

# Improving Ex Parte Renewal Rates: State Diagnostic Assessment Tool

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June 2022

## Background

Improving *ex parte* rates as part of the Medicaid renewal process is one of the most effective tools available to states to mitigate coverage loss for eligible individuals when the public health emergency (PHE) ends. The current Medicaid continuous coverage requirement enacted by the Families First Coronavirus Response Act prohibits states from disenrolling individuals from Medicaid for the duration of the PHE as a condition of accessing enhanced federal Medicaid funding.<sup>1</sup> When the PHE ends, state Medicaid agencies will need to conduct a full redetermination for all individuals with a pending Medicaid renewal.<sup>2</sup> This undertaking has significant **health equity implications**, as communities of color are expected to be disproportionately impacted by the unwinding effort.

Federal regulations require states to attempt to renew Medicaid enrollee eligibility through an *ex parte* process using all available data sources.<sup>3</sup> If an individual's eligibility is able to be verified *ex parte*, states are required to extend Medicaid coverage without any additional action from the enrollee. If the state is unable to determine an individual's eligibility through an *ex parte* process, the state must send a new renewal form requesting additional information and/or documentation. Importantly, states are required to attempt an *ex parte* renewal process for both Modified Adjusted Gross Income (MAGI) and non-MAGI populations.<sup>4</sup>

There are tremendous benefits to enrollees and to states in maximizing eligibility redetermination through an *ex parte* process. For enrollees, they are more likely to retain their coverage; any time a state sends a request for information to an enrollee, the likelihood increases that an eligible individual will lose coverage, either because they moved or because they cannot or do not respond to the requested information in a timely way. States can reduce administrative workload on an already taxed eligibility workforce. As states develop their unwinding policies and operational plans in readiness for the end of the PHE, improving *ex parte* rates should be at the top of their priority list.

The following table can be used by a state to examine current *ex parte* processes and identify and deploy additional strategies that could increase their *ex parte* rates.

## Ex Parte Diagnostic Assessment Tool

Diagnostic Question	How the Answer to the Question Impacts Ex Parte Rates	Potential Next Steps	Potential Impact on Increasing Ex Parte Rates (High or Medium)
What is your Medicaid MAGI <i>ex parte</i> rate?	<ul style="list-style-type: none"><li>• If your state's <i>ex parte</i> rate is 60% or greater (as a percentage of total renewing MAGI enrollees), your state has a high-performing process in place and the potential for losing people as part of the renewal process will be relatively lower.</li><li>• If your state's <i>ex parte</i> rate is 40 to 60%, there are ways your state can improve the <i>ex parte</i> process and reduce the number of people who will need to respond to renewal requests.</li><li>• If your <i>ex parte</i> rate is 40% or lower, there is opportunity for improvement to reduce the large number of your enrollees who will need to respond to renewal requests, and potentially lose coverage.</li></ul>	<ul style="list-style-type: none"><li>• <i>60% or greater</i>: Focus resources on improving the state's process for getting enrollees to respond to requests for information including through outreach and communication.</li><li>• <i>Lower than 60%</i>: Review the following diagnostic question set and identify and implement all strategies that will improve <i>ex parte</i> rates.</li></ul>	N/A

Diagnostic Question	How the Answer to the Question Impacts <i>Ex Parte</i> Rates	Potential Next Steps	Potential Impact on Increasing <i>Ex Parte</i> Rates (High or Medium)
What earned and unearned income data sources is your state using?	<ul style="list-style-type: none"> <li>The greater the number of data sources your state uses for verification, the higher the chances an individual's income will be verified <i>ex parte</i>.</li> </ul>	<p>Examine current earned and unearned income data sources being used and expand the data set, if possible:</p> <ul style="list-style-type: none"> <li><i>Examples of earned income data sources:</i> Internal Revenue Service (IRS), state tax data, state wage information collection agency, and the Work Number/TALX.</li> <li><i>Examples of unearned income data sources:</i> Social Security Administration, state unemployment compensation, state public employees' retirement system, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF).</li> </ul>	High
Is reviewing SNAP data part of your state's <i>ex parte</i> renewal process?	<ul style="list-style-type: none"> <li>SNAP data can be used as a third-party data source to verify the financial eligibility of an individual, which will help with <i>ex parte</i> income verification processes at renewal.</li> <li>States may also pursue section 1902(e)(14) waiver authority to renew Medicaid eligibility for SNAP participants whose gross income, as determined by SNAP, is under the applicable MAGI income standard.<sup>5</sup> Under this authority, a state can extend coverage for any individual who is eligible for SNAP, without conducting a MAGI redetermination, which will considerably increase <i>ex parte</i> rates.</li> <li>For a longer-term strategy, states may also wish to pursue: (1) for children: Express Lane Eligibility state plan amendment (SPA) authority to rely on findings from a state-designated entity for children;<sup>6</sup> and/or (2) for adults: the Facilitated Enrollment SPA option to determine financial eligibility for a MAGI-based eligibility group using gross household income from SNAP or other means-tested benefit programs.<sup>7</sup></li> </ul>	<ul style="list-style-type: none"> <li>If not already used, add SNAP data as part of the data sources for <i>ex parte</i> verification.</li> <li>Consider pursuing section 1902(e)(14) authority to automatically deem anyone eligible for SNAP eligible for Medicaid.</li> <li>Consider pursuing the longer-term strategies of Express Lane Eligibility and/or Facilitated Enrollment SPA.</li> </ul>	High
Does the state use a "strategic hierarchy" of data sources when verifying income?	<ul style="list-style-type: none"> <li>The strategic hierarchy business rule a state uses when verifying earned income can either increase or decrease <i>ex parte</i> rates.</li> <li>For example, if a state uses a strategic hierarchy that determines eligibility based on a cascading set of business rules evaluating data sources (e.g., if IRS data sources match, no need to review quarterly wage data sources), that process will increase <i>ex parte</i> rates.<sup>8</sup> But, if a state uses a business rule that only compares the highest income data source against the eligibility threshold, that process will decrease <i>ex parte</i> rates.</li> </ul>	<ul style="list-style-type: none"> <li>Examine the state's strategic hierarchy of data sources and change business rules, as appropriate, to allow eligibility to be considered verified if any of the earned income data sources meet the eligibility threshold.</li> </ul>	Medium

