



Center for Medicaid and State Operations

SHO # 10-001
CHIPRA # 12

January 22, 2010

Re: CHIPRA Premium Grace Period

Dear State Health Official:

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3, provides additional funding to enable States to provide health coverage for low-income children through the Children's Health Insurance Program (CHIP) and Medicaid. This letter provides general information on section 504 of CHIPRA, which institutes a statutory grace period during which CHIP enrollees may pay their monthly premiums before being disenrolled and includes new requirements for States to notify families of their rights and responsibilities with respect to payment of premiums. Section 504 of CHIPRA amends the cost-sharing provisions at section 2103(e)(3) of the Social Security Act (the Act), and is applicable only to separate child health programs that impose premiums. Section 504 is effective as of the first day of a new coverage period on or after February 4, 2009, the date of CHIPRA enactment.

General Overview

This new provision requires States to grant individuals enrolled in separate child health programs a 30-day grace period, from the beginning of a new coverage period, to pay any required premium before enrollment may be terminated. The new coverage period will begin the month following the last period for which a premium was paid. States are required to inform CHIP enrollees that failure to pay any required premium within at least 30 days after the beginning of a new coverage period will result in termination of coverage. This notice must be sent to the family no later than seven days after the first day of the grace period. The State must provide this same grace period and notice for each coverage period for which a premium has not been received. Regulations in effect prior to CHIPRA also require that States provide families with an opportunity to show that their income has changed and as a result, may qualify for a different premium amount. The notice will provide States with the opportunity to assure that families have this information as soon after enrolling as possible.

Section 504 also requires States to inform enrollees of their right to challenge a proposed termination of coverage for failure to pay the premium, consistent with regulatory requirements for disenrollment protections at 42 CFR 457.570. Regulations in effect prior to CHIPRA further require timely notice before termination of coverage and an opportunity for individuals to seek a

review of their termination; for example, if the individual believes the premium was, in fact, paid in a timely manner.

Example of Premium Grace Period Notice

In this instance, a family’s premium is due by September 30 for the new coverage period beginning October 1. If the premium is not received by September 30, the State must send a notice to the family no later than eight days into the new coverage period (that is, seven days after the first day of the coverage period), or by October 8, that payment must be received by October 30 (the end of the grace period) or the individual(s) enrolled in coverage will be terminated. If the premium payment for October is received by October 30, coverage continues; if payment is not received by October 30, the enrollee(s) can be terminated from coverage, provided all Federal regulations regarding notice and appeal rights have been met.

Section 504 does not specify the earliest date by which States must provide notice to enrollees about the premium grace period. While the Centers for Medicare & Medicaid Services (CMS) could give States some flexibility on this point, it is consistent with the establishment of the premium grace period that notice be given nearer to the beginning of the new coverage period (in the example above, within a short time before or after October 1).

Existing Regulations on Title XXI Cost Sharing Notice and Review Rights

While section 504 of CHIPRA pertains only to the premium grace period, the following discussion outlines the existing regulations that relate to this provision:

Changes in Income

Regulations at 42 CFR 457.570(b) require States to provide families an opportunity to show that their income has declined before coverage is terminated for non-payment of the premium. States should evaluate the family’s income and family size, in the event that a change might qualify the CHIP enrollee(s) for Medicaid eligibility. This requirement remains in effect and is unchanged by CHIPRA.

Timely Notice

Existing regulations at 42 CFR 457.1180 require States to provide timely written notice of determinations subject to review, including termination for failure to pay a premium, and the individual’s right to review of termination. Section 504 of CHIPRA explicit establishes a notice requirement of not more than seven days; that is, the notice must be provided within seven days after the first day of the grace period, and reiterates the current requirement, described below, to provide notice of the right to challenge the termination.

Review of State Agency Decisions

Current regulations at 42 CFR 457.1130 and 42 CFR 457.570(c) require States to give CHIP enrollees an opportunity for State review of a decision to terminate enrollment based on a failure to pay cost sharing, including premiums. Enrollment continues during the review process, as specified in 42 CFR 457.1170.

