



States Can and Should Unlock the Medicaid Handcuffs

Extra Funds Forced States to Give Up Control

In 2020, the federal government offered states a deal, but there was a catch. In exchange for a 6.2 percent increase in traditional Medicaid funding, states had to agree not to remove the ineligible from their Medicaid programs—putting states in a bind.

States that accepted the funding boost cannot:

-  change Medicaid eligibility standards
-  adjust enrollment processes
-  or remove individuals from their Medicaid rolls—even if they have become ineligible or were never eligible in the first place.

In fact, individuals **can only be removed** from the program if they **voluntarily disenroll, leave the state, or have died.**

Medicaid Lock-Ins are Driving Enrollment Up

Unsurprisingly, the Medicaid handcuffs are driving up enrollment by **locking enrollees into the program** and potentially life-long government dependency.



- ▶ Since February 2020, Medicaid enrollment has increased by nearly **16 million—the largest increase in the history of the program.**
- ▶ Nationwide, **90 percent** of enrollment growth during the pandemic was **caused by ineligible enrollees.**
- ▶ **Up to 17 million enrollees were ineligible** for the program as of December 2021, and that number grows every day.

YOU Can Unlock the Medicaid Handcuffs



States can stop providing continuous coverage for Medicaid enrollees and remove ineligible enrollees. **The handcuffs only apply if states accept the optional federal funding boost.** They can free themselves and retake control of their program by turning down the extra funding for future quarters.

There is **NO RISK** of a Federal “Clawback”

The U.S. Department of Health and Human Services (HHS) has *explicitly* said there is no risk of a clawback if states unlock the Medicaid handcuffs.

In detailed state guidance, HHS addressed agency attempts to claw back the extra federal funding if a state decides to opt out. They found that **any state that leaves the program will only lose the extra federal funding for the quarter in which the state opts out**, and all remaining quarters moving forward until the COVID-19 emergency ends.



Last Updated January 6, 2021

of the Act, including most recently through State Medicaid Director Letter #10-023 on November 9, 2010. States should refer to this guidance regarding requirements of section 1905(cc). Of note, for increased FMAP available under section 6008 of the Families First Coronavirus Response Act, the reference to “December 31, 2009” in section 1905(cc) of the Act shall be deemed to be a reference to “March 31, 2020.”

36. If a state decides it will no longer comply with the requirements of section 6008(b) of the FFCRA that are necessary to be eligible for the temporary 6.2 percentage point FMAP increase, must it forfeit the FFP associated with increased FMAP retroactive to the start of the PHE or to the start of the quarter in which it no longer complied?

The state must comply with the requirements of section 6008(b) for each quarter in which FFP associated with the temporary 6.2 percentage point FMAP increase is claimed. If, during the PHE, a state decides to no longer comply with the 6008(b) requirements, FFP at the increased FMAP is no longer available for state expenditures effective the start of the quarter in which the state is no longer in compliance. However, states are able to receive FFP associated with the increased FMAP for expenditures incurred in prior quarters, if the state met the requirements of section 6008 (b) for that entire quarter.

37. Can a state claim prior period adjustments, including those relating to supplemental payments, at the FMAP temporarily increased by 6.2 percentage points under section 6008(a) of the FFCRA?

As indicated in Question IV.F.17, states should follow existing federal requirements regarding the applicability of a particular match rate available for a given quarter. The applicable FMAP is based on date of payment, not date of service, for current quarter original expenditures. The FMAP applicable to expenditures for all prior period adjustments should be the FMAP at which the original expenditure was claimed.

Because supplemental payments are adjustments to base payments originally made for the underlying services, supplemental payments are claimed as prior period adjustments to the original base payments. Accordingly, expenditures for supplemental payments are claimed at the same FMAP as the underlying original base payment expenditures, and in accordance with the timely claims filing requirement at 45 C.F.R. § 95.7, must be claimed within two years of the original base payment expenditures. We recognize that some states use the date of service to approximate the date of the base payment for the underlying services, as a practical means to determine the applicable FMAP when making supplemental payments. Such states should continue to do so. For example, if the state makes a lump sum supplemental payment in the quarter ending December 31, 2020 for services provided in the quarter ending March 31, 2020, the state should claim the supplemental payment as a prior period adjustment using the FMAP for the quarter ending March 31, 2020.

If a state has specific questions based on how it has traditionally claimed state plan lump sum supplemental payments, CMS will work with the state on a case-by-case basis to advise on how the increased FMAP under section 6008(a) of the FFCRA would apply.

Page 124 of 161

QUESTION: If a state decides it will no longer comply with the requirements of section 6008(b) of the FFCRA that are necessary to be eligible for the temporary 6.2 percentage point FMAP increase, must it forfeit the FFP associated with increased FMAP retroactive to the start of the PHE or to the start of the quarter in which it no longer complied?

ANSWER: The state must comply with the requirements of section 6008(b) for each quarter in which FFP associated with the temporary 6.2 percentage point FMAP increase is claimed.

If, during the PHE, a state decides to no longer comply with the 6008(b) requirements, FFP at the increased FMAP is no longer available for state expenditures **effective the start of the quarter in which the state is no longer in compliance**. However, **states are able to receive FFP associated with the increased FMAP for expenditures incurred in prior quarters**, if the state met the requirements of section 6008(b) for that entire quarter.

Source: Centers for Medicare & Medicaid Services
<https://www.medicare.gov/state-resource-center/downloads/covid-19-faqs.pdf>

There is nothing legally preventing states from opting out of the federal medical assistance percentage (FMAP) increase early and states can opt out without fear of any financial clawback.

Taking this step would preserve resources for the truly needy and save taxpayers money.

The time is **NOW!**

Democrats want to extend the handcuffs—but drastically reduce the extra money.

President Biden’s Build Back Better legislation would extend the handcuffs to at least September 2022, all while slashing the amount of extra funds and continuing to limit states’ ability to quickly remove all ineligible individuals.

BOTTOM LINE

State leaders must act to reassert control over their Medicaid programs and remove the handcuffs before it’s too late.