

VIA ELECTRONIC MAIL

March 7, 2023

William Woolston
Director
Connecticut Department of Social Services
55 Farmington Avenue, 9th Floor
Hartford, Connecticut 06105-3730

Dear State Medicaid Director:

I am writing to inform you of an order (attached along with this letter) issued on March 2, 2023, in *Carr v. Becerra*, No. 22-cv-0098 (D. Conn.). As discussed in my February 6, 2023 letter, this case concerns part of an interim final rule (IFR) published on November 6, 2020, in which the United States Department of Health and Human Services (HHS) interpreted section 6008(b)(3) of the Families First Coronavirus Response Act (FFCRA). 42 C.F.R. § 433.400. In the January 31, 2023 order, which is also attached, the Court certified the following class:

All individuals who were enrolled in Medicaid in any state on March 18, 2020 or later and, as a result of the adoption of the IFR on November 6, 2020, either had their Medicaid eligibility reduced to a lower level of benefits and were determined to be eligible for a Medicare Savings program or will have their Medicaid eligibility reduced to a lower level of benefits and be determined to be eligible for a Medicare Savings Program prior to a redetermination conducted after March 31, 2023.

In the January 31, 2023 order, the Court also directed HHS to refrain from enforcing the challenged portion of the IFR with respect to the members of the certified class through the close of business on March 31, 2023, and to reinstate its previous guidance with respect to these individuals.

In the March 2, 2023 order, the Court clarified its January 31, 2023 order. The Court directed the Secretary to “take the same positions – and must inform State Medicaid agencies that he takes the same positions – as those reflected in the ‘Frequently Asked Questions’” that I sent to you as an attachment to the February 6, 2023 letter, and which are attached again here. The Court’s order observed that those documents include the following “frequently asked question” and the following answer by the Secretary:

7. If a state has already terminated coverage for individuals enrolled as of March 18, 2020, what actions should the state take? Must those individuals have their coverage reinstated?

To receive the increased FMAP, states may not terminate coverage for any beneficiary enrolled in Medicaid during the emergency period effective March 18, 2020, unless the beneficiary voluntarily requested to be disenrolled, or is no longer a resident of the state. States that want to qualify for the increased FMAP should make a good faith effort to identify and reinstate individuals whose coverage was terminated on or after the date of enactment for reasons other than a voluntary request for termination or ineligibility due to residency. At a minimum, states are expected to inform individuals whose coverage was terminated after March 18, 2020 of their continued eligibility and encourage them to contact the state to reenroll. Where feasible, states should automatically reinstate coverage for individuals terminated after March 18, 2020 and should suspend any terminations already scheduled to occur during the emergency period. Coverage should be reinstated back to the date of termination.

We note that the court emphasized, by italicizing, the last sentence of the answer to Question 7: “Coverage should be reinstated back to the date of termination.”

Please consider this letter notification that HHS is fulfilling the requirements of the Court’s orders. HHS will refrain from enforcing the challenged portion of the IFR with respect to the members of the certified class, through the close of business on March 31, 2023, and HHS reinstates its previous guidance with respect to the class members, in the manner clarified by the Court on March 2, 2023.

Sincerely,

Daniel Tsai
Deputy Administrator and Director

Attachments: January 31, 2023 order in *Carr v. Becerra*, No. 22-cv-0098 (D. Conn.)
March 2, 2023 order in *Carr v. Becerra*, No. 22-cv-0098 (D. Conn.)
COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children’s Health Insurance Program (CHIP) Agencies (Updated June 30, 2020)
Families First Coronavirus Response Act – Increased FMAP FAQs (Updated April 13, 2020)
Families First Coronavirus Response Act (FFCRA), Public Law No. 116-127
Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law No. 116-136 Frequently Asked Questions (FAQs) (Posted April 13, 2020)