

Preparing to Implement the 12- Month Continuous Enrollment for Children Requirement

November 16, 2023

3:00 – 4:00 p.m. ET

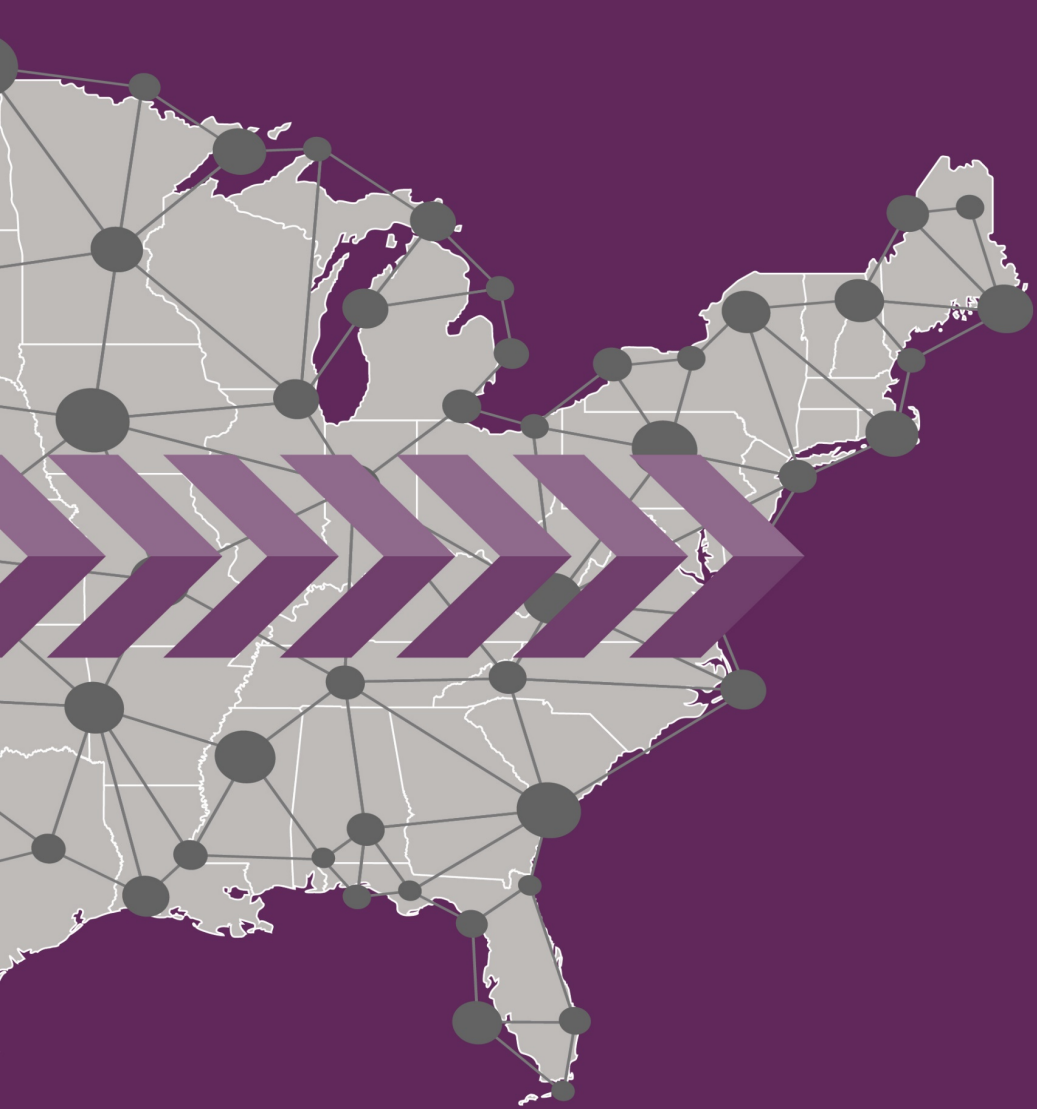
Please stand by, this webinar will begin shortly

STATE
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*Driving Innovation
Across States*

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Questions? Email Heather Howard at heatherh@Princeton.edu.

