

Date: July 03, 2024

To: Richard L. Revesz
Administrator, Office of Information and Regulatory Affairs (OIRA)

From: Chiquita Brooks-LaSure
Administrator

Subject: **Request for Emergency Reinstatement Under the Paperwork Reduction Act – Generic Collections for Medicaid and CHIP State Plan, Waiver, and Program Submissions (CMS-10398, OMB 0938-1148)**

The Centers for Medicare & Medicaid Services (CMS) is requesting an emergency reinstatement of the Paperwork Reduction Act (PRA) approval for certain collections within the “Generic Collections for Medicaid and Children’s Health Insurance Program (CHIP) State Plan, Waiver, and Program Submissions” (“Umbrella Package”).

The Medicaid and CHIP health coverage programs are a state-federal partnership jointly funded by states and the federal government and administered by the states in alignment with federal requirements. Together, the Medicaid and CHIP programs are the largest payors for health care in the United States, providing comprehensive health coverage to over 81 million individuals. This includes coverage of over 50 percent of children in the country, over 40 percent of births, and serving as the largest payor of mental health services. Medicaid and CHIP expenditures totaled over \$750 billion in 2023 across 56 states and territories.

CMS monitors and oversees Medicaid and CHIP by relying on data collected from the states and territories. Through these data, CMS ensures that states and territories, in accordance with federal statute, are (1) enrolling and maintaining eligibility for those entitled to the programs’ benefits, (2) providing the required coverage and access to medical services, and (3) financing the program as Congress intended.

Together, the data collections required by CMS and covered by the Umbrella Package are essential to preventing beneficiary harm and maintaining program integrity. For example, the Umbrella Package authorizes the way that state Medicaid agencies are required to submit their Medicaid and CHIP eligibility verification policies and procedures, supporting CMS, federal and state auditors, and external stakeholder in holding states accountable for enrolling eligible individuals as required by federal law. These laws protect beneficiaries from state policies and procedures that create undue or excessive burden on individuals, hindering the ability of eligible people to enroll. If individuals are not able to enroll in Medicaid or CHIP, those individuals, including children, people with disabilities, and pregnant women, would not have access to lifesaving and essential health care, such as prenatal care, medicines for chronic illnesses, or treatment for severe and persistent mental illness.

The Umbrella Package also authorizes CMS to collect data from states regarding fiscal integrity measures such as the “upper payment limit” (UPL), which is a statutory limit on Medicaid payments to providers. To comply with this requirement, CMS ensures that providers are not exceeding UPL limits through efficient state reporting requirements. Without the authority to

collect data from states on their adherence to the UPL, states could overpay certain types of providers (e.g., certain hospitals), damaging the fiscal integrity of the Medicaid program, and jeopardizing already-constrained state budgets. These collections are just two examples in the Umbrella Package that allow CMS to monitor these vast programs and limit personal and financial harms to Medicaid and CHIP enrollees.

Given the essential role these collections play and the severe beneficiary and programmatic harms that would occur without them, CMS is seeking emergency reinstatement of certain collections within the Umbrella Package. The public harm caused by the severe disruptions of the Medicaid and CHIP programs that would result from a further lapse in PRA approval are not speculative. As articulated above, collection of these data are actively used to ensure not only fiscal integrity, but also the maintenance and expansion of coverage, which have profound medical and financial consequences for millions of persons in this country. Waiting to reinstate the PRA authority until certain collections have been renewed under standard clearance procedures would threaten CMS' essential mission and cause substantial disruption and far-reaching harm to the Medicaid and CHIP programs and the beneficiaries we serve. Below we include information on three areas where the lapse in this approval has the most potential for beneficiary harm.

Harm Related to Non-Compliant Eligibility Determinations During Unwinding

At the start of the COVID-19 pandemic, Congress enacted the Families First Coronavirus Response Act (FFCRA), which included a [requirement](#) that state Medicaid programs keep people continuously enrolled in Medicaid through the end of the COVID-19 public health emergency (PHE) in order to receive enhanced federal funding. This Medicaid continuous enrollment condition helped to ensure stable access to health care for millions of people during the pandemic. During the PHE, Medicaid and CHIP enrollment grew to over 93 million individuals. As part of the [Consolidated Appropriations Act, 2023](#), signed into law on December 29, 2022, Congress ended the Medicaid continuous enrollment on March 31, 2023, leading states to restart full Medicaid and CHIP eligibility renewals nationwide. This process, often called "Medicaid unwinding," has been an unprecedented undertaking for Medicaid and CHIP and the tens of millions of people covered through these programs.