Diagnostic Question	How the Answer to the Question Impacts <i>Ex Parte</i> Rates	Potential Next Steps	Potential Impact on Increasing <i>Ex Parte</i> Rates (High or Medium)
Does the state require consent for the <i>ex parte</i> process?	<ul style="list-style-type: none"> <li>Some states require an individual to consent to having their eligibility redetermined using data sources. This requirement negatively impacts the <i>ex parte</i> process.</li> <li>Most importantly, while consent is required when a state seeks to verify income using IRS data, obtaining consent to conduct <i>ex parte</i> is <b>not</b> allowable under federal regulations.<sup>9</sup></li> </ul>	<ul style="list-style-type: none"> <li>Remove the requirement to consent to an <i>ex parte</i> process.</li> </ul>	High
Do the state's processes exclude specific eligibility groups or individuals from the <i>ex parte</i> process?	<ul style="list-style-type: none"> <li>Business rules that exclude individuals from the <i>ex parte</i> process will suppress the <i>ex parte</i> rate. For example, a state that excludes from the <i>ex parte</i> queue any individual who previously reported self-employment income ignores the likelihood that the individual may have had a change in circumstances and could have their eligibility determined using earned income data sources.</li> <li>As another example, a state may elect not to conduct <i>ex parte</i> for non-MAGI populations even though federal regulations require states to attempt <i>ex parte</i> redetermination for non-MAGI populations.<sup>10</sup></li> </ul>	<ul style="list-style-type: none"> <li>Examine business rules and modify as necessary to extend <i>ex parte</i> review for all Medicaid MAGI and non-MAGI individuals. For non-MAGI populations, states still need to verify income under non-MAGI methodology and assets (using the asset verification system and other available data).</li> </ul>	Medium
Does the state have any other business rules that impede the <i>ex parte</i> process?	<ul style="list-style-type: none"> <li>Some states have other business rules that impede the <i>ex parte</i> process. Examples of such business rules include, but are not limited to: <ul style="list-style-type: none"> <li>A narrow definition of the time period for when data is considered timely and reliable. For example, if a state has a business rule that only allows a review of data that is three months old, a state could consider extending that time period to six months; or</li> <li>Restricting the number of times an individual may have their eligibility redetermined <i>ex parte</i>, which is not allowable under federal regulation.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Review all business rules and process flows and modify to eliminate requirements that impede a smooth <i>ex parte</i> renewal process.</li> </ul>	Medium

## ENDNOTES

1. Families First Coronavirus Response Act § 6008(b)(3).
2. Centers for Medicare & Medicaid Services (CMS), SHO# 22-001, "RE: Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children's Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency," March 3, 2022.
3. 42 CFR 435.916.
4. Medicaid and CHIP Learning Collaborative, "Streamlined Eligibility and Enrollment for Non-MAGI Populations," June 2015.
5. Supra note 2.
6. CMS, "Express Lane Eligibility Option," February 2010.
7. State Health Reform Assistance Network, "Using Supplemental Nutrition Assistance Program (SNAP) Information to Facilitate Medicaid Enrollment and Renewal," Robert Wood Johnson Foundation, September 2016.
8. The Medicaid and CHIP Learning Collaborative, "Medicaid and CHIP MAGI Application Processing: Ensuring Timely and Accurate Eligibility Determinations," Spring 2019; CMS All-State SOTA Call, "Achieving Real Time Eligibility Determinations," June 2015.
9. 42 CFR 435.916.
10. 42 CFR 435.916.

Support for this toolkit was provided by the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.

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#### ABOUT MANATT HEALTH

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