



February 1, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
200 Independence Ave SW
Washington, DC 20201

RE: CMS-2447-IFC; CMS Enforcement of State Compliance With Reporting and Federal Medicaid Renewal Requirements Under Section 1902(tt) of the Social Security Act

Dear Administrator Brooks-LaSure:

On behalf of the American Academy of Family Physicians (AAFP), representing 129,600 family physicians and medical students across the country, I write in response to the interim final rule with request for comments on the Centers for Medicare and Medicaid Services (CMS) Enforcement of State Compliance with Reporting and Federal Medicaid Renewal Requirements, as published on December 6, 2023, in the [Federal Register](#).

The AAFP strongly supports this interim final rule and applauds CMS for taking action to address the concerning trend of inappropriate loss of coverage during the unwinding period. Medicaid and the Children's Health Insurance Program (CHIP) combined cover almost 89 million individuals, providing affordable access to comprehensive, essential health care services to low-income families across the country. Continuous, undisrupted coverage translates to improved access to preventive care, fewer disruptions in care, strong patient-physician relationships built on trust and continuity, and less costly emergency department visits. The latest data suggests at least 15,755,000 Medicaid enrollees have been disenrolled and 71% of those had their coverage terminated for procedural reasons, such as out-of-date contact information or incomplete paperwork.¹ These individuals may still be eligible for Medicaid coverage but were disenrolled. The AAFP firmly believes that everyone should have [access to comprehensive primary care](#) and, thus, we are deeply concerned that these significant coverage losses will prevent individuals from getting the health care services they need.

The Consolidated Appropriations Act of 2023 gave CMS reporting requirements and enforcement authorities in the Social Security Act. As such, this rule authorizes CMS to require States to submit and implement a Corrective Action Plan (CAP) for noncompliance with Medicaid eligibility redetermination and reporting requirements, and to suspend some or all disenrollments from Medicaid if a CAP is not submitted or implemented. CMS may impose civil monetary penalties of up to \$100,000 for each day a State is not in compliance in place of or in addition to suspending disenrollments.

The AAFP supports CMS exercising the authorities granted by Congress in order to minimize unnecessary disenrollments and ensure compliance with reporting and other requirements throughout the unwinding process. Given high levels of disenrollments, requiring states to implement a CAP, which includes detailed steps and a timeline to correct inappropriate denials and come into compliance, is necessary to hold States accountable. Halting disenrollments for States are

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not in compliance is critical to ensuring Medicaid beneficiaries do not needlessly lose affordable, comprehensive coverage.

Statute also gives CMS the authority to reduce a State's Federal Medical Assistance Percentage (FMAP) by up to 1 percentage point for noncompliance with reporting requirements. CMS has interpreted statute to mean that the FMAP reduction will increase by 0.25 percentage points for each successive quarter that a State is noncompliant, until the reduction reaches 1 percentage point. The AAFP agrees with the interpretation and urges CMS to urge all possible levers to minimize coverage losses.

The AAFP appreciates CMS' work and responsiveness to feedback throughout the unwinding process, including to ensure beneficiaries can find other forms of coverage following appropriate disenrollment from Medicaid. We appreciate the opportunity to provide the above comments and look forward to working with you to ensure access to Medicaid and comprehensive coverage. For additional questions, please contact David Tully, Vice President of Government Affairs, at dtully@aafp.org.

Sincerely,

A handwritten signature in black ink that reads "Tochi Iroku-Malize" with "MD, MPH, MBA" written below it in a smaller, less stylized script.

Tochi Iroku-Malize, MD, MPH, MBA, FAAFP
American Academy of Family Physicians, Board Chair

ⁱ Kaiser Family Foundation. Medicaid Enrollment and Unwinding Tracker. Pub: Jan. 22, 2024. Accessed on Jan. 24, 2024. <https://www.kff.org/report-section/medicaid-enrollment-and-unwinding-tracker-overview/>