As states conduct Medicaid and CHIP eligibility renewals, they have an obligation to do so in compliance with all existing federal requirements, including those at 42 CFR 435.916 and 457.343. Compliance with these requirements is essential to ensuring that eligible individuals maintain their health coverage so they can continue to access the critical and urgent health services they need. Throughout unwinding, CMS has relied on the Eligibility and Enrollment Performance Indicator data and the Medicaid and CHIP COVID-19 PHE Unwinding Reports included in the Umbrella Package to monitor the historic volume of eligibility redeterminations and ensure eligible individuals maintain access to essential Medicaid and CHIP health care coverage. During this unwinding process, through data reporting from states as authorized by the Umbrella Package, CMS uncovered widespread areas of non-compliance and worked closely with states on renewal policies and operations to remediate the problems.

As one example, in the fall of 2023, the unwinding data collections included in the Umbrella Package showed a disproportionately large number of children losing coverage. Upon further examination, CMS found that 29 states had improperly disenrolled over 400,000 eligible

individuals, including children, based on states' improper implementation of federal requirements.¹ CMS required these states to reinstate coverage for all individuals improperly disenrolled and to address these systems issues – ensuring that millions more going forward were protected from improperly losing coverage. This example reinforces why these data are urgent and essential for CMS' oversight of state eligibility and renewal operations. It can take several months—if not longer—for individuals to re-enroll in Medicaid if they are disenrolled; during that time, without health coverage, individuals lose access to the services and medications they rely on to thrive. This can include pregnant women receiving prenatal care, children with disabilities receiving long-term care at home, and older Americans seeking medicines and treatment for chronic conditions.

Beyond eligibility renewals, CMS' analysis of reported data has enabled CMS to quickly identify and intervene as states report delays and backlogs in other areas that impact eligible individuals' timely access to coverage. This includes applications for Medicaid coverage (which have increased as individuals disenrolled from Medicaid for administrative or “paperwork” reasons during unwinding re-apply for coverage) as well as requests from beneficiaries to appeal state eligibility determinations (i.e., fair hearing requests). Delays and backlogs prevent eligible individuals from accessing the Medicaid coverage and care to which they are entitled in a timely manner, undermining health and safety and jeopardizing the economic stability of those in need of medical care.

Further, CMS administers Connecting Kids to Coverage Outreach and Enrollment Grants which provide funding to support outreach to and enrollment of eligible kids into Medicaid and CHIP. This Umbrella Package includes a Connecting Kids to Coverage grant reporting template that grantees use to report their monthly enrollment data and other monitoring information. We have, within the last year, used the data on this template to put grantees on Corrective Action Plans for not meeting their obligations under the grants. This data collection is essential to ensuring that funding is resulting in the outreach the community needs and the grantees have agreed to provide.

The Umbrella Package includes other essential tools to ensure beneficiary access and fiscal integrity related to COVID-19 funding and activities. For example, under the American Rescue Plan (ARP) Act of 2021 section 9817, states are eligible to receive increased federal funding for providing certain home and community based services, and meeting certain reporting requirements to allow CMS to monitor those efforts. The Umbrella Package includes the related monitoring templates. Currently, 49 states (including Washington DC) are using such funding and are subject to the requirements, and we expect the requirements to continue to apply to most states until at least March 31, 2025. In the absence of state reporting, CMS will not be able to effectively monitor state compliance with the requirements of ARP section 9817.

Without reinstatement of certain collections within the Umbrella Package, CMS is limited in our ability to see problems and take action, including compliance action, in states that are not reporting the required program monitoring data to CMS. Compliance action and the resulting financial penalties have been essential tools to ensure that states submit these data, which allow

¹ <https://www.hhs.gov/about/news/2023/09/21/coverage-half-million-children-families-reinstated-thanks-hhs-swift-action.html#:~:text=Thanks%20to%20CMS'%20swift%20action,from%20improper%20disenrollments%20going%20forward.>

us to ensure eligible enrollees can maintain access to the benefits for which they are eligible. The unwinding and other data collections in the Umbrella package have allowed CMS to identify and correct widespread compliance issues ensuring beneficiary access and fiscal integrity.