*Support for this webinar was provided by the Robert Wood Johnson Foundation.
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About Manatt Health

Manatt Health, a division of Manatt, Phelps & Phillips, LLP, is an integrated legal and consulting practice with over 160 professionals in nine locations across the country. Manatt Health supports states, providers, and insurers with understanding and navigating the complex and rapidly evolving healthcare policy and regulatory landscape. Manatt Health brings deep subject matter expertise to its clients, helping them expand coverage, increase access, and create new ways of organizing, paying for, and delivering care. For more information, visit www.manatt.com/ManattHealth.aspx

Housekeeping Details

- Use the 'Q&A' function in Zoom to submit questions and comments to the meeting facilitators. **Note that you must select to submit a question anonymously.** The meeting facilitators will address questions and comments verbally in a manner that maintains the anonymity of the state.
- All participant lines are muted. Use the 'raise hand' feature in Zoom if you would like to speak during the discussion portion. The meeting facilitators will then unmute you.
- After the webinar, the slide deck and a recording will be available at www.shvs.org.

Agenda

- **Level-Setting: Continuous Enrollment (CE) for Children**

- **Implementing 12-Months CE for Children: Expectations and Considerations for States**

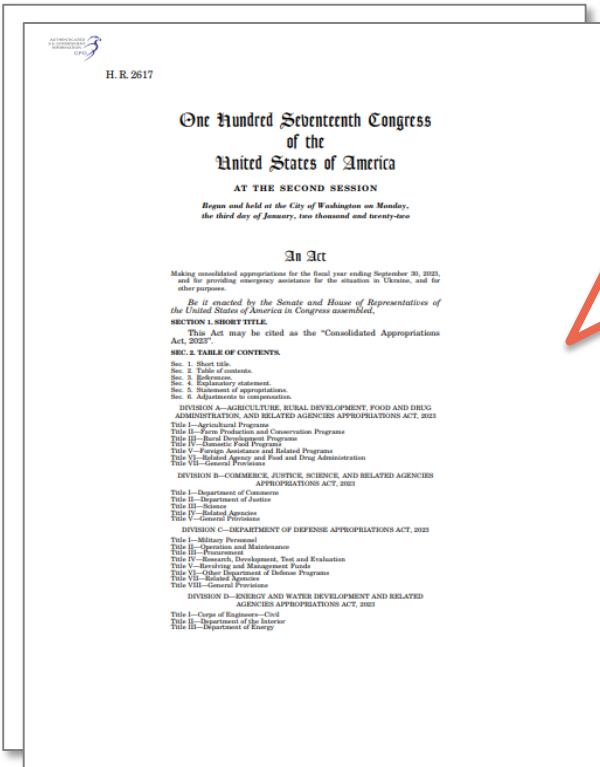
- **Discussion**



Level-Setting: CE for Children

Preparing to Implement CE for Children

The Consolidated Appropriations Act, 2023 (CAA) requires states to provide children determined eligible for Medicaid or the Children’s Health Insurance Program (CHIP) with 12 months of CE beginning 1/1/24.



Section 1902(e) of the Social Security Act is amended by inserting the following new paragraph: “The State plan shall provide that an individual who is under the age of 19 and who is determined to be eligible for benefits under a State plan...shall remain eligible for such benefits until the earlier of— “(A) the end of the 12-month period beginning on the date of such determination; “(B) the time that such individual attains the age of 19; or “(C) the date that such individual ceases to be a resident of such State.”



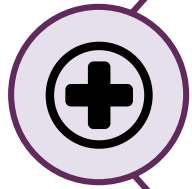
To support states in implementing CE, the Centers for Medicare & Medicaid (CMS) recently issued new sub-regulatory guidance, including a **State Health Official (SHO) Letter** and **Frequently Asked Questions (FAQs)**, expanding on what will be newly required and expected of states.

SHVS’ summary of the SHO Letter is available [here](#).

Source: [CAA](#); [CMS SHO #23-004](#); and [CMS FAQs](#).

The Positive Effects of CE for Children

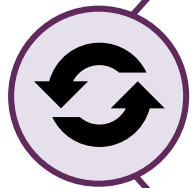
A substantial body of research has established the positive impacts of CE on Medicaid and CHIP-enrolled children.



Eliminates coverage gaps for children and youth during the one-year eligibility period, promoting uninterrupted access to needed healthcare services.



