

AUGUST 31, 2021



# Locked-In: How Congress's Handcuffs Have Caused Medicaid to Spiral Out of Control

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# KEY FINDINGS



CONGRESS'S RESPONSE TO COVID-19 LOCKED MILLIONS INTO MEDICAID.



AS A RESULT, MEDICAID ENROLLMENT HAS GONE THROUGH THE ROOF.



MILLIONS OF MEDICAID RECIPIENTS ARE INELIGIBLE, IN THE WRONG CATEGORY, OR OVERDUE FOR REDETERMINATIONS—BUT STATES CANNOT REMOVE THEM.



THE COSTS OF KEEPING FEDERAL HANDCUFFS ON OUTWEIGHS ANY BENEFIT THEY PROVIDE.

## THE BOTTOM LINE:

STATES SHOULD OPT OUT OF THE MEDICAID HANDCUFFS AND RESTORE THE INTEGRITY OF THEIR MEDICAID PROGRAMS.

# Congress's Response to COVID-19 Locked-In Millions on Medicaid

In March of 2020, Congress responded to the COVID-19 pandemic through a series of pieces of federal legislation, including the Families First Coronavirus Response Act (FFCRA).<sup>1-2</sup> This legislation gave states an additional 6.2 percent in Medicaid funding for traditional Medicaid populations.<sup>3</sup>

However, in exchange for this temporary 6.2 percent bump in states' federal medical assistance percentage (FMAP), states had to sacrifice control over their Medicaid programs. Specifically, states who accepted the additional funding agreed not to strengthen eligibility standards and methodologies, increase premiums, or even remove individuals from their Medicaid rolls—**even if they have become ineligible**.<sup>4</sup> The only way in which individuals can be removed from the program is if they voluntarily disenroll or leave the state.<sup>5</sup>



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Imagine a criminal robbing a bank, and the police being told that they cannot exercise their law enforcement duties. Imagine a senior being targeted in an online scam, and state prosecutors being told they cannot do anything to stop it. This is precisely the situation states find themselves in as it relates to their Medicaid programs—so long as they continue to accept the federal bump. Instead of “handcuffing” ineligible enrollees committing Medicaid fraud, states have been handcuffed themselves by Congress. And now, as long as states continue to accept the enhanced FMAP increase, they are willingly keeping those handcuffs on when they do not have to.

To make matters worse, Congress disregarded the \$600 weekly unemployment bonus during the early stages of the COVID-19 pandemic from counting towards Medicaid eligibility.<sup>6</sup> This was effectively a massive expansion of Medicaid, allowing unemployment enrollees who received, on average, more than \$50,000 on an annualized basis to qualify for Medicaid.<sup>7</sup>

And since the FFCRA restrictions remain in effect, those individuals are still unable to be removed from the Medicaid programs—even if they no longer qualify for Medicaid.



**AS LONG AS STATES CONTINUE TO ACCEPT THE ENHANCED FMAP INCREASE, THEY ARE WILLINGLY KEEPING THOSE HANDCUFFS ON WHEN THEY DO NOT HAVE TO.**

As a result, states have been faced with the harsh reality of relinquishing control of their Medicaid programs to the federal government.<sup>8</sup> This has created an impossible situation for states with commonsense program integrity laws on the books, which are now in conflict with federal law.<sup>9</sup>

Due to these handcuffs and the unemployment bonus, Medicaid enrollment has spiked to unprecedented levels. In order to comply with the FFCRA, millions of ineligible or potentially ineligible enrollees have had their coverage “protected” or their standard Medicaid redeterminations and renewals delayed, creating a Medicaid crisis.