Harm Related to Stoppage of 1115 Demonstration Processes

Medicaid section 1115 demonstrations are crucial tools that give states additional flexibility to design and improve their programs, and to demonstrate and evaluate state-specific policy approaches to better serving Medicaid populations. Medicaid 1115 demonstrations are a significant portion of the Medicaid program, encompassing over half of Medicaid's \$750 billion in annual expenditures. Most states use 1115 demonstrations to implement their Medicaid programs and expand access to critical services like those for serious and persistent mental illness and those to address health-related social needs for pregnant women. CMS oversees approximately 85 1115 demonstrations.

With certain collections in the Umbrella Package expired, CMS will be limited in our ability to receive and approve new 1115 demonstration requests. These requests are often used to implement large-scale public health initiatives to better serve Medicaid populations' specific critical needs. Submission, review, approval, monitoring, and oversight of these demonstrations are complex, both for CMS and states. Use of the templates and data collections in the Umbrella Package allow CMS and states to execute these critical functions in a timely way to avoid situations where states are unable to provide Medicaid enrollees 1115 demonstration benefits and services. For example, CMS is considering 1115 demonstrations that would provide new families with home visiting services, provide funding to support nursing facilities and assisted living settings, and funding support to rural hospitals.

In the addition to delaying approvals of 1115 demonstrations that expand coverage for essential services, with certain collections in the Umbrella Package expired, CMS is limited in our ability to monitor existing demonstrations to ensure states are providing the benefits agreed upon to the at-risk populations served in the demonstrations. For example, the Umbrella Package includes the Substance Use Disorder (SUD) Demonstration Monitoring Reports Documents and Templates, and Medicaid Section 1115 Severe Mental Illness and Children with Serious Emotional Disturbance Demonstrations data collections. It is essential that CMS maintains visibility into these demonstrations to prevent beneficiary harm and ensure ongoing care and treatment for these serious chronic conditions. The Umbrella Package also includes the Federal Meta-Analysis Support: Section 1115 Substance Use Disorder Demonstrations, which authorizes data collection using an interview guide. These interviews are essential to the monitoring and evaluation of these critical SUD demonstration. Failure to collect needed information will limit our insight into the programs, risking beneficiary and financial harm.

The Umbrella Package data collections help ensure states funding those services are doing so in line with federal requirements. For example, the Umbrella Package includes a Budget Neutrality template that states submit to CMS quarterly to ensure states are meeting the financial requirements of the demonstration. The Federal government disperses billions of dollars annually that states use to implement these demonstrations on the condition that they are "budget neutral," and this data collection is our primary tool for assessing financial compliance with budget

neutrality. Compliance with budget neutrality is foundational to 1115 demonstration agreements and to the fiscal integrity of the Medicaid program.

Harm Related to Stoppage of Routine Program Operations

The Medicaid and CHIP programs are a state-federal partnership. States rely on the state plan amendment (SPA) process to seek approval for program updates to their state Medicaid and CHIP programs. For example, states must submit a SPA to CMS for approval each time they want to increase or decrease health coverage benefits, provider payments rates, or coverage eligibility thresholds. CMS and states rely on the data collections and templates in the Umbrella Package to ensure these core functions are submitted, reviewed, and approved efficiently. With the Umbrella Package expired, CMS may be limited in our ability to timely review and approve new SPAs or incorporate them into our SPA systems. For example, the Umbrella Package includes the SPA template for review and approval of changes across CHIP, as well as templates for Medicaid beneficiary cost-sharing. Without ability to timely review and approve Medicaid and CHIP SPAs, states will not be able to, for instance, increase payment rates to behavioral health providers, or expand eligibility to cover more children with low income. Without these changes, states are not able to modernize their programs to expand access to these populations and services.

