

**DATE:** December 7, 2020

**OPERATIONS MEMORANDUM #20-12-03**

**SUBJECT:** Exceptions to Maintaining Medical Assistance (MA), Including Long-Term Care (LTC) and Home and Community-Based Services (HCBS) Enrollment during the Public Health Emergency (PHE) - Coronavirus (COVID-19)

**TO:** Executive Directors

**FROM:** Inez Titus  
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**PURPOSE**

To provide county assistance offices (CAO) with information on new policies and procedures for maintaining MA benefits during the COVID-19 public health emergency. Information in this operations memorandum is effective immediately.

**BACKGROUND**

The Families First Coronavirus Response Act (FFCRA) signed into law on March 18, 2020, allows states to claim a temporary funding increase in the Federal Medical Assistance Percentage (FMAP). To qualify for the increase in funding, MA recipients who were enrolled on or after March 18, 2020, cannot have their MA benefits closed or reduced during the public health emergency. The Centers for Medicare and Medicaid Services (CMS) recently issued a new regulation at 42 CFR § 433.400 and corresponding guidance. The new CMS regulation and guidance allow states to close MA benefits for individuals who are not “validly enrolled,” and allows benefit reductions in situations where an individual becomes eligible and enrolled in Medicare, an HCBS recipient is no longer functionally eligible, an individual’s cost of care to an LTC facility would increase, an individual would incur a period of ineligibility for LTC and HCBS, or an individual would experience an eligibility change to the Medicare Buy-In Program.

## **DISCUSSION**

Per previous guidance, County assistance offices (CAOs) and processing centers (PCs) will not close any MA, LTC, or HCBS budget at renewal, SAR, case maintenance, or change in circumstance except for the reasons listed below:

- An individual is no longer a resident of Pennsylvania.
- An individual request that their benefits be closed (voluntary withdrawal).
- An individual has passed away.
- Presumptive Eligibility (PS17 and MG17) – the CAO will allow MA to close at the end of the presumptive eligibility period if the individual is not eligible for ongoing MA.
- Inpatient Inmates MA (categories with program status codes 38 and 39) – the Central Unit will continue to process MA for inpatient inmates for a period of hospitalization only.
- Inter-County Transfers (ICT) – the losing CAO will follow the existing process to close MA when completing an ICT. The gaining CAO will open MA from the day after MA closed.
- MA for lawfully residing non-citizens turning age 21 and pregnant women at the end of the postpartum period – the CAO will allow MA to close if the individual is not eligible for another MA category.

In addition to the reasons listed above, effective with this Ops Memo, CAOs and PCs may now close individuals who are considered not “validly enrolled.” Per CMS guidance, individuals are considered **NOT** validly enrolled if they were open in an MA budget due to:

- Agency error - applies to MA application determinations made before, on, or after March 18, 2020, and for MA renewal determinations made before March 18, 2020.
- Fraud or abuse – only pertains to individuals who have been convicted of fraud through the legal system, OR who have had a finding of abuse determined by an investigation and formal finding of abuse by Office of State Inspector General. Applies to MA application determinations made before, on, or after March 18, 2020, and to MA renewals determinations made prior to March 18, 2020.

Individuals must have a renewal completed before their MA can be closed for agency error or fraud or abuse. The CAO must send a manual renewal packet and PA 253 requesting verification items and giving the individual 30 days to return the forms and verification. If renewal forms or verification are not received or if the individual is determined ineligible due to fraud, abuse, or agency error, MA should be closed. If renewal forms and verification are provided and the individual is determined eligible, MA benefits should be maintained.

When MA benefits are closed, an advance notice must be provided to include appeal and fair hearing rights.

**NOTE:** Workers do not have to go back and review cases that were kept open, this new policy applies to cases that are processed on or after the issuance of this OPS Memo.

### **PARIS Match/Exchange 9**

When an individual is identified through an Exchange 9 data match with the Public Assistance Reporting Information System (PARIS) as receiving a public benefit in another state, this information must be verified. The caseworker must:

- Review the PARIS match identifying the individual as being enrolled in a public benefit program in another state.
- Request for the individual to provide verification of their Pennsylvania (PA) residency.
  - If verification is provided or obtained and the individual is a PA resident, maintain MA benefits. If verification provides proof that the individual is no longer a PA resident, then close MA.
  - If verification is not provided by the individual and the caseworker makes a reasonable effort to obtain verification from available sources, but is unable to verify PA residency, then close MA.

