



CMCS Informational Bulletin

DATE: November 9, 2017

FROM: Brian Neale, Director
Center for Medicaid and CHIP Services

SUBJECT: Programmatic and Financial Information Regarding CHIP in a Federal Funding Shortfall

The Medicare Access and Children's Health Insurance Program (CHIP) Reauthorization Act of 2015 (MACRA; P.L. 114-10) extended funding for CHIP through September 30, 2017. Absent additional appropriations from Congress, we project that every state¹ will exhaust federal funding at various points throughout federal fiscal year (FY) 2018, with the first state projected to exhaust all available federal CHIP funding, including carryover funding and redistribution payments, in November 2017 and the majority of states projected to exhaust funding by March 2018. These projections are subject to change.

Under current law, there are no appropriations for providing FY 2018 CHIP allotments to states and there is limited funding from previous fiscal years available to fund a portion of CHIP expenditures in FY 2018. Because Congress has not yet acted to appropriate additional funding for CHIP, the Centers for Medicare & Medicaid Services (CMS) is providing operational information to support state efforts during this federal funding shortfall. This bulletin describes state options for transitioning children from a separate CHIP to other sources of coverage, actions for states to consider as they effectuate these changes, implications for CHIP-funded Medicaid expansion programs, key federal requirements for submitting State Plan Amendments (SPA), and operational information regarding how states can access the remaining funds available for FY 2018.

CMS is available to provide technical assistance on both programmatic and financial areas to all states.

State Options for Transitioning Children from a Separate CHIP to Other Sources of Coverage

In the absence of federal CHIP funding, states with separate CHIP programs are not subject to the current CHIP Maintenance of Effort provision at section 2105(d)(3) of the Social Security Act (the Act). States with separate CHIPs have the option to phase out coverage, transition children ages 0 – 18 and pregnant women to the Medicaid state plan, or a combination of these options under a state developed approach. If a state chooses to phase out coverage, the state

¹ State means all states, the District of Columbia, and the United States territories.

should redetermine eligibility for children prior to termination of coverage to see if the children are eligible for Medicaid. If a child is not eligible for Medicaid, the state should transfer the electronic accounts to the Exchange and notify the family that they should apply for coverage through the Federally Facilitated Marketplace (FFM).

States that elect to move children to Medicaid when CHIP funding expires will receive federal funding at the regular Medicaid federal medical assistance percentage (FMAP) (rather than the CHIP enhanced federal medical assistance percentage (EFMAP)) for providing Medicaid coverage after CHIP funds are exhausted.

Considerations in Effectuating Transition Changes

In the absence of additional CHIP appropriations, based on the transition decision a state makes related to children and pregnant women covered through their separate CHIP, states will need to consider the following actions to effectuate their transition changes:

- *Eligibility and Enrollment Systems Modifications:* Identify and schedule the changes necessary to implement the transition option selected. These changes may include: changes to eligibility levels for children, batch renewal processing, administrative transfer of children from CHIP to Medicaid, Medicaid management information systems (MMIS) updates, creation of new enrollee notices and revisions to existing notices, changes to the single streamlined online application, rules engine decision tables, and the Federally Facilitated Marketplace (FFM) Data Collection Tool updates (for states served by the FFM). When developing a release schedule for the related systems changes, states should allow sufficient time for testing to ensure appropriate functionality.
- *Contract Implications:* Review managed care and third party administrator contracts to determine impact of program phase-out.
- *Staff Training:* Identify training needs for eligibility, call center, and other staff regarding the changes in children's coverage.
- *Communication with Families:* Provide notice to families about the transition to other coverage and termination of CHIP coverage, in accordance with regulations at 42 CFR. 457.340. In addition, consider how the state intends to make families aware of differences in programs, such as a transition from CHIP to Medicaid in terms of health plans, benefits, providers, and cost sharing.
- *Communication with Key Partners:* Consider how the state will communicate with health insurance issuers, providers, and other key stakeholders.
- *Continuity of Care Strategies:* Identify the state's strategy for implementing policies that ensure continuity of care, such as:
 - Developing procedures to determine whether some of the transitioning children can remain with their primary care providers, such as procedures to help families identify and enroll their children in a Medicaid managed care organization in which their former provider participates if the child is transitioning to Medicaid.
 - Identifying children with complex health care needs who are receiving long term treatment, and creating agreements that allow a child to complete a treatment plan subsequent to leaving CHIP.
- *Submission of State Plan Amendments:* Submit required state plan amendments. See below for more information.

States may find it helpful to construct a timeline to ensure compliance with state and federal requirements. A timeline should include key actions involved in the transition of children to a different source of coverage, including:

- When statutory and budgetary changes will be made by the state legislature
- Projected date of exhaustion of title XXI funds
- Timing of when redeterminations begin, if relevant
- Timing and frequency of beneficiary notices
- Key eligibility and enrollment system modifications
- Key modifications to MMIS or other related systems for claims processing
- Modifications to managed care or third party administrator contracts
- If applicable, strategies to phase out growth of the program, such as implementation of an enrollment cap or freeze
- Timing for submitting SPAs to CMS, including timing related to public notice and tribal consultation requirements

Implications for CHIP-Funded Medicaid Expansion Programs

The absence of FY 2018 CHIP appropriations also has funding implications for states with CHIP-funded Medicaid expansion programs. The maintenance of effort provisions (MOE) at sections 1902(a)(74) and 1902(gg) of the Act require that states maintain “eligibility standards, methodologies, [and] procedures” for children that are no more restrictive than those in effect on March 23, 2010. The MOE extends until September 30, 2019. Expiration of CHIP funding does not affect the Medicaid MOE. Therefore, states with a CHIP-funded Medicaid expansion program in place as of March 23, 2010 will continue to be subject to Medicaid MOE rules if CHIP funding is exhausted. These states will receive federal funding at the otherwise applicable Medicaid federal matching rate (rather than the enhanced CHIP matching rate) for providing Medicaid coverage. Although there is a similar MOE requirement at section 2105(d)(3) of the Act for children in a separate CHIP, there is an exception if there is a federal funding shortfall.