In addition, CMS uses certain data collections under the umbrella collection to monitor the implementation of SPAs, which is a key tool that allows CMS to fulfill Congress's direction and help prevent beneficiary harm. Submission, review, approval, and monitoring of SPAs is the core work of how state and CMS implement the Medicaid program. Inability to timely submit, review, and process SPAs, as well as monitor the implementation of SPAs, even temporarily, would be catastrophic for the Medicaid program, causing massive disruption to states, providers, and the beneficiaries we all serve. In 2023 alone, CMS approved 1,396 SPAs.

Given the level of program disruption and beneficiary harm that would result from these gaps, we respectfully request that OIRA approve the emergency reinstatement of certain collections within this essential PRA package.

Appendix A includes a complete list of the specific GenICs that we request be reinstated.

Appendix A

CMS request emergency reinstatement of the following GenIC packages:

1. *Title:* CHIP Annual Report Template System (CARTs).

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS-10398 #1.

OMB Control Number: 0938-1148.

2. *Title:* Medicaid Managed Care Data Collection.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS-10398 #2.

OMB Control Number: 0938-1148.

3. *Title:* Medicaid Payment Suspensions.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #5.

OMB Control Number: 0938–1148.

4. *Title:* Cycle IV (AI/AN Round II Outreach & Enrollment Grant Final Report Addendum) and Cycle V (Connecting Kids to Coverage Outreach and Enrollment Semi-Annual and Final).

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #7.

OMB Control Number: 0938–1148.

5. *Title:* Application for Section 1915(b)(4) Waiver—Fee For Service Selective Contracting Program.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #9.

OMB Control Number: 0938–1148.

6. *Title:* Section 1115 Demonstration and Waiver Application.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #10.

OMB Control Number: 0938–1148.

7. *Title:* MAGI-Based Eligibility Verification Plan.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #11.

OMB Control Number: 0938–1148.

8. *Title:* Medicaid Accountability—Nursing Facility, Outpatient Hospital and Inpatient Hospital Upper Payment Limits.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #13.

OMB Control Number: 0938–1148.

9. *Title:* Federally-Facilitated Marketplace (FFM) Integration Data Collection Tool.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #16.

OMB Control Number: 0938–1148.

10. *Title:* CHIP State Plan Eligibility.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #17.

OMB Control Number: 0938–1148.

11. *Title:* FMAP Claiming State Plan Amendment.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #21.

OMB Control Number: 0938–1148.

12. *Title:* Medicaid Accountability—UPL ICF/IID, Clinic Services, Medicaid Qualified Practitioner Services and Other Inpatient & Outpatient Facility Providers.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #24.

OMB Control Number: 0938–1148.

13. *Title:* MAGI Conversion Plan Part 2.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #27.

OMB Control Number: 0938–1148.

14. *Title:* MMIS APD Template NCCI Coding Initiative.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #28.

OMB Control Number: 0938–1148.

15. *Title:* Medicaid Cost Sharing.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #29.

OMB Control Number: 0938–1148.

16. *Title:* State Reporting Medicaid Payment Suspension.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #30.

OMB Control Number: 0938–1148.

17. *Title:* Statewide HCBS Transition Plans.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #31.

OMB Control Number: 0938–1148.

18. *Title:* Provider-Preventable Conditions under 42 CFR 438.6 and 447.26 and Title 2702 Non-Payment Preprint (Attachment 4.19).

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #32.

OMB Control Number: 0938–1148.

19. *Title:* Opportunity for families of Disabled Children to Purchase Medicaid Coverage for Such Children (DRA 6062).

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #33.

OMB Control Number: 0938–1148.

20. *Title:* Model Application Template and Instructions for State Child Health Plan Under Title XXI of the Social Security Act, State Children’s Health Insurance Program.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #34.

OMB Control Number: 0938–1148.

21. *Title:* Eligibility and Enrollment Performance Indicators.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #35.

OMB Control Number: 0938–1148.

22. *Title:* Managed Care Rate Setting Guidance.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #37.

OMB Control Number: 0938–1148.

23. *Title:* Section 223 Demonstration Programs to Improve Community Mental Health Services.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #43.

OMB Control Number: 0938–1148.

24. *Title:* 1915(i) State Plan Home and Community Based Services.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #46.

