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Centers for Medicare & Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development
Attention: CMS-10434 #66/OMB control number 0938-1188
Room C4-26-05
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Re: Compliance Template: Assessment and Plan for Compliance with All Federal Medicaid and CHIP Renewal Requirements

We appreciate the opportunity to provide these comments on the Centers for Medicare & Medicaid Services (CMS) Compliance Template. We strongly support a template to capture an assessment of where states are failing to comply with Federal Medicaid and CHIP renewal requirements and a detailed plan for coming into compliance.

The renewal requirements covered in this template were finalized in March 2012, effective January 1, 2014. However, as of March of 2023, CMS identified at least 35 states that were non-compliant with at least one of these requirements, and subsequently identified additional states and areas of non-compliance.

States failing to follow renewal requirements contributed to millions of individuals losing Medicaid coverage during the unwinding of the COVID-19 era continuous coverage provision. For example, some Medicaid enrollees were unable to submit renewal information online, couldn't speak to someone over the phone to complete their renewal, and weren't considered for the different pathways to qualify for Medicaid when their circumstances changed. These deficiencies in state processes led to gaps in coverage and additional administrative burdens for low-income families.

It is imperative that these shortcomings are remedied under CMS oversight and this template is an important first step to ensuring states are compliant with regulatory requirements. Significantly, the assessment portion of the template breaks down the components an agency must have in place to be compliant and requires states to assess each component individually. This breakdown avoids situations that occurred prior to unwinding where, for example, a state said it had a telephonic renewal but did not capture a telephonic signature, which is required for a complete renewal. Further, the template is broken down between MAGI and non-MAGI populations and requirements, which is a key detail because these populations often have different enrollment processes, particularly in states where the two populations are in different eligibility systems. However, we would suggest the addition of "all" before MAGI and non-MAGI populations in conducting ex parte renewals (Section A.1.1-2) and on determining eligibility on "all" MAGI and "other than MAGI" bases of eligibility (Section F.1.1-2).

In addition, requiring evidence of compliance and a description of policies and processes is necessary so that CMS can examine documentation to verify the state's assessment. Prior to

unwinding, many states attested to being compliant with federal renewal requirements but stakeholders brought to light various areas where some states were not in fact in compliance.

States that attest to deficiencies must identify activities to address the deficiencies and the timeline for these actions, which is critical for monitoring. Further, the template also includes a section to capture state mitigation strategies until the state comes into compliance; mitigation strategies are necessary to ensure that harm to enrollees is minimized while states work to correct their deficiencies, including through reinstatement or halting redeterminations.

Taken together, we believe the level of detail included in the template, if not more, is necessary and appropriate to maximize the utility of this information collection. It will give CMS an accurate understanding of states' compliance status and facilitate accountability as states work toward compliance. Furthermore, the burden estimates included in the PRA package appear reasonable and are well justified by the public benefit that this compliance template will provide.

States have been permitted to operate non-compliant eligibility and enrollment systems for over a decade, contributing to churn, gaps in coverage and care, and hardship for eligible Medicaid enrollees. It is imperative that these deficiencies are finally comprehensively addressed. This template contains essential information to ensure that states conduct a full assessment of compliance, submit documentary evidence supporting their statements, and fully document actions, timelines, and mitigation strategies for areas of non-compliance.

CMS has indicated that they plan to release more detailed guidance on renewal requirements to assist states in identifying areas of deficiency. The compliance plan template could yield more consistent results if the guidance defines specific terms to ensure a common understanding of the rules. For example: what is a renewal "form," what data should be "prepopulated," what is a "reasonable amount of time" to return a form or information, what "all categories" includes (i.e., eligibility through HCBS programs or pathways used by small numbers of individuals), and what is considered "in-person" submission (i.e., can't be a kiosk in a local office). Although we think this process is a good step in an assessing compliance, we know from previous experiences that assurances may not reveal noncompliance. Therefore, we ask that CMS note that this process may identify additional deficiencies as CMS' reviews state templates and that the template alone is not a full assessment of a state's compliance with current renewal requirements.

Thank you for the opportunity to comment. If you have any questions or need additional information, please contact:

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