**NOTE:** After closing MA, if the caseworker obtains verification of the individual's PA residency, MA benefits should be reinstated back to the date of closing.

### **UPDATES TO PROCESSING MA BENEFIT REDUCTIONS**

As per previous guidance, CAOs and PCs should not make changes that result in a reduction of MA benefits, unless the reduction meets an allowable exception listed below or the individual requests a reduction in benefits.

### **MA Recipients who also Receive Medicare**

New CMS guidance requires individuals who have a reduction in MA benefits but have Medicare and continue to be eligible in a Buy-In MA program to meet the requirement of having Minimum Essential Coverage (MEC). Such individuals must have their MA changed if they become eligible for one of the following programs:

- Qualified Medicare Beneficiaries (QMB) – PG00
- Specified Low-Income Medicare Beneficiaries (SLMB) -TA/TJ65, TA/TJ66
- Qualifying Individuals (QI) – TA/TJ67
- Qualified Working Disabled Individuals (QWDI) – PA/PM/PJ86

**Example One:** Roger is in an MG91 category. He turns age 65. He is eligible and enrolled in Medicare. The CAO verifies resources and runs eligibility. Roger is now eligible for MA as a TA67. The CAO will allow him to transition to TA67 based on CMS's new guidance.

**Example Two:** Mindy is a Medical Assistance for Workers with Disabilities (MAWD) recipient who turned age 65 and began receiving Medicare in November 2020. The CAO will allow her to transition to TA67 based on CMS's new guidance.

**Example Three:** Sam is a PH80 recipient. At renewal, his resources now exceed the Healthy Horizons resource limit and he is eligible for PG00. The CAO will allow him to transition to PG00 based on CMS's new guidance.

If an individual is Medicare eligible and is **NOT** eligible for one of the Buy-In categories listed above at renewal, the CAO will complete a category override into a MG91 or PH00 category. When a category override is needed, the CAO must suppress the client notice and enter a narrative in the Case Comments to explain that the reason for maintaining MA eligibility is due to the provisions of the FFCRA.

**Example One(a):** Roger is in an MG91 category and he turns 65. He is eligible and enrolled in Medicare. The CAO verifies resources and runs eligibility. Roger is not eligible for a Buy-In category. The CAO will complete a category override to maintain his eligibility in MG91.

**Example Two(a):** Mindy is a MAWD recipient who turned age 65 and began receiving Medicare in November 2020. She is determined not eligible for a Buy-In category. The CAO will complete a category override to authorize her PH00.

Additionally, CMS provided guidance that an individual's Buy-In should be closed if they have an increase in MA coverage and are no longer eligible for Buy-In.

**Example Three:** Anne receives Part B Buy-In only as a Qualifying Individual (QI) in TJ67. She requests to be reviewed for MAWD. She is determined to be eligible for MAWD *without* Buy-In (PW00). The CAO will inform Anne that she must make a choice between MAWD and Buy-In only. If Anne chooses MAWD, the CAO will allow PW00 to open and will process a manual delete on Exchange 7 to close Buy-In, following policy in [MAEH 388.51](#).

Due to this new guidance, PMW 19917-316 and PMA 20163-388 are now obsolete.

### **Foster Care**

For Foster Care and Adoption MA (categories with program status codes 30-37), the CAO will allow MA to close in the category with program status code 30-37 when the child is discharged or ages out. Children who are discharged and returned to the home of removal where they previously had MA will be reopened in that case in the appropriate MA category. For all other discharges and age outs, the CAO will open MA in an appropriate category based on age (MG27, MG00, MG91, etc.).

### **Supplemental Security Income (SSI) Recipients in Suspended Status**

SSI recipients who become ineligible for SSI per the State Data Exchange (SDX) interface must be reviewed for eligibility in other MA categories with the same MA coverage as the SSI budgets (A, J, M) as discussed in [MAEH 387.53](#).

- If the individual has Medicare and is eligible for a Buy-In program, they must transition to a Buy-In program.
- If the individual is not eligible for MA in a category that offers the same MA coverage, the individual should remain in Suspended SSI.

### **UPDATES TO PROCESSING LTC AND HCBS CHANGES**

#### **HCBS Recipients who are No Longer Functionally Eligible**

HCBS recipients no longer eligible to receive waiver services due to functional ineligibility or who no longer need waiver services must have their waiver benefits closed once a PA 1768 verifying ineligibility is received in the CAO. These individuals must be reviewed for straight MA and Buy-In (if receiving Medicare). If not eligible for straight MA or Buy-In only the CAO will complete a category override to authorize in a PH00 category. Due to this new guidance, PMN 20071-468 is now obsolete.

