



## **Policy Directive 2023-11-01**

### **Title: Incarceration Suspension**

**Date: November 21, 2023**

**From: Erin Kelley, Senior Manager**

**Program(s) Impacted: All Medical Programs**

The purpose of this document is to provide updated processing guidance regarding individuals who become incarcerated while receiving coverage on a Medicaid program. It also clarifies the requirements for CHIP minors who enter a correctional facility while in a CHIP continuous eligibility period. This directive supersedes policy in PM2010-10-01 and PM2021-05-01 and is effective upon release.

#### **A. Background**

Per long-standing federal regulations, Medicaid and CHIP funds are excluded from the payment of medical claims for individuals residing in a correctional facility except for certain emergency qualifying events. For this reason, when a Medicaid recipient enters a correctional facility (i.e., prison, jail, or other non-Medicaid eligible public institution) coverage must be deactivated or suspended upon entry. Likewise, when an application is received on behalf of a Medicaid-eligible incarcerated individual, coverage must be delayed until the release date.

Per PM2010-10-01, eligibility ends with timely notice for an individual who enters a jail or penal facility, and coverage may only be reinstated when there are other active recipients on the case.

#### **B. Eligibility Suspension**

Based on CMS requirements for this population, while incarceration disallows Medicaid payment of medical claims, it does not impact a person's medical eligibility. This means a person will maintain eligibility for Medicaid while residing in a correctional facility and upon release may have benefits reinstated without a new application as long as they continue to meet categorical program requirements (age, residency, etc.). This also means that an application may not be denied solely due to a person's incarceration status. An incarcerated individual must be determined based on eligibility related factors, and if eligible, coverage will begin upon release (see PM2007-06-01 and PM2019-08-01 for policy and processes specific to pre-release and reinstatements for this population). If the person is in a current continuous eligibility (CE) or review period, they may be reinstated for the remainder of that period, or a new CE period may begin, depending on program eligibility.

**NOTE:** For individuals on the Appriss file who are no longer in a CE period at the point of release, special processes apply, see PM2019-08-01.

### **C. Notices**

Because the KEES and KMMS systems do not have date-specific functionality for managed care programs and coverage is authorized on a monthly basis, coverage will remain active through the end of the month in which a person becomes incarcerated and once reinstated, will backdate to the beginning of the month of release; however, back-end processes are in place to ensure improper payments are not made for bills incurred while the individual is residing in the correctional facility. Going forward, consumer notices should reflect the actual dates of incarceration and release when we end and reinstate coverage for members who become incarcerated. The Standard Copy and Paste (SCP) has been updated to include Notices of Action (NOAs) for discontinuance/suspension for recipients entering a facility, one for adults and one specific to minors. For reinstatement upon release, the current General Notice of Reinstatement may be used. On each of these NOAs, the effective dates must be specific to the actual dates of incarceration and release.

### **D. CHIP**

While for Medicaid recipients (including minors), incarceration does not impact eligibility and an application may not be denied for an incarcerated applicant on the basis of incarceration alone, the statutory rules differ for the CHIP program in that a new CHIP eligible applicant cannot be enrolled while in an incarcerated setting. For this reason, when an application is received requesting coverage for an incarcerated child, and the child is found to be otherwise CHIP eligible, the application must be denied due to the incarcerated status.

The exception to this rule is when a child is currently receiving coverage on the CHIP program and enters a correctional facility during a CE period. Incarceration is not an exception to CE, so in this case, coverage may not be terminated on the basis of incarceration; rather, similar to what is stated above, coverage would temporarily end (i.e., be suspended) until the agency was notified of the child's release at which point the child would be reinstated for the remainder of the existing CE period.

**NOTE:** If the child was not released prior to the expiration of the CE/review period, coverage would not be reinstated without a new application or review form.

For questions or concerns related to this document, please contact the KDHE Medical Policy Staff at [KDHE.MedicaidEligibilityPolicy@ks.gov](mailto:KDHE.MedicaidEligibilityPolicy@ks.gov).

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