State Plan Amendments for Effectuating Transition Changes under the Medicaid and CHIP State Plans

If a state with a separate CHIP decides to make coverage changes, it will need to submit a CHIP state plan amendment (SPA), as specified at section 2106(b) of the Act and 42 CFR 457.60. States interested in transitioning some or all children from a separate CHIP to Medicaid will also need to submit a Medicaid SPA to create or expand the uninsured optional targeted low-income children group under section 1902(a)(10)(A)(ii)(XIV) of the Act and 42 CFR 435.229.

As a reminder, in all submissions, states will need to follow the applicable notice, tribal notice, and effective date regulations. For CHIP SPAs, the submission must comply with tribal consultation requirements at section 2107(e)(1)(C) of the Act and public notice requirements in 42 CFR 457.65. A CHIP amendment may be retroactive, but restrictive amendments, those amendments that eliminate or restrict eligibility or benefits (e.g., enrollment freeze, reducing eligibility levels, etc.), must be submitted to CMS within 60 days after their effective date.

Medicaid SPAs must also follow tribal consultation requirements consistent with section 1902(a)(73) of the Act, and may be effective as early as the first day of the quarter in which an approvable plan is submitted to CMS, in accordance with 42 CFR 430.20.

Availability of FY 2018 CHIP Funding

As described above, under current law, there are no appropriations for providing FY 2018 CHIP allotments to states and there is limited funding from previous fiscal years available to fund a portion of CHIP expenditures in FY 2018. The following sources of funding will be available to states to fund CHIP expenditures in FY 2018:

- Unused FY 2017 CHIP allotment remaining at the end of FY 2017 and carried over into FY 2018, reduced by one-third under section 2104(m)(2)(B)(iv) of the Act.
- For states projecting CHIP funding shortfalls for FY 2018, unused CHIP allotments from previous fiscal years are available for redistribution under section 2104(f) of the Act.

Based on the most recent budget estimates provided by states to CMS for the August 2017 budget submission, all states are projected to be “shortfall states” described under section 2104(f)(2) of the Act. The total projected FY 2018 national CHIP funding shortfall is approximately \$13.0 billion based on the August 2017 budget estimates. The total projected funding available for redistribution under section 2104(f) of the Act is just under \$3.0 billion, inclusive of redistributions payments made to date. Please note the amount of projected redistribution funding is subject to change. Based on the methodology provided in section 2104(f)(2)(B) of the Act, because the national CHIP funding shortfall exceeds the amount of redistribution funding available, each shortfall state will receive a portion of the total available redistribution funding equal to each state’s proportion of the total national CHIP funding shortfall. However, no state is projected to receive enough redistribution funding to cover their full projected FY 2018 CHIP funding shortfall.

CMS Distribution Process for Redistribution Funding

Section 2104(f) of the Act authorizes the redistribution of unused allotments from previous fiscal years to states projecting CHIP funding shortfalls for a fiscal year. In order to provide states with redistribution funding, CMS will use the most up-to-date expenditure and state budget estimate data to calculate an interim FY 2018 redistribution payment for each “shortfall state.” Under section 2104(f)(2)(C) of the Act, the interim redistribution payment will be adjusted as necessary based on actual expenditures reported for FY 2018 by no later than November 30, 2018. CMS will follow the following process:

- CMS will reach out to each state starting with states projected to exhaust their unused FY 2017 CHIP allotments in Quarter 1 of FY 2018 (10/01/2017-12/31/2017) to obtain their projected monthly expenditures for the quarter.
- CMS will issue a portion of the total interim redistribution payment for the month based on state need.
- Redistribution grants will be issued in the order in which states realize funding shortfalls.
- Total interim redistribution payments for each state are limited to that state’s portion of the national redistribution amount.

- CMS will continuously monitor both the most recent quarterly budget estimates and the states' Payment Management System (PMS) CHIP subaccounts to confirm projected shortfall dates provided by states.

CMS has already issued redistribution payments to some states facing October and November shortfalls and is available to work with states individually to discuss funding needs and provide technical assistance.

Process for one-third reduction to unused FY 2017 CHIP allotment carried over into FY 2018

Section 2104(m)(2)(B)(iv) of the Act states that any amounts of unused FY 2017 CHIP allotment that remain available for expenditure by the state in FY 2018 “shall be reduced by one-third.” Because this one-third reduction has not previously applied to unused allotment carry over, a number of states have requested information on the process.

Once actual expenditures are finalized after November 30, 2017, CMS will calculate the final one-third reduction amount based on actual expenditures reported for FY 2017. CMS will issue negative grants to recover the one-third reduction amounts from states' Payment Management System CHIP17-301 and/or CHIP17 subaccounts after November 30, 2017. As needed, CMS will reach out to and work with individual states to make any necessary draw adjustments.

Should states have programmatic or CHIP funding questions or need technical assistance, please contact your CMS CHIP Project Officer.