Promotes health equity by reducing churn rates in groups disproportionately impacted by disenrollment (i.e., Black and Latino(a) children).



Reduces administrative burden and costs that states, plans, and providers incur due to churn.

Current State of CE for Children

Currently, states have the *option* to provide 12 months of CE to children in Medicaid and/or CHIP under their state plan and states may seek section 1115 authority to provide multi-year CE.

State Plan Amendment (SPA) Option:

- States may provide **up to 12 months** of CE (or less at state option).
- **Up to age 19** or a lower age specified by the state.
- States may terminate eligibility during a CE period only in limited circumstances.

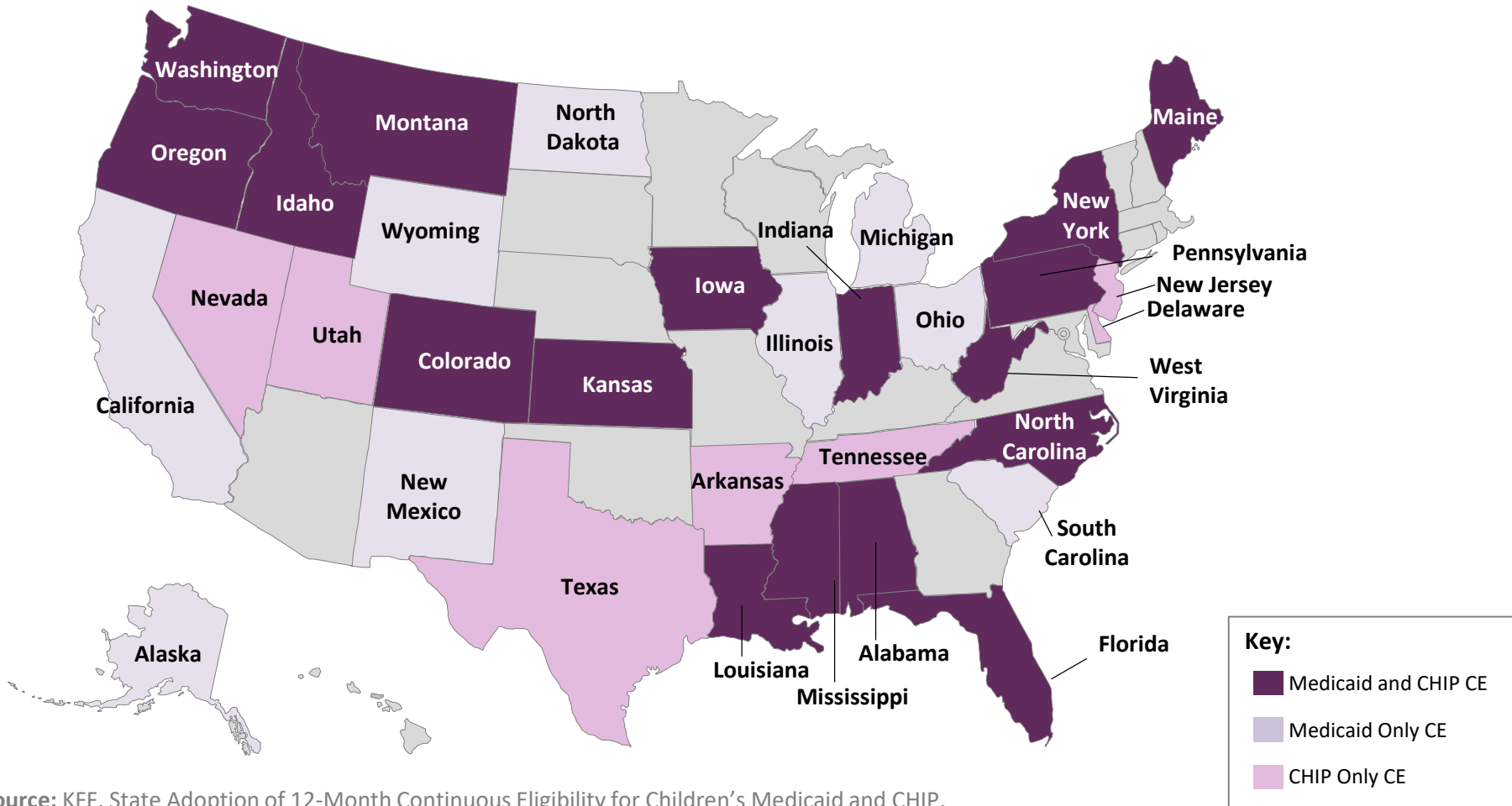
Section 1115 Demonstration Opportunity:

