
April 25, 2013

Medicaid/CHIP Affordable Care Act Implementation

Children’s Health Insurance Program (CHIP) coverage for children who lose Medicaid eligibility due to the elimination of income disregards as a result of the conversion to MAGI.

Section 2101(f) of the Affordable Care Act

Answers to Frequently Asked Questions

General

1) What is the objective of section 2101(f) of the Affordable Care Act?

A: Section 2101(f) of the Affordable Care Act (implemented through regulations for the CHIP program at 42 CFR §457.310) provides that states maintain coverage under a separate CHIP for children who lose Medicaid eligibility (including eligibility under a Medicaid expansion or M-CHIP program) due to the elimination of disregards under the new “modified adjusted gross income” (MAGI) based methodologies, which will be effective on January 1, 2014. This provision was intended to create a mechanism to ensure a smooth transition and continuity of coverage for children as the new income counting rules take effect.

2) What are the disregards that are referenced by section 2101(f) of the ACA?

A: Income and expense disregards, including block disregards, that were used to calculate children’s income eligibility under the state’s Medicaid program prior to January 1, 2014 must be considered in implementing this provision.

3) Do states that currently do not have a separate CHIP or whose separate CHIP only serves a limited population need to create a separate CHIP for this population?

A: Yes, children protected by section 2101(f) must be enrolled in a separate CHIP. A state could design its CHIP program to operate in the same manner with respect to this population as the state’s existing title XXI Medicaid expansion program (as a Medicaid look-alike program) so as to reduce administrative burden for states and confusion for families.

Eligibility

4) Should this provision be applied to new applicants or just existing enrollees?

A: The provision should be applied only to children who were enrolled in Medicaid on December 31, 2013 and who lose Medicaid eligibility at their first Medicaid renewal in which MAGI-based methodologies are applied.

5) Do these children automatically meet the definition of a “targeted low-income child” regardless of other CHIP eligibility factors?

A: Yes. These children are considered to be targeted low-income children and eligible to receive child health assistance in a separate child health program. Other eligibility factors such as the state’s separate CHIP upper income limit, current creditable health insurance coverage or other state defined criteria, should not be applied to this population or preclude them from receiving coverage under the separate CHIP. The only exceptions to CHIP eligibility that apply are those found in section 2110(b)(2) of the Social Security Act and implemented through §457.310(3)(c), which include:

- Children who have access to coverage through a state health benefits plan on the basis of a family member’s employment with a public agency (“public employee restriction”);
- Children who are inmates of a public institution;
- Children who are patients in an institution for mental disease (IMD).

6) How long will such children remain eligible for coverage through a separate CHIP?

A: Once children protected by Section 2101(f) are enrolled in a separate CHIP, they remain enrolled until their next scheduled annual review (12 months), unless they reach age 19, move out of state, request removal from the program, or are deceased. At the point of renewal, these children will be considered for CHIP eligibility based on all the eligibility criteria applicable to children generally for coverage under the state’s separate CHIP, including the income standard.

7) How many children will this provision impact?

A: We anticipate that this provision will impact a relatively small number of children, and mostly in states without a separate CHIP that already provides coverage for all children above the state’s Medicaid income limit. This provision only applies to children who are made ineligible for Medicaid as a result of the elimination of income disregards and are not otherwise eligible for an existing separate CHIP.

8) How can states implement this provision?

A: Below are several options states may consider in implementing section 2101(f). Under each, the state may not find such children ineligible for a separate CHIP based on current or recent insurance coverage or other state-specific restrictions on eligibility. The only restrictions on CHIP eligibility that may be applied to the protected children are those described above in response to Question 5.

Option #1

Demonstrate that all Medicaid children qualifying for section 2101(f) protection will qualify for the state's existing separate CHIP.

States with an existing separate CHIP may be able to demonstrate that the income standard for the state's separate CHIP (after conversion for MAGI) is sufficiently above the state's converted Medicaid standard for children that all, or virtually all, children losing Medicaid as a result of the loss of disregards under MAGI will be income-eligible for the state's separate CHIP. The state would need to demonstrate that most if not all affected children would be eligible for the state's separate CHIP without any modification of the program. Note that because state Medicaid programs may cover children in different age ranges (under 1, ages 1-5, and ages 6-18) up to different income standards, this analysis would need to be done separately for each age range.

Under this option, States would also need to develop procedures to ensure that children being transferred from Medicaid to CHIP after a loss of Medicaid eligibility at their 2014 redetermination are not denied CHIP based on eligibility criteria which may not be applied to these children in accordance with section 2101(f) (see Question 5).