## Medicaid enrollment is through the roof

As of December 2020, Medicaid enrollment stood at more than 83 million—the highest enrollment in the history of the Medicaid program, and a **12 percent increase from March 2020 alone**.<sup>10</sup> All told, the increase in enrollment represents the largest spike since the initial implementation of ObamaCare’s Medicaid expansion.<sup>11</sup>

Responses to public records requests by states confirm the extent of enrollment increases. For instance, in Oregon, Medicaid enrollment increased by 12 percent alone between January and November of 2020.<sup>12</sup> In Kentucky, enrollment spiked by 13 percent between January and September of 2020—far outpacing the state’s two percent decrease in enrollment it experienced during calendar year 2019.<sup>13</sup> And Indiana saw Medicaid enrollment skyrocket by nearly 15 percent between January and September of 2020, a substantial increase over the modest 2.3 percent increase in enrollment in 2019.<sup>14</sup> Several other states reported similar trends.<sup>15</sup>

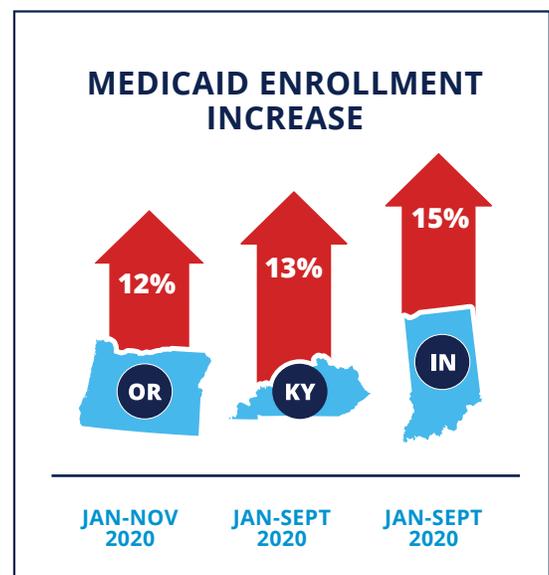
On average, according to states, overall enrollment increased by nearly 10 percent in just the first three quarters of 2020.<sup>16</sup> This is more than 3.5 million people across just 26 states.

Unsurprisingly, driving this trend is the handcuffs placed on states by Congress. Medicaid administrators themselves have noted the provisions in the FFCRA are causing “upward or significant upward pressure on enrollment.”<sup>17</sup>

Not only are the handcuffs driving Medicaid enrollment up—but they are also keeping ineligible enrollees on the program.

## Millions of Medicaid recipients are ineligible, in the wrong benefit category, or overdue for redeterminations

Across just 14 states that responded to public records requests, **more than three million Medicaid recipients have had their redeterminations delayed** as of late 2020 and early 2021.<sup>18</sup> And among just eight states, **nearly 2.3 million have been deemed ineligible or in the wrong benefit category**, but have had their coverage protected due to these same provisions.<sup>19</sup>



## MILLIONS OF AMERICANS ARE LOCKED INTO MEDICAID

| STATE                       | REDETERMINATIONS OR RENEWALS DELAYED <sup>20</sup> | DEEMED INELIGIBLE, BUT COVERED <sup>21</sup> |
|-----------------------------|--|--|
| California <sup>22</sup>    | N/A  | 1,600,000                                    |
| Idaho <sup>23</sup>         | N/A  | 22,006                                       |
| Illinois                    | 964,993  | N/A  |
| Kansas                      | 101,676  | N/A  |
| Kentucky                    | 113,340  | N/A  |
| Louisiana                   | 249,384  | N/A  |
| Maine                       | 189,218  | N/A  |
| Massachusetts               | 267,460  | 196,047                                      |
| Michigan                    | 202,013  | N/A  |
| New Hampshire <sup>24</sup> | 23,992   | 19,560                                       |
| Oklahoma                    | 279,417  | 214,214                                      |
| Pennsylvania                | 111,549  | 157,693                                      |
| Rhode Island                | 232,407  | 16,080                                       |
| Vermont <sup>25</sup>       | 13,983   | N/A  |
| Washington                  | 192,618  | 62,124                                       |
| West Virginia               | 107,180  | N/A  |
| <b>TOTAL</b>                | <b>3,049,230</b>                                   | <b>2,287,724</b>                             |

Source: Data obtained from responses to public records requests

Of course, this is just the tip of the iceberg.