- States have used section 1115 authority to establish and propose CE policies that **go beyond** what may be authorized under **the CE SPA option or the CAA**.
- Approved policies include **multi-year CE for young children and up to 24 months CE for other child and adult populations**.
- Section 1115 authority **remains available to states** as a pathway to providing CE that exceeds what is permitted under the SPA option; it is not impacted by the CAA requirement.

Source: 42 CFR § 435.926; 42 CFR § 457.342.

National Landscape: SPA Authority

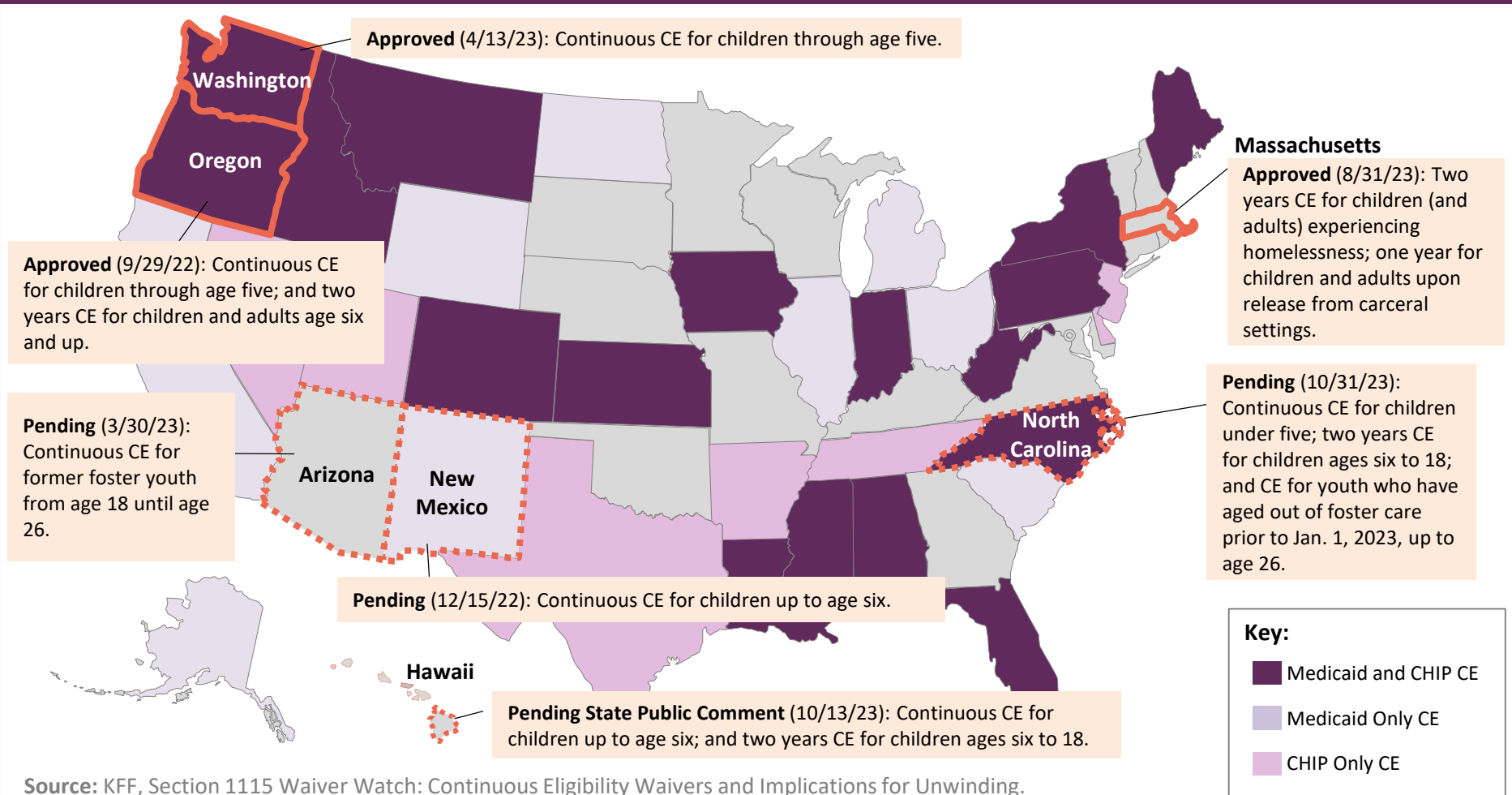
About half of states currently have state plan authority to provide CE to children in Medicaid and/or CHIP.



