

State of Wisconsin

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Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Howard Marklein
Representative Mark Born

Date: March 8, 2024

Re: 14-Day Passive Review Approval – DHS

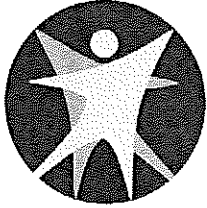
Pursuant to s. 49.45(2t), Stats., attached is a 14-day passive review request from the Department of Health Services, received on March 8, 2024.

Please review the material and notify **Senator Marklein** or **Representative Born** no later than **Wednesday, March 27, 2024**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

HM:MB:jm



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

March 8, 2024

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St. Finance

The Honorable Howard L. Marklein, Senate Co-Chair
Joint Committee on Finance
Room 316 East
State Capitol
P.O. Box 7882
Madison, WI 53707

The Honorable Mark Born, Assembly Co-Chair
Joint Committee on Finance
Room 308 East
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Senator Marklein and Representative Born:

Per s. 49.45(2t), created by 2017 Act 370, I am requesting approval from the Committee, under 14-day passive review, for two Medicaid state plan amendments to implement federally-mandated continuous coverage requirements for children in the Medicaid program.

Effective January 1, 2024, section 5112 of the federal Consolidated Appropriations Act, 2023 [P.L. 117-328] amended sections 1902(e)(12) and 2107(e)(1) of the Social Security Act to make it mandatory for states to provide 12 months of continuous eligibility for children under age 19 in Medicaid and Children's Health Insurance Program (CHIP), with some limited exceptions. In Wisconsin, federal CHIP funding is integrated into the state Medicaid program.

The effect of the federal requirement is that DHS must keep children enrolled for the time period between their annual eligibility reviews unless eligibility had been determined incorrectly due to agency error or fraud, abuse, or perjury or if children:

- Reach the end of the month in which they turn age 19
- Are no longer residents of Wisconsin
- Voluntarily request disenrollment from BadgerCare Plus or Medicaid
- Pass away.

The penalty for a state not implementing this requirement is the loss of federal matching funds for Medicaid enrolled children. Currently the Wisconsin Medicaid program enrolls approximately 583,800 children, with estimated annual expenditures of \$1.84 billion All Funds.

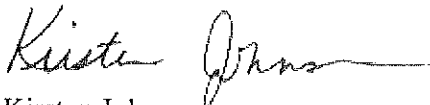
The Department is currently unwinding from continuous coverage requirements for all Medicaid enrollees imposed by federal legislation during the COVID-19 pandemic. The state expects to complete the unwinding process by July 2024. This new requirement is distinguished from the COVID-19 continuous coverage requirements in place for more than three years in that the state will re-determine a child's eligibility every year.

It is the Department's standard practice to submit state plan amendments to CMS at the end of the quarter in which they would take effect, in this case by March 31, 2024, for amendments to be implemented on January 1, 2024. The Department has been planning for implementation of the 12-month continuous coverage requirement. We have also been analyzing the extent to which the new policy would affect Medicaid enrollment compared to current trends and projections. This analysis has been made more difficult by the concurrent unwinding process. The Department has determined that the new policy will increase average monthly enrollment of children above current trends by 4.7% in FY 24 and 4.9% in FY 25, for an overall increase in the total Medicaid enrollment of 2% per year.

The projected fiscal effect of the policy change is \$16,826,700 All Funds (\$6,127,700 GPR) in FY 24 and \$56,006,300 All Funds (\$20,520,300 GPR) in FY 25. At this time, we project that, despite this additional cost, the overall Medicaid budget will remain in balance for the 2023-25 biennium.

The state plan changes are attached. Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kirsten Johnson", with a long horizontal flourish extending to the right.

Kirsten Johnson
Secretary-designee

**Wisconsin Medicaid State Plan Amendment – 12-Month Continuous Eligibility for Children
WI-24-0004**

Section 5112 of the Consolidated Appropriations Act, 2023 [P.L. 117-328] (CAA, 2023) amended section 1902(e)(12) and 2107(e)(1) of the Social Security Act, which made it mandatory for states to provide 12 months of continuous eligibility for children under age 19 in Medicaid and CHIP, with some limited exceptions, effective January 1, 2024. Prior to the CAA, 2023, it was a state option to provide continuous eligibility for children, and Wisconsin had not adopted the option.

This is a new SPA, and it does not supersede a previous SPA.

