

Issue Spotting Common Policy and Operational Barriers to *Ex Parte* Renewals: State Assessment Tool

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Introduction

Many states are actively working to make changes to their systems to enable *ex parte* renewals at the **individual level** and implement **mitigation strategies** to ensure eligible Medicaid and Children's Health Insurance Program (CHIP) enrollees retain coverage until those system changes are complete. As states take on this work, they have an opportunity to assess end-to-end renewal functionality to identify additional policy and operational changes that could increase *ex parte* rates and streamline renewals (and relatedly, perhaps, streamline initial eligibility determinations). A proactive approach now may help states avoid additional unforeseen systems issues and improve overall eligibility automation, streamlining, and integrity.

This tool is intended to: (1) help states identify common policies and/or operational processes that, if adjusted, could improve *ex parte* rates and renewal functionality, and (2) facilitate internal, cross-divisional Medicaid agency discussions across policy, operational, and information technology (IT) systems.

Reminder: Federal regulations at [42 CFR § 435.916](#) require states to attempt to renew Medicaid enrollee eligibility through an *ex parte* process using all available data sources. 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.

States must make a redetermination of eligibility for an individual who is enrolled in Medicaid or CHIP, whether on the basis of MAGI or non-MAGI, on an *ex parte* basis, "without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency."

- States are out of compliance with this requirement if, when it is possible to redetermine eligibility for one or more individuals in a household using available *ex parte* data, they send renewal forms/requests for information to all individuals, and condition renewal of Medicaid or CHIP eligibility for any individual who should have been determined eligible through the *ex parte* process on the return of the form/requested information.
- This issue most commonly affects: adult and child Medicaid and CHIP enrollees, when a state requires additional income information to verify eligibility for the adult(s) but not for the child(ren); and multiple Medicaid/CHIP enrollee households, when the state requires additional eligibility information or documentation to verify eligibility for some, but not all, individuals in the household.

State action to improve *ex parte* renewal processes will translate to lower rates of procedural disenrollments, reduce state administrative burden, and promote continuity of coverage for eligible individuals during the unwinding period and in years to come.

See the following resources for more information:

- [CMS State Medicaid Director Letter on Individual Level Eligibility Determinations \(August 30, 2023\)](#)
- [SHVS Expert Perspective: CMS Guidance on Conducting Eligibility Redeterminations at the Individual Level \(August 31, 2023\)](#)

State Assessment Tool

#	Question	<i>Ex Parte</i> Issue in Practice	Regulatory/Sub-Regulatory Guidance and Resources
1.	Is the state applying a narrow definition of timely and reliable data for use in <i>ex parte</i> renewals and redeterminations?	<p>A state has flexibility to use <i>ex parte</i> data sources that it deems timely and reliable. Per CMS guidance, reliable data can include: (1) data verified within the last six months, and (2) data verified more than six months ago but not subject to change.</p> <ul style="list-style-type: none"> • States applying a more restrictive definition of timely and reliable data (e.g., requiring data that is no more than three months old) may have more individuals who would otherwise be eligible fall out of the <i>ex parte</i> process. • States can assess their business rules and consider modifying their parameters for timely and reliable data for verifying individual eligibility <i>ex parte</i>. • To further increase <i>ex parte</i> rates, states may also wish to take advantage of the following section 1902(e)(14) data verification flexibilities that allow states to renew Medicaid eligibility: <ul style="list-style-type: none"> ○ Based on financial findings from the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or other means tested programs (“Targeted SNAP Strategy”; “Targeted TANF Strategy”). ○ For individuals with no income and no data returned on an <i>ex parte</i> basis (“\$0 Income Strategy”). ○ For individuals with income at or below 100% of the federal poverty line (FPL) and no data returned on an <i>ex parte</i> basis (“Low Income Strategy”). ○ For individuals for whom information from the Asset Verification System (AVS) is not returned or is not returned within a reasonable timeframe (“AVS Strategy”). 	<ul style="list-style-type: none"> • <i>CMS Ex Parte Renewal: Strategies to Maximize Automation, Increase Renewal Rates, and Support Unwinding Efforts</i> (October 20, 2022) • <i>CMS Opportunities to Support Unwinding Efforts for States with Integrated Eligibility Systems and/or Workforces</i> (September 2022) • <i>CMS Available State Strategies to Minimize Terminations for Procedural Reasons During the COVID-19 Unwinding Period</i> (June 2023)