Source: KFF, [State Adoption of 12-Month Continuous Eligibility for Children's Medicaid and CHIP](#).

National Landscape: 1115 Waiver Authority

As of November 2023, 7 states have or are pending CMS approval for section 1115 authority for multi-year CE for children.



Source: KFF, Section 1115 Waiver Watch: Continuous Eligibility Waivers and Implications for Unwinding.



Implementing 12-Months CE for Children: Expectations and Considerations for States

New CAA Requirement for Medicaid and CHIP Mirrors Current Medicaid Option

CE Feature	Existing State Plan CE Option	CAA CE Requirement
Duration and Age	12 months or a lesser period specified by state	12 months required
Age	Up to age 19 or a lower age specified by state	Up to age 19 required
Covered Population	Medicaid/CHIP: nearly all children	Same as current option
Exceptions	<ol style="list-style-type: none"> 1. Child reaches max age 2. Voluntary termination requested 3. Move out of state 4. Eligibility erroneously granted due to fraud 5. Child dies 6. For CHIP only, nonpayment of premiums 	All except for #6 - No termination of eligibility during a CE period for nonpayment of premiums under Medicaid or CHIP



States with CE that complies with CAA Requirements: No SPA required

States with CE that does not comply: Must submit Medicaid SPA by 3/31/24 and CHIP SPA by the end of the state fiscal year in which 1/1/24 falls.

Note: The Medicaid CE option was first established by statute, while the CHIP option was established by regulation only.

Deeper Dive: Implementing 12-Months CE for Children

To support states as they plan for and operationalize the new requirement of 12-months CE for children, CMS has provided guidance to states on the following topics, covered in more detail in subsequent slides:



The CE Coverage Requirement under the CAA



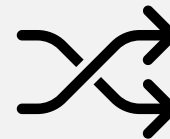
Exceptions to CE under the CAA



Populations Provided CE under the CAA



Considerations for Incarcerated Youth and Pregnant Individuals



Intersection of CE with Unwinding

Source: [CAA](#); CMS [SHO #23-004](#); and CMS [FAQs](#).

The CE Coverage Requirement Under the CAA

With few exceptions, the CAA guarantees enrollment notwithstanding changes or reporting of new information that would otherwise disrupt coverage. The following are not a basis for termination of coverage during a CE period:



Changes in circumstances reported by the family such as: changes in income or household composition; loss of supplemental security income (SSI) for children eligible for Medicaid on that basis; and obtaining other health insurance for children enrolled in CHIP.



Information from a periodic or post enrollment data match obtained during the CE period, unless the information indicates a CE exception applies.



Non-payment of premiums. *(Under current CE policy, states have the option to terminate coverage for a family's failure to pay CHIP premiums.)*




New information that would not impact the child's coverage would still need to be considered for other household members.

Exceptions to CE under the CAA

If any of the following occurs during a child's CE period, the CAA's CE requirement no longer applies.

- Child **reaches age 19**.
- Child **ceases to be a state resident**.
- Child or child's representative **requests a voluntary termination** of eligibility.
- Eligibility is determined to have been **erroneously granted** because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative.
- Child is **deceased**.

 If a child enrolled in CHIP is determined **eligible for Medicaid during the CE period; a transfer to Medicaid is required**. The state must maintain the eligibility in Medicaid for the remainder of the 12-month period and the match rate follows the child's eligibility (e.g., child moves to a title XIX funded Medicaid group, the match rate changes to reflect the child's new eligibility status.)

Populations Provided CE under the CAA

Nearly all children are covered by the new CE requirement.

