October 21, 2021

The Honorable Charles Schumer
Majority Leader
U.S. Senate
S-221 Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
S-203 Capitol
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-222 Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-2-4 Capitol
Washington, DC 20515

Dear Leader Schumer, Speaker Pelosi, Minority Leader McConnell, and Minority Leader McCarthy,

The National Association of Medicaid Directors (NAMD), ADvancing States, the National Association of State Directors of Developmental Disabilities Services (NASDDDS), and the National Association of State Mental Health Program Directors (NASMHPD) are writing to request that Congress provide state Medicaid programs with additional certainty regarding the availability of enhanced federal resources to support states as they navigate the remainder of the COVID-19 Public Health Emergency (PHE) and the significant challenges in conducting coverage redeterminations for the many individuals covered by the Medicaid program during the pandemic.

We specifically request that Congress:

- Decouple the Families First Coronavirus Response Act (FFCRA)'s 6.2 percentage point Federal Medical Assistance Percentage (FMAP) enhancement from the PHE. Instead, provide certainty for states by offering this enhancement for 12 months following the end of the month in which the PHE ends.
- Mitigate a fiscal cliff for Medicaid programs by gradually phasing out the FFCRA FMAP enhancement over at least three quarters after this 12-month post-PHE period.
- Beginning July 1, 2022, sunset the Medicaid continuous enrollment requirement that is a condition of receipt of FFCRA's FMAP enhancement. This will provide states with certainty for budgeting and enrollment projection purposes and, for many states, align with the beginning of the fiscal year.

Medicaid Directors greatly appreciate the actions Congress took in the early months of the pandemic to provide states with critical resources to respond to the COVID-19

pandemic, namely the 6.2 percentage point FMAP increase provided in FFCRA. These resources supported state efforts to address the pandemic, including rapid expansion of telehealth service availability, creating innovative programs to increase access to COVID-19 tests and vaccines, supporting essential providers through targeted rate increases and state-level provider relief initiatives, and other critical changes to strengthen the health of communities across the country.

However, as the nation nears a full two years under the PHE, the requirements that attach to state receipt of these enhanced federal resources are creating significant uncertainties as states project Medicaid program needs in the future. The continuous enrollment requirement under FFCRA, which mandates that any individual who was Medicaid eligible when the PHE began or becomes Medicaid eligible during the PHE to be maintained on Medicaid rolls, has contributed to unprecedented Medicaid enrollment nationwide. The latest data from the Centers for Medicare and Medicaid Services (CMS) shows that as of April 2021, over 82 million people were covered by Medicaid and CHIP, an increase of 16.4 percent since February 2020 which CMS attributes to FFCRA's requirements.[1] In some states, enrollment growth has increased 30 percent since the beginning of the PHE.

Several consequences emerge from this dynamic. States continue to have limited ability to accurately project program enrollment and expenditure growth into the future given the uncertainty around how long the PHE will continue. While the administration has signaled that the PHE will remain in place through CY 2021 and states will receive 60 days advance notice prior to its end, the trajectory of the pandemic suggests the PHE could realistically extend into 2022. Statute only allows the Secretary of Health and Human Services to renew the PHE every 90 days, which creates inherent uncertainty around how long it may continue. In turn, states are unable to accurately project the federal resources that will be available under FFCRA or anticipated enrollment growth resulting from the continuous enrollment requirement.

Further, current CMS guidance requires that states complete a full redetermination following the end of the PHE prior to taking an adverse action with respect to any Medicaid member. The guidance also gives states up to 12 months post-PHE to complete this work.[2] However, FFCRA's FMAP enhancements will only be available for one quarter of this 12-month period. As such, states will not have enhanced federal resources to support the intense administrative work that will be needed to complete these redeterminations timely and in a manner that ensures individuals transition to other appropriate coverage sources if they are no longer eligible for Medicaid. Additionally, a variety of activities must take place before disenrollments can begin, such as data verification activities and member notices, which require significant lead time to implement correctly.

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[1] CMS April 2021 Medicaid and CHIP Enrollment Trends Snapshot: https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/downloads/april-2021-medicaid-chip-enrollment-trend-snapshot.pdf

[2] https://www.medicaid.gov/federal-policy-guidance/downloads/sho-21-002.pdf

We have requested additional certainty from the administration about the extension of the PHE into CY 2022 to help mitigate these challenges, but the fundamental source of this uncertainty are the policies within FFCRA. As such, we call on Congress to revise these policies to provide states with certainty around the availability of federal resources during and following the termination of the PHE when normal eligibility operations may resume. We specifically request that Congress:

- Decouple the FFCRA's 6.2 percentage point FMAP enhancement from the PHE. Instead, provide certainty for states by offering this enhancement for 12 months following the end of the month in which the PHE ends. By making these resources available for a predictable period of time after the PHE, Congress will provide states with the critical markers necessary to allow for appropriate budgeting and the development of concrete operational plans. This will also align with the 12-month post-PHE window for states to complete redetermination work as allowed under current CMS guidance.
- Mitigate a fiscal cliff for Medicaid programs by gradually phasing out the FFCRA FMAP enhancement over at least three quarters after this 12-month post-PHE period. States will be extremely challenged to absorb a sudden loss of federal supports over one fiscal quarter. This can be alleviated by Congress creating a gradual pathway for phasing down the current FMAP enhancements.
- Beginning July 1, 2022, sunset the Medicaid continuous enrollment requirement that is a condition of receipt of FFCRA's FMAP enhancement. As noted above, states cannot predict when the PHE will end and thus cannot make reliable estimates about enrollment growth or when the variety of post-PHE activities must begin. By setting a date certain in statute when disenrollments may begin, Congress will support states in creating robust operational plans to ensure a smooth resumption of normal Medicaid operations.

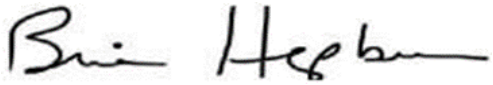
We appreciate your consideration of these requests.

Sincerely,

Matt Salo
Executive Director, NAMD

Martha Roherty
Executive Director, ADvancing States

Mary P. Sowers
Executive Director, NASDDDS



Brian Hepburn
Executive Director, NASMHPD