OMB Control Number: 0938–1148.

25. *Title:* Section 223 Demonstration Programs to Improve Community Mental Health Services.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #48.

OMB Control Number: 0938–1148.

26. *Title:* Community First Choice State Plan.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #50.

OMB Control Number: 0938–1148.

27. *Title:* Fast Track Federal Review Process for Section 1115 Medicaid and CHIP Demonstration Extensions.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #51.

OMB Control Number: 0938–1148.

28. *Title:* Delivery System and Provider Payment Initiatives Under Medicaid Managed Care Products.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #52.

OMB Control Number: 0938–1148.

29. *Title:* Section 1115 Substance Use Disorder (SUD) Demonstration: Guide for Developing Implementation Plan Protocols.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #53.

OMB Control Number: 0938–1148.

30. *Title:* Electronic Visit Verification (EVV) Good Faith Effort Exemption Requests.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #54.

OMB Control Number: 0938–1148.

31. *Title:* Limit on Federal Financial Participation for Durable Medical Equipment in Medicaid.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #55.

OMB Control Number: 0938–1148.

32. *Title:* Section 1115 Demonstration: Budget Neutrality Workbook.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #56.

OMB Control Number: 0938–1148.

33. *Title:* Section 1115 Substance Use Disorder (SUD) Demonstration: Monitoring Reports Documents and Templates.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #57.

OMB Control Number: 0938–1148.

34. *Title:* Medicaid Section 1115 Eligibility and Coverage Demonstration Implementation Plan and Monitoring Reports Documents and Templates.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #58.

OMB Control Number: 0938–1148.

35. *Title:* Medicaid Section 1115 Severe Mental Illness and Children with Serious Emotional Disturbance Demonstrations.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #59.

OMB Control Number: 0938–1148.

36. *Title:* Medicaid Disaster Relief for the COVID–19 National Emergency State Plan Amendment Template and Instructions.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #61.

OMB Control Number: 0938–1148.

37. *Title:* Data Collection for Section 1003 of the SUPPORT Act.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #62.
OMB Control Number: 0938–1148.
38. *Title:* 1932(a) State Plan Amendment Template.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #63.
OMB Control Number: 0938–1148.
39. *Title:* Federal Meta-Analysis Support: Section 1115 Substance Use Disorder Demonstrations.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #64.
OMB Control Number: 0938–1148.
40. *Title:* Medicaid and CHIP COVID19 Public Health Emergency Unwinding Reports.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #66.
OMB Control Number: 0938–1148.
41. *Title:* Section 1006(b) of the SUPPORT Act: Medicaid Assisted Treatment (MAT).
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #68.
OMB Control Number: 0938–1148.
42. *Title:* Reporting Requirements for Additional Funding for Medicaid HCBS During the COVID–19 Emergency.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #69.
OMB Control Number: 0938–1148.
43. *Title:* Reporting Requirements for State Planning Grants for Qualifying Community Based Mobile Crisis Intervention Services During the COVID–19 Emergency.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #71.
OMB Control Number: 0938–1148.
44. *Title:* Supplemental Payment Reporting under the Consolidated Appropriations Act, 2021.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #73.
OMB Control Number: 0938–1148.
45. *Title:* Coverage of Routine Patient Cost for Items & Services in Qualifying Clinical Trials.
Type of Request: Reinstatement of a previously approved information collection.
CMS ID Number: CMS–10398 #74.

OMB Control Number: 0938–1148.

46. *Title:* ARP 1135 State Plan Amendment.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #75.

OMB Control Number: 0938–1148.

47. *Title:* Expressions of Interest in the Improving Maternal Health by Reducing Low-Risk Cesarean Delivery Affinity Group.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #76.

OMB Control Number: 0938–1148.

48. *Title:* COVID–19 Risk Corridor Reconciliation Reporting Template.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #79.

OMB Control Number: 0938–1148.

49. *Title:* Improving Quality of Care and Outcomes Data for Pregnant Medicaid Beneficiaries and Newborn Infants through Linkage and Evaluation of VR, BC, DC, and TAF.

Type of Request: Reinstatement of a previously approved information collection.

CMS ID Number: CMS–10398 #81.

OMB Control Number: 0938–1148.