In some states, these figures represent an astonishing proportion of their Medicaid rolls. For example, nearly 190,000 Maine Medicaid recipients have also had their renewals delayed—despite being potentially ineligible—**representing nearly 60 percent of their total Medicaid population.**<sup>26</sup>

Similarly, in Kansas, nearly 102,000 individuals have had their redeterminations delayed. **This accounts for nearly 30 percent of their overall Medicaid program.**<sup>27</sup>

In Illinois, nearly one million Medicaid redeterminations have been delayed since the implementation of federal handcuffs.<sup>28</sup> This accounts for **more than one-third** of the state's Medicaid population.<sup>29</sup> Of these nearly one million individuals, more than 25 percent are able-bodied, working-age adults who are covered under ObamaCare's Medicaid expansion program.<sup>30</sup> Individuals that can and should be purchasing private health coverage are now receiving even more of a free ride than they were before.

In fact, while millions of potentially ineligible enrollees are kept on Medicaid rolls indefinitely, hundreds of thousands of Americans with severe disabilities and chronic conditions are stuck in line, waiting for Medicaid coverage.<sup>31</sup>



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## **The costs of keeping federal handcuffs on outweighs any benefit they provide**

The whole purpose of the enhanced FMAP was to provide states fiscal relief in the midst of a pandemic. Ironically, it is more than probable that **any fiscal relief has been far offset by the massive increases in Medicaid enrollment and the continued coverage of potentially ineligible enrollees.**

The Congressional Budget Office estimates that the FMAP bump cost the federal government \$41 billion in 2020.<sup>32</sup> However, this is probably a fraction of the cost of the change in Medicaid enrollment that occurred in 2020 alone. The addition of more than nine million Medicaid enrollees between March of 2020 and December of 2020—many of whom are locked into coverage—has cost an untold amount, likely far more than the cost of the FMAP increase.<sup>33</sup> It is unlikely the deal has made any fiscal sense for states.



**MEDICAID IMPROPER PAYMENTS REACHED  
MORE THAN \$85 BILLION ANNUALLY  
LEADING UP TO THE PANDEMIC.**

Additionally, since Medicaid improper payments reached more than \$85 billion annually leading up to the pandemic, it is all but certain that delaying redeterminations and renewals while protecting the coverage of ineligible enrollees has created an unprecedented spike in illegitimate Medicaid payments.<sup>34</sup>

Together, these increases in enrollment and inability to implement program integrity measures far outweigh any fiscal benefit that states have realized by accepting these federal handcuffs.

## **THE BOTTOM LINE: States should opt out of the Medicaid handcuffs and restore the integrity of Medicaid programs.**

The facts are indisputable: Millions of potentially ineligible enrollees—across just a small cross-section of states—are locked into state Medicaid programs. So long as they continue to wear federal handcuffs, states are unable to even enforce commonsense program integrity laws on the books that require them to remove ineligible program recipients.<sup>35</sup>

States need to preserve Medicaid resources for the most vulnerable individuals. But they need control over their Medicaid programs to achieve that. By rejecting the FMAP as we move towards an economic recovery, states can regain control of their Medicaid programs for the first time in over a year. In order to restrain out-of-control enrollment, crack down on Medicaid fraud, and support the truly needy, states should opt out of the Medicaid handcuffs.

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12. Data obtained from responses to public records requests submitted by the author.
13. Ibid.
14. Ibid.
15. Ibid.
16. Ibid.
17. Ibid.
18. Data obtained from responses to public records requests submitted by the author.
19. Ibid.
20. Colorado also has 362,992 individuals locked into Medicaid as of late 2020, but they did not correspond to the above categories.
21. Data may include individuals who should have been moved to lower benefit levels, but were locked-in at higher levels.
22. Approximate figure.
23. Coverage was protected at some point during 2020; some may have later become eligible.
24. State estimates.
25. Data presented at the household level, not the individual level—the true total is therefore higher.
26. Ibid.
27. Authors’ calculations based on data obtained from responses to public records requests submitted by the author and Medicaid enrollment data. See, e.g., Centers for Medicare and Medicaid Services, “Medicaid Enrollment Data Collected Through MBES,” U.S. Department of Health and Human Services (2021), <https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/medicaid-chip-enrollment.data/medicaid-enrollment-data-collected-through-mbes/index.html>.
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