Option #2:

Enroll all children in a separate CHIP who lose Medicaid due to income at their first renewal applying MAGI methods.

States can elect to enroll all children into CHIP who lose Medicaid eligibility because of excess income after applying MAGI-based income methodologies and the converted MAGI-based income standard under Medicaid. This option will capture more children than strictly defined under this provision (i.e. children losing Medicaid because of families' increased earned income will also be included) but may be the easiest option to implement administratively.

Option # 3

Determine an income standard above the converted MAGI Medicaid FPL that will capture all or almost all the children who would have benefited from application of the former disregards.

States may achieve compliance with section 2101(f) by determining an income band (based on a percentage of the FPL) to capture children with above-average disregards and then move those with income above the converted Medicaid income standard but less than or equal to the converted standard plus the additional income band, into a separate CHIP. As with option 1, states would not be required to ensure that every child losing Medicaid due to the loss of disregards will be identified under this option, but would need to demonstrate that all or virtually all – would be.

Option #4:

Identify protected children using 2013 data.

If, upon renewal, the state finds a child ineligible for Medicaid but that child's family income has not increased since the child's last determination of Medicaid eligibility in 2013 (i.e., prior to the application of MAGI-based methods in 2014), the state would automatically enroll the child in its separate CHIP. If the family income has increased since the last Medicaid determination in 2013, the state would identify children protected by section 2101(f) by subtracting the value of the allowed disregards the child received during the 2013 determination from the child's household income based on MAGI in 2014. If the adjusted household income (i.e., 2014 MAGI-based household income minus the value of former disregards in 2013) is at or below the income standard in effect in 2013 for the Medicaid eligibility group under which the child was enrolled, the state would enroll the child in the separate CHIP.

CMS will work with states to ensure the selected option is implemented correctly as we recognize that there must be significant collaboration between Medicaid and CHIP agencies to implement 2101 (f). We are also open to considering alternative proposals from states for how to implement this provision. States are strongly encouraged to talk with CMS in advance of submitting their state plan amendments to implement this provision.

Benefits/Cost-sharing

9) Can states design a unique benefit package and cost-sharing structure for this population?

A: Yes. However, the benefit package and cost-sharing structure must be in compliance with separate CHIP rules.

Implementation/Enrollment

10) Are states required to submit a CHIP State Plan Amendment to provide coverage for children covered under this option?

A: Yes, states will need to submit a CHIP SPA for approval to provide coverage to children under this group in accordance with §457.60. CMS will make available a simplified SPA template on which the state may report how these protected children will be identified and enrolled and information on benefits and cost-sharing.

Because of the flexibility provided states in establishing eligibility for separate CHIP programs, states could establish a group within an existing separate CHIP or as a standalone separate CHIP with eligibility criteria specific to the chosen option. For example, a state could establish a CHIP group with eligibility limited to children losing Medicaid at their 2014 redetermination using MAGI methodology. Coverage provided under this group would sunset when the last child eligible for 2101(f) protection came up for their first annual renewal in CHIP.

11) Are states required to do a renewal at the end of the coverage period?

A: Yes. States will need to conduct a renewal at the end of the 12-month separate CHIP coverage period in accordance with §457.343 to determine if the child remains eligible for CHIP and, if not, to determine potential eligibility for other insurance affordability programs and transfer the child's account, as appropriate, to the Medicaid agency or the Exchange.

12) How long does this provision need to be applied?

A: As noted above, the protection afforded under section 2101(f) extends until the child comes up for his or her first regular renewal for coverage under the separate CHIP program, which would be 12 months from the child's transfer from Medicaid to the separate CHIP. When the last child eligible for protection under section 2101(f) comes up for renewal in the separate CHIP, the state may discontinue this part of its program.

13) Will states need to maintain 2013 eligibility determination systems in order to implement Section 2101(f)?

A: No. Systems programmed to determine eligibility based on 2013 rules would not properly determine eligibility based on MAGI methodologies and therefore could not be used to identify these children. Children protected by section 2101(f) are children who lose Medicaid eligibility after MAGI rules (including household composition and family income) are applied but would have remained eligible if the former disregards had also been applied.

14) Does the protection under section 2101(f) apply to children currently enrolled in a separate CHIP that lose coverage as a result of the conversion to MAGI?

A: No. Section 2101(f) does not apply to children made ineligible for a separate CHIP as a result of the elimination of income disregards. Children losing coverage under a separate CHIP must be screened for eligibility for other insurance affordability programs and their cases electronically transferred per §457.348.

Funding

15) Will states receive the enhanced CHIP match for these children?

A: Yes. States may claim the enhanced match available under title XXI for children enrolled in a separate CHIP in accordance with section 2101(f).