CE is Required for Children Up to 19 in the Following Populations:

Medicaid:

- ✓ In a mandatory or optional group described in section 1902(a)(10)(A), including: the Katie Becket group and the mandatory group at 42 CFR 435.121 for blind and disabled children in Section 209(b) states.
- ✓ Covered under a section 1115 waiver.

CHIP:

- ✓ Enrolled in separate CHIP under the state plan, including those covered under the From-Conception-to-End-of-Pregnancy (FCEP) option.*
- ✓ Covered under a section 1115 waiver.

CE is Not Required for Children Up to 19 in the Following Populations:

- ✗ Eligible under Medically Needy or Transitional Medical Assistance (TMA).
- ✗ Determined presumptively eligible for Medicaid or CHIP but have not yet received a final determination of eligibility.
- ✗ Children receiving benefits under a Reasonable Opportunity Period (ROP).

*Formerly called the “Unborn Child Option”; under § 457.10, states have the option to provide coverage in order to provide prenatal care and other pregnancy-related benefits from conception to end of pregnancy to pregnant individuals, if they are not eligible for Medicaid or CHIP.

From-Conception-to-End-of-Pregnancy Option

States with the FCEP option must provide CE to eligible individuals, but the duration of the CE period provided to the child will vary depending on whether Medicaid or CHIP covers the labor and delivery.

Coverage Source for Labor/Delivery	Applicable CE Policy	
Emergency Medicaid	Deemed newborn requirement applies. Child receives 12 months of Medicaid CE upon birth.	
CHIP Coverage	If screened eligible for Medicaid: <ul style="list-style-type: none">Move child to Medicaid for the remainder of the CE period, or if the state has enough information to determine eligibility without additional enrollee action, provide child with a new 12-month CE period in Medicaid.	If screened ineligible for Medicaid: <ul style="list-style-type: none">Provide CHIP coverage for the remainder of the CE period.

Considerations for Incarcerated Youth

Incarceration has different impacts under CHIP than Medicaid, and therefore implications for implementation of CE.

	Medicaid	CHIP
Impact of Incarceration on Eligibility:	None, but federal financial participation is limited to inpatient services.	Incarcerated individuals are not eligible for CHIP, but CE trumps the eligibility exclusion for a child already enrolled in CHIP.
SUPPORT Act Considerations:	Per the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act, states must suspend not terminate coverage of eligible juveniles during incarceration.	<p>Prior to 1/1/25: If a child is enrolled in CHIP prior to incarceration, the child remains eligible during incarceration by virtue of CE. The state may suspend coverage or provide full benefits. When CE expires, the state must terminate eligibility if child remains incarcerated.</p> <p>After 1/1/25: SUPPORT Act protections apply to CHIP; states may not terminate eligibility upon incarceration or upon the expiration of a CE period during incarceration but may suspend coverage.</p>

Intersection of CE With Unwinding

In the SHO Letter, CMS provides guidance to states about how to apply CE in eligibility scenarios arising from the Medicaid continuous enrollment requirement and its unwinding.

- Due to the Medicaid continuous enrollment condition established under the Families First Coronavirus Response Act (FFCRA), **some children will not have had a determination of eligibility or renewal during the 12 months prior to 1/1/24.**
- These children **remain eligible until they are renewed**; they are **not subject to mandatory CE** under the CAA on 1/1/24 because they have not had an eligibility determination in the past 12 months.
- These children are **entitled to 12 months of CE upon a redetermination of their eligibility**, whenever that takes place during the state's unwinding.

References

- CAA Section 5112: [Link](#)
- CMS SHO Letter on CE under the CAA: [Link](#)
- CE Federal Citations: [42 CFR § 435.926 \(Medicaid\)](#); [§ 457.342 \(CHIP\)](#)
- Kaiser Family Foundation, *State Adoption of 12-Month Continuous Eligibility for Children's Medicaid and CHIP*: [Link](#)
- Kaiser Family Foundation, *Section 1115 Waiver Watch: Continuous Eligibility Waivers and Implications for Unwinding*: [Link](#)
- Approved Multi-Year CE Waivers for Children and/or Adults
 - [Washington](#)
 - [Oregon](#)
 - [Massachusetts](#)

Discussion

The slides are available at www.shvs.org.



Thank You

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