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2.	Does the state have processes in place that exclude certain eligibility groups or individuals from the <i>ex parte</i> process?	<p>Federal regulations at 42 CFR § 435.916 require states to attempt <i>ex parte</i> renewals for <u>all</u> populations using available, reliable information. States' systems and processes are not compliant with this requirement if they remove certain individuals or populations from the <i>ex parte</i> queue.</p> <p>Common examples of groups that states may exclude from the <i>ex parte</i> process include:</p> <ul style="list-style-type: none"> • <i>One-year-old children who were initially deemed newborns with unverified social security numbers (SSNs).</i> States should first attempt <i>ex parte</i> renewal by verifying eligibility based on the household income and establishing a post-enrollment verification process to obtain the SSN.¹ • <i>Individuals turning 19 and aging out of a children's eligibility group.</i> For young adults transitioning from a children's Medicaid eligibility group to the new adult group because they turned 19, states should first attempt to renew <i>ex parte</i>. The state can then send a notice to the young adult's residence informing them of their new coverage and requesting any additional signatures for accepting Medicaid terms, rights, and responsibilities, as needed. • <i>Justice-involved individuals and/or members of their household.</i> States should ensure that any justice-involvement aid code/benefit indicator does not prohibit an individual from going through the <i>ex parte</i> process. This can include, but is not limited to, children who may have a household member who is incarcerated or an individual who may have an unresolved prisoner discrepancy or unresolved potential match with correctional facility systems. 	<ul style="list-style-type: none"> • <i>CMS Ex Parte Renewal: Strategies to Maximize Automation, Increase Renewal Rates, and Support Unwinding Efforts (October 20, 2022)</i> • <i>SHVS Improving Ex Parte Renewal Rates: State Diagnostic Assessment Tool (June 9, 2022)</i> • <i>Center for Budget and Policy Priorities (CBPP) Streamlining Medicaid Renewals Through the Ex Parte Process (March 4, 2021)</i>

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2.	Does the state have processes in place that exclude certain eligibility groups or individuals from the <i>ex parte</i> process? (Continued.)	<ul style="list-style-type: none"> • <i>Self-employed individuals.</i> States must run individuals through the <i>ex parte</i> queue even if they previously had self-employment income. States may wish to take advantage of the section 1902(e)(14) “Low Income Strategy” that allows an individual with income at or below 100% of the FPL to be renewed <i>ex parte</i> if no data sources are returned. (This strategy may be applied more broadly and is not limited to individuals with self-employment income). • <i>Non-MAGI individuals.</i> Federal regulations require states to attempt to renew all individuals, which includes non-MAGI individuals, through an <i>ex parte</i> process. • <i>Individuals jointly enrolled in Medicaid and SNAP.</i> Some states have systems barriers that prevent <i>ex parte</i> renewals for individuals jointly enrolled in both programs, who should also be renewed <i>ex parte</i>. • <i>Individuals with cases that have deductions.</i> Some states prevent <i>ex parte</i> renewals for individuals with cases that have deductions (e.g., student loan interest, pre-tax deductions). Instead, states should put these individuals through the <i>ex parte</i> queue and see if they continue to be eligible against data sources without the application of the deductions. 	<ul style="list-style-type: none"> • <i>CMS Ex Parte Renewal: Strategies to Maximize Automation, Increase Renewal Rates, and Support Unwinding Efforts (October 20, 2022)</i> • <i>SHVS Improving Ex Parte Renewal Rates: State Diagnostic Assessment Tool (June 9, 2022)</i> • <i>CBPP Streamlining Medicaid Renewals Through the Ex Parte Process (March 4, 2021)</i>

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3.	Does the state require an exact match between the individual's income in their case file and each income source?	<p>Per federal requirements at 435.916, an individual continues to be eligible for Medicaid or CHIP if the available and reliable data sources fall below the Medicaid/CHIP income eligibility levels.</p> <ul style="list-style-type: none"> • Some states are applying an overly prescriptive set of verification rules where individuals are not being redetermined on an <i>ex parte</i> basis if there is any discrepancy between data sources and information that was stored in the eligibility system, such as a mismatch in the name of the employer. This is impermissible pursuant to 42 C.F.R. 435.952. • In these circumstances, even if the data shows that an individual continues to be eligible, some states are erroneously not renewing coverage <i>ex parte</i> and sending a renewal form. <ul style="list-style-type: none"> ○ <i>Example:</i> Jane Smith had previously reported income from her job at Walgreens. When the state conducts the <i>ex parte</i> review, quarterly wage data indicates Jane continues to be income eligible but there was a change in her employer to Target. Under this scenario, a state must extend Jane's coverage, so long as she continues to be income eligible and regardless of her change in employment. 	<ul style="list-style-type: none"> • <i>CBPP Streamlining Medicaid Renewals Through the Ex Parte Process (March 4, 2021)</i>
4.	Is the state unnecessarily reverify information that is not subject to change?	<p>As part of the <i>ex parte</i> renewal process, states should not unnecessarily reverify eligibility at renewal that is not expected to change such as:</p> <ul style="list-style-type: none"> • Citizenship/immigration status;² • Household composition or tax filing status; • State residency without reason to believe the enrollee's residency changed; • Disability status;³ and, • Assets that are unlikely to change, such as a second vehicle or recreational vehicle (e.g., boat), burial funds above the exempt limit,⁴ life insurance policies above the exempt limit,⁵ and real property (depending on the value). 	<ul style="list-style-type: none"> • <i>CMS Ex Parte Renewal: Strategies to Maximize Automation, Increase Renewal Rates, and Support Unwinding Efforts (October 20, 2022)</i> • <i>CMS Available State Strategies to Minimize Terminations for Procedural Reasons During the COVID-19 Unwinding Period (June 2023)</i>