Reviewable Unit

Continuous Eligibility for Children

Effective Date: 1/1/2024

Federal Statute/Regulation Citation

1902(e)(12) of the Social Security Act

Medicaid State Plan Eligibility

Eligibility and Enrollment Processes

Continuous Eligibility for Children

A. Mandatory Continuous Eligibility for Hospitalized Children

The state provides Medicaid to a child eligible for and enrolled under the Infants and Children under Age 19 (42 CFR 435.118) eligibility group until the end of an inpatient stay for which inpatient services are covered, if the child:

1. Was receiving inpatient services covered by Medicaid on the date the child becomes ineligible under the eligibility group based on the child's age; and
2. Would remain eligible but for attaining such age.

B. Mandatory Continuous Eligibility for Children

The state provides continuous eligibility to all children under age 19 and that:

1. The continuous eligibility period begins on the effective date of the child's most recent determination or redetermination of eligibility, and ends the last day of the earlier of the following periods:
 - a. The month that the child turns 19 years old;
 - b. 12 months.
2. Continuous eligibility is provided to children eligible under all mandatory and optional eligibility groups (excluding Medically Needy) who would otherwise lose eligibility because of any change in circumstances, unless:
 - a. The child dies;
 - b. The child or the child's representative voluntarily requests a termination of the child's eligibility;
 - c. The child ceases to be a resident of the state;
 - d. The Medicaid agency determines that eligibility was determined incorrectly at the most recent determination or redetermination of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative; or
 - e. The child attains the maximum age specified in B.

TN #24-0004

Supersedes N/A

Approval Date: _____

Effective Date: 1/1/2024

**Wisconsin CHIP State Plan Amendment – 12-Month Continuous Eligibility for Children
WI-24-0009**

Section 5112 of the Consolidated Appropriations Act, 2023 [P.L. 117-328] (CAA, 2023) amended section 1902(e)(12) and 2107(e)(1) of the Social Security Act, which made it mandatory for states to provide 12 months of continuous eligibility for children under age 19 in Medicaid and CHIP, with some limited exceptions, effective January 1, 2024. Prior to the CAA, 2023, it was a state option to provide continuous eligibility for children, and Wisconsin had not adopted the option.

This is a new SPA, and it does not supersede a previous SPA.

Submission Title

CHIP Continuous Eligibility for Children

Type of SPA

Non-Financial Eligibility

Form

CS27 General Eligibility – Continuous Eligibility

Note: While Wisconsin has not previously submitted a CHIP SPA using the CS27 template, this template existed before. In January 2024, CMS made major updates to the CS27 template to change the Optional Continuous Eligibility for Children section to the Mandatory Continuous Eligibility for Children section. This text related to continuous eligibility for children is in red. The policies related to the from-conception-to-end-of-pregnancy (FCEP) population are not changing as part of these continuous eligibility for children changes, and that text is in black.

Federal Statute/Regulation Citation

Section 2107(e)(1)(K) of the Social Security Act

CS27 General Eligibility – Continuous Eligibility

Mandatory Continuous Eligibility for Children

The CHIP Agency must provide that children who have been determined eligible under the state plan shall remain eligible, regardless of any changes in the family's circumstances, for a 12-month continuous eligibility period.

☒ Consistent with section 2107(e)(1)(K) of the SSA, the state assures that continuous eligibility is provided to its targeted low-income children for a duration of 12 months, regardless of any changes in circumstances, unless:

- ☒ The child attains age 19.
- ☒ The child or child's representative requests voluntary disenrollment.
- ☒ The child is no longer a resident of the state.
- ☒ The Agency determines that eligibility was erroneously granted at the most recent determination or renewal of eligibility because of Agency error or fraud, abuse, or perjury attributed to child or child's representative.

TN #24-0009

Supersedes N/A

Approval Date: _____

Effective Date: 1/1/2024

- ☒ The child dies.
- ☒ The child becomes eligibility for Medicaid.

The state elects to provide coverage to the from-conception-to-end-of-pregnancy (FCEP) population (otherwise known as the "unborn").

Yes

The duration of continuous eligibility for the FCEP population depends on whether a state enrolls the birthing parent into Medicaid for coverage of labor and delivery or pays for the delivery under CHIP. The state conducts at least one of the following actions upon birth of the child:

CHIP pays for labor and delivery and the state screens the child for potential eligibility for Medicaid.

Yes

Emergency Medicaid pays for labor and delivery and the state deems the newborn eligible for Medicaid and ends the continuous eligibility period in CHIP.

No