility. We encourage States to consider using this flexibility to disregard tax refunds and credits as income or resources.

While sections 1931 and 1902(r)(2) of the Act do not allow States to apply such disregards to every individual who applies for or is already eligible for Medicaid, these sections of the statute will reach the majority of individuals in covered eligibility groups that would benefit from a disregard of tax refunds and credits. States seeking to assist a broader group of individuals or to further simplify their programs can always consider making other revisions to their asset rules, including eliminating asset tests, as nearly all States have done for children in their Medicaid programs.

In addition to helping struggling families, disregarding tax refunds and credits will help reduce the administrative burdens for States by limiting the extent to which families lose eligibility due to a tax refund or credit, only to reapply for and regain coverage later, once they spend their refunds. By disregarding the refunds or credits, States will avoid the additional workload of having to determine households ineligible and then process new applications for the households several months later.

Families are beginning to receive their tax credits and will file their income tax returns early in 2010, leading to tax refunds and credits being provided as early as this month. States that want to disregard tax refunds and credits under the authority of sections 1931 and 1902(r)(2) to prevent the loss of Medicaid eligibility therefore should act quickly to amend their Medicaid State plans so they can implement such disregards.

We look forward to our continuing work together in administering these critical programs and helping to assure that families have access to needed services. If you have questions about this memorandum, please contact Ginni Hain, Director of the Division of Eligibility and Benefits, Family and Children's Health Programs Group at 410-786-6036 or via email at ginni.hain@cms.hhs.gov. As always, our CMS Regional Office staff is prepared to assist States interested in pursuing these options.

Cindy Mann