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5.	Does the state require enrollee consent for <i>ex parte</i> renewal or impose other restrictive policies on the <i>ex parte</i> process?	<ul style="list-style-type: none"> States may not, according to 435.916, require enrollee consent to having their eligibility redetermined using data sources. Consent is needed to verify eligibility using Internal Revenue Service (IRS) data for up to five years. If a consent has expired, states must still put the individual through the <i>ex parte</i> queue and seek to verify eligibility using data sources other than IRS data. States may also wish to consider seeking section 1902(e)(14) authority to extend the time period for which the consent to review IRS data applies. 	<ul style="list-style-type: none"> <i>CMS Ex Parte Renewal: Strategies to Maximize Automation, Increase Renewal Rates, and Support Unwinding Efforts (October 20, 2022)</i>
6.	Does the state have a “lifetime limit” on the number of <i>ex parte</i> renewals per enrollee?	<ul style="list-style-type: none"> A state may not limit the number of <i>ex parte</i> renewals that can be conducted for an enrollee. 	<ul style="list-style-type: none"> <i>CMS Ex Parte Renewal: Strategies to Maximize Automation, Increase Renewal Rates, and Support Unwinding Efforts (October 20, 2022)</i>

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Health is more than an absence of disease. It is a state of physical, mental, and emotional wellbeing. It reflects what takes place in our communities, where we live and work, where our children learn and play, and where we gather to worship. That is why RWJF focuses on identifying, illuminating, and addressing the barriers to health caused by structural racism and other forms of discrimination, including sexism, ableism, and prejudice based on sexual orientation.

We lean on evidence to advance health equity. We cultivate leaders who work individually and collectively across sectors to address health equity. We promote policies, practices, and systems-change to dismantle the structural barriers to wellbeing created by racism. And we work to amplify voices to shift national conversations and attitudes about health and health equity.

Through our efforts, and the efforts of others, we will continue to strive toward a Culture of Health that benefits all. It is our legacy, it is our calling, and it is our honor.

For more information, visit www.rwjf.org.

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State Health and Value Strategies (SHVS) assists states in their efforts to transform health and healthcare by providing targeted technical assistance to state officials and agencies. The program is a grantee of the Robert Wood Johnson Foundation, led by staff at Princeton University's School of Public and International Affairs. The program connects states with experts and peers to undertake healthcare transformation initiatives. By engaging state officials, the program provides lessons learned, highlights successful strategies and brings together states with experts in the field. Learn more at www.shvs.org.

ABOUT MANATT HEALTH

This assessment tool was prepared by Patti Boozang, Kinda Serafi, Kaylee O'Connor, and Michelle Savuto. 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.

ENDNOTES

1. Per 42 CFR § [435.117](#), deemed newborns must have their coverage redetermined pursuant to 42 CFR § [435.916](#), which includes first conducting an *ex parte* process and then sending a pre-populated renewal form. The process for verifying citizenship for newborns is outlined at 42 CFR §§ [435.406](#) and [435.956](#), which requires first an attempt at verification through available data sources.
2. States can only reverify immigration statuses that are likely to change.
3. Disability status is not typically re-examined as part of a regular renewal; the state's disability review team must determine whether and when reexaminations of disability status are needed in accordance with 42 CFR § [435.541\(f\)\(3\)](#).
4. Funds reserved for burial expenses are exempt up to \$1,500; as such, only the amount above \$1,500 would count as an asset. If an individual was eligible with burial funds of \$2,000 in their prior renewal, for example, it is reasonable to assume the value remains stable for the upcoming renewal.
5. The cash value of life insurance policies is exempt up to \$1,500. This asset can be treated the same as burial funds.