The review process to address disenrollment from coverage for failure to pay a premium is described in regulation at 42 CFR 457.1120 and must be described in Section 8.7 of the State child health plan, related to cost sharing and payment. These regulations require States to implement one of two review processes - either a program specific review process that complies with CHIP regulations; or a Statewide Standard Review process that complies with the requirements for all health insurance issuers in the State.

A program-specific review must be timely and impartial. Enrollees have a right to representation, review their files, participate in the review, and receive a written decision. If the State follows a program specific review process, then current CHIP regulations at 42 CFR 457.1170 require coverage to continue, pending the completion of the review or challenge of a decision to disenroll for failure to pay a premium.

Next Steps

As noted above, the premium grace period provision was effective upon enactment of CHIPRA and States with separate child health programs that impose premiums are expected to be in compliance with this new provision immediately, unless State legislative authority is needed to come into compliance. States that still need to make changes in their procedures should contact CMS for technical assistance as needed. We will continue to work with States to implement these provisions in a manner that is consistent with the statute.

Questions and answers that provide further clarification and guidance are enclosed with this letter. If you have questions regarding this guidance, please send an e-mail to CMSOCHIPRAQuestions@cms.hhs.gov or contact Ms. Victoria Wachino, Director, Family and Children's Health Programs Group, at (410) 786-5647.

Sincerely,

/s/

Cindy Mann
Director
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Enclosure

cc:

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Enclosure

Questions and Answers Regarding the Premium Grace Period

Question 1: Will States have to do this every month? For people who get behind on their payments, there could be an endless cycle of grace periods and late notifications.

Answer: Yes, States must comply with this provision for each new coverage period for which a premium has not been received. States must provide the family with a notice giving a certain date by which the payment must be received or coverage will be terminated, pursuant to disenrollment protections at 42 CFR 457.570. States must continue to provide coverage until the period has expired, at which point coverage may be terminated if a payment has not been received, unless coverage must continue while the termination decision is under formal review in accordance with the enrollee's review rights. We welcome hearing from States on promising practices and will commit to providing technical assistance as States work to implement this provision.

Question 2: Are individuals required to appeal termination within a specified timeframe?

Answer: Neither CHIPRA nor the current CHIP regulations specify a timeframe within which an individual must request review of a decision or challenge a termination based on failure to pay a premium, so States can decide this timeframe within the parameters of existing regulations at 42 CFR 457.570.

Question 3: Section 504 of CHIPRA requires a 30-day grace period and a notice to be sent to enrollees who failed to make timely premium payments. The notice is to inform the enrollee that if payment is not received by the end of the grace period that the coverage will terminate. There is no indication of what date the coverage should be terminated. At what point are States permitted to terminate coverage?

Answer: The law allows flexibility in this regard – States are permitted to terminate coverage at the end of the grace period if the premium is not paid, or they may grant beneficiaries time beyond the required period. The intent is to allow the enrollee time within the new coverage period to pay the overdue premium before coverage is terminated. States must explain in their State plans the consequences for an enrollee's failure to make a premium payment, including how the grace period functions.

Question 4: Is it acceptable to retroactively terminate the coverage effective with the first day of the grace period if we inform the enrollee in the notice that if payment is not received, any medical claims during the grace period will be the responsibility of the enrollee to pay? Or is it expected that the State and Federal Government will pay the full amount for that month of coverage?

Answer: No, it is not acceptable to retroactively terminate coverage. The purpose of the grace period is for enrollment and coverage to continue, so a State may not hold the enrollee accountable for any medical claims during the grace period. The State may submit any claims during the grace period and will receive the enhanced CHIP match.

Question 5: Can an individual re-enroll after termination? Is there a specific period of time before re-enrollment can occur?

Answer: Current CHIP regulations at 42 CFR 457.570(a) require States to give enrollees an opportunity to pay past due premiums, copayments, coinsurance deductibles or similar fees prior to disenrollment. There is no statutory or regulatory authority on re-enrollment after termination. States will decide on the timing of re-enrollment and any required payment for prior periods of enrollment.

Question 6: Does CMS have a model or some examples of grace period notices that it could share with the States?

Answer: Yes. CMS is in the process of gathering examples from States and will share them as soon as possible. Simple, easy-to-understand notices that meet the regulatory requirements will help assure that families are properly informed of their rights and responsibilities with respect to premiums and other cost sharing.