

# Unwinding the Public Health Emergency: Strategies for Advocates to Protect Medicaid Beneficiaries

Gelila Selassie, Justice in Aging

Tiffany Huyenh-Cho, Justice in Aging

February 6, 2024

# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBTQ+ individuals, and people with limited English proficiency.

# Objectives

- Review updates on the Medicaid unwinding and restart of Medicaid renewals
- Understand the impact of the unwinding on individuals dually eligible for Medicare and Medicaid
- Identify common issues affecting dually eligible individuals and older adults
- Identify best practices and advocacy strategies to reduce and prevent unnecessary terminations and preserve access to Medicare and Medicaid

# What is the Medicaid Unwinding?

- Unwinding of Public Health Emergency (PHE) protections, including continuous coverage
  - Individuals enrolled in Medicaid as of March 2020 “shall be treated as eligible for such benefits through the end of the month in which such emergency period ends”
    - Must remain enrolled even if no longer financially eligible
- Congress passed legislation which required states to resume Medicaid annual renewals in April 2023 after a 3 year pause
- 14 month unwinding period—April 2023 to May 2024

# Unwinding Updates

- Medicaid enrollment grew 33% to 94 million February 2020 to March 2023
- 30 million renewed Medicaid
- 15.7 million people terminated from Medicaid
  - Texas – 61%
  - Arkansas – 59%
  - Colorado – 48%
  - Maine – 13%
- Overall, 71% of terminations due to procedural reasons
  - Utah & New Mexico – 94%
  - California – 89%
  - Oregon – 40%
  - Illinois – 13%

Source: [Kaiser Family Foundation Unwinding Tracker](#)

# Obstacles to PHE Unwinding

- Re-determination process
  - Incomes and assets fluctuated over 3 years
  - People moved/can't be contacted for renewal
  - Language access issues
  - Confusion over renewal process & completion of forms
  - Transitions/gaps in coverage
  - Issues with Supplemental Security Income-Medicaid
    - Continued confusion and phone issues
    - Current case backlog
  - Massive influx to legal services and other assisters
  - County Medicaid offices and providers experiencing workforce shortage and high turnover



# Renewal Flexibilities

- States can implement strategies under 1902(e)(14)(A) to simplify renewals and reduce unnecessary terminations
  - Automatic renewals for those with stable income
  - Automatic renewals for those with \$0 income
  - Extended timeframes to appeal negative actions
  - Strategies to update contact information
- Extended to December 31, 2024
- **Advocacy Tip:** Learn what renewal flexibilities your state has implemented
  - Medicaid.gov [Waiver Approvals](#)

# Challenges Facing Dually Eligible Individuals

- Around 12.5 million individuals dually eligible for Medicare and Medicaid
  - State reporting requirements are limited
  - Unknown how many dual eligibles have either lost Medicaid or their Medicare Savings Program (MSP)
- Disenrollments lead to loss of Medicaid services
  - Medicaid covered transportation
  - Medicaid Long Term Services and Supports (nursing home and Home- and Community- Based Services)
  - Dental coverage (optional benefit)
  - Medicaid payment of Medicare premiums and cost-sharing

# Common Unwinding Issues

- Individuals not being assessed for eligibility in other Medicaid programs before termination
- Automatic termination notices may be sent even though paperwork was submitted timely
- Call center staff providing incorrect or insufficient information (or not answering)
- Accessibility issues for people with disabilities needing additional accommodations
  - Renewal information and notices not getting sent to authorized representatives

# Additional Issues for Dual Eligibles

- Individuals receiving SSI-Medicaid required to complete new applications upon renewal
- Medicare-eligible individuals not being enrolled in Medicare Special Enrollment Period (SEP) or directed to the Marketplace
- Dually eligible individuals losing access to Dual-Eligible Special Needs Plans (D-SNPs) and Prescription Drug Plan (PDP)
- Individuals approved for a Medicare Savings Program (MSP) still having their Medicare premiums deducted