**Example One:** The CAO receives a PA 1768, HCBS Eligibility/Ineligibility/Change form verifying John no longer meets functional eligibility requirements for HCBS. John is eligible and enrolled in Medicare. The CAO reviews and he continues to be eligible as a TA67. The CAO will end-date

the waiver code and authorize TA67. If John had not been eligible for a Buy-In category, the CAO would have to perform a category override to authorize him PH00.

### **Increase to the Cost of Care for LTC Facility Recipients**

CMS has clarified that LTC facility recipients may have their payment towards their cost of care increased during the PHE. Income increases can be processed as usual per existing policy. Any cost of care changes that were not acted on based on previous guidance should be updated the next time eligibility is run after the issuance of this OPS memo.

### **Home Maintenance Deductions (HMDs) that Expire**

This new guidance also requires HMDs to be terminated once they expire. Overdue "LTC 215" alerts due to the issuance of PMN 19993-468 should now be processed to end the HMD with advance notice. Ongoing HMD terminations should be processed timely according to existing policy. Due to this new guidance, PMN 19993-468 is now obsolete.

### **Establishment of an Ineligibility Period for LTC/HCBS**

CMS has clarified that LTC/HCBS recipients who transfer assets for less than fair market value or who have excess home equity may be penalized during the PHE. Due to this new guidance, PMN 20051-440 is now obsolete. If the CAO is working on a recipient's case and a penalty period exists that was not applied due to previous guidance, or if the CAO identifies a penalty period, the CAO should apply the penalty period and send an advance notice per policy found in [LTCH 440.851](#). Also, if the CAO did not previously check for gifting due to the previous guidance related to the pandemic, the CAO must do so now and apply a penalty for any asset transfers.

**NOTE:** The transfer exceptions in [LTCH 440.812](#) and the undue hardship provisions in [LTCH 440.89](#) apply.

## **RENEWALS AND SAR PROCESSING**

CAOs and PCs will process MA renewals and SARs using the following procedures:

- Budgets due for renewal or SAR are **not** to be closed for failure to provide a renewal packet, SAR form, or verifications.
- If a renewal packet or SAR form is returned with verification or data source information is reasonably compatible for MA and the individual will remain eligible, the renewal or SAR should be processed.

- If a renewal or SAR is returned with verification (or data source information is reasonably compatible for MA) and will result in budget closure due to excess income, the renewal or SAR should not be processed for MA. The MA should remain open and the work renewal work item should remain overdue.

This applies to currently due as well as overdue renewal and SARs from previous months which have not yet been processed.

For combination renewals, the caseworker must ensure that MA benefits are maintained, unless the renewal results in a valid MA closure or reduction as listed above.

CAOs and PCs should process renewals and SARs following current timeliness standards whenever possible. However, if needed due to the COVID-19 emergency, the CAO should continue to use the flexibilities allowed in timeliness and verification standards during the emergency. If the delay was caused by the emergency, caseworkers should narrate that the COVID emergency was the reason for any delay in processing.

The CAO or PC should process any reported changes through maintenance mode (using normal processing times). The caseworker should ensure that MA benefits are maintained, unless the reported change results in a valid MA closure or reduction.

### **MA RELATED HEARINGS AND APPEALS**

CAOs will follow the timelines for MA related appeals as outlined below:

- The CAO will accept MA appeals filed within 90 days from the date of the written notice of a CAO decision or action.
- The CAO will continue MA if the individual appeals after 15 days of the date an advance notice is sent **and** requests that their MA benefits be reinstated until the Bureau of Hearings and Appeals makes a hearing decision.
- If the CAO receives an appeal with an expedited fair hearing request, the CAO will continue MA benefits even if the appeal was received after 15 days of the date an advance notice is sent and follow the normal appeal process as outlined in the Supplemental Handbook Chapter 870.

**Reminder:** For MA, if an individual appeal within 15 days of the date an advance notice is sent, the CAO should follow current procedure and maintain MA benefits.

### **ADDITIONAL INFORMATION**

The following Policy Clarifications are obsolete with the issuance of this Ops Memo:

- PMA 20163-388
- PMN 19993-468
- PMN 20051-440
- PMN 20071-468
- PMW 19917-316

### **NEXT STEPS**

1. Share and review this information with appropriate staff members.
2. Direct questions regarding this Operations Memorandum to your Area Manager.
3. This policy is in effect until the end of the COVID-19 public health emergency.