# Challenges with Dual-Eligible Special Needs Plans

- Loss of Medicaid jeopardizes enrollment in Dual-Eligible Special Needs Plan (D-SNPs)
- D-SNP disenrollment due to Medicaid loss leads to
  - Disruption in access to current providers or delays in scheduled appointments and care
  - Loss of supplemental benefits provided by D-SNP (dental, vision, hearing)
- Must promptly enroll in new prescription drug plan because D-SNP is also the prescription drug plan
- Deeming Period: Optional, can be 3-6 months
  - Grace period keeping dual eligible in the plan and access to D-SNP covered services

# Challenges with Medicare Buy-In

- Some MSP enrollees are having their Medicare premiums deducted from Social Security checks despite an approval from the state confirming MSP eligibility
  - With MSPs, the state submits the payment for the individual's Medicare premiums to the Social Security Administration (“buy-in”)
- Although not specific to unwinding, the onslaught of renewals exacerbated existing issues within states
- Resolving this issue is incredibly complex- please reach out to us at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov) for assistance

# Promising Practices (1/2)

- Make sure contact information is updated
  - Including contact information for authorized representatives, guardians, etc.
- Review all notices—may be moved to a less robust Medicaid program
- Timely appeal improper terminations or reductions in benefits
  - Can request appeal pending benefits
  - Practice Tip: Determine if your state extended their appeal deadlines
- Most states offer reconsideration period if necessary documents are submitted within 90 days
- For individuals on SSI-Medicaid receiving renewal packets, contact the Medicaid office to confirm SSI-Medicaid enrollment

# Promising Practices (2/2)

- Medicare-eligible individuals who did not enroll during the PHE because of Medicaid coverage should request the Medicare SEP
  - May need to cite the Program Operations Manual Systems (POMS) [HI 00805.385 Exceptional Conditions Special Enrollment Period \(SEP\) for Termination of Medicaid Eligibility.](#)
- Dually-eligible individuals who lost their D-SNP can contact SHIP counselors for more coverage options
  - Check if any D-SNPs offers a “deeming” period where individuals can remain enrolled in the plan with the hopes that Medicaid will soon be reinstated



# Tips

- Low Income Subsidy/Extra Help eligibility extends beyond the Medicaid termination date
  - Can retain financial assistance for Part D prescriptions for 6 months to a 1.5 years after loss of Medicaid
- Example: Saul receives notice in June 2023 from his Medicaid agency that his Medicaid is ending because his income increased. His Medicaid will end June 30<sup>th</sup>, 2024. Saul's Low Income Subsidy enrollment will continue through December 31, 2024.
  - If Saul received notice in August 2024, his Low Income Subsidy would not end until December 31, 2025. Social Security Administration will reassess eligibility for 2025 and send notices.

# Resources

- [CMS State Strategies to Minimize Terminations for Procedural Reasons](#)
- [CMS Unwinding Resources](#)
- [California Unwinding Outreach Toolkit](#)
- Justice in Aging Resources
  - [Medicare Part D Low-Income Subsidy & Medicaid Unwinding—Tips for Advocates](#)
  - [COVID-19 PHE and Unwinding Resources](#)
- National Health Law Program: [COVID-19 Continuous Coverage and Public Health Emergency \(PHE\) Unwinding Resources](#)

# Building Capacity to Address Expected Issues

- Legal assistance, elder rights, & aging services providers can build capacity and expertise to address ongoing Medicaid issues
- NCLER Trainings & Resources:
  - Medicaid Appeals: [Recording](#)
  - Medicare Administrative Law Judge Hearings: Advocacy Tips: [Recording](#)
  - An Advocate's Guide to Appealing Prescription Drug Denials: [Recording](#)

# Questions?

# Visit Our Website: [ncler.acl.gov](http://ncler.acl.gov)

NATIONAL  
CENTER ON  
**LAW &  
ELDER  
RIGHTS**

Search for resources

**Read practice tips**

Sign up for the email list

**Request a case consultation**

Learn about upcoming trainings

[ncler.acl.gov](http://ncler.acl.gov)



# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).