


ISSUE DATE December 20, 2023	EFFECTIVE DATE December 20, 2023	NUMBER 99-23-11
SUBJECT <i>Carr v. Becerra - Retroactive Reinstatement of Coverage</i>		BY  Sally A. Kozak, Deputy Secretary Office of Medical Assistance Programs

IMPORTANT REMINDER: All providers must revalidate the Medical Assistance (MA) enrollment of each service location every 5 years. Providers should log into PROMISe to check the revalidation dates of each service location and submit revalidation applications at least 60 days prior to the revalidation dates. Enrollment (revalidation) applications may be found at: <https://www.dhs.pa.gov/providers/Providers/Pages/PROMISe-Enrollment.aspx>.

PURPOSE:

The purpose of this bulletin is to inform Medical Assistance (MA) providers how to submit claims, including claims outside the 180-day claim submission timeframe, for MA beneficiaries whose coverage has been reinstated because of the decision in the United States District Court case, *Carr v. Becerra*, No. 3:22-cv-00988 (D. Conn).

SCOPE:

This MA bulletin applies to all providers enrolled in the MA Program.

BACKGROUND/DISCUSSION:

Under the Families First Coronavirus Response Act, Pub. L. No. 116-127 (2020) (FFCRA) enacted during the federal COVID-19 public health emergency (PHE), states received increased federal funding if they kept persons who were enrolled in Medicaid as of March 18, 2020, continuously enrolled in Medicaid with the same level of benefits, referred to as the continuous coverage requirement. There were very few exceptions to the Medicaid continuous coverage requirement.

On November 6, 2020, the Centers for Medicare & Medicaid Services promulgated an Interim Final Rule that revised its earlier guidance regarding the continuous coverage requirement and allowed a reduction of MA benefits for beneficiaries who, on or after

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate toll-free number for your provider type.

Visit the Office of Medical Assistance Programs website at:

<https://www.dhs.pa.gov/providers/Providers/Pages/Health%20Care%20for%20Providers/Contact-Information-for-Providers.aspx>.

March 18, 2020, the state determined were only eligible for coverage into a Medicare Savings Program (Buy-In). 85 Fed. Reg. 71,142 (Nov. 6, 2020), codified at 42 C.F.R. § 433.400. Consistent with the rule, the Department of Human Services (Department) moved some beneficiaries from full MA or a category that provided cost sharing benefits, into the Medicare Savings Program (Buy-In).

On January 31, 2023, the United States District Court for the District of Connecticut issued a nationwide preliminary injunction which ordered the Secretary of the federal Department of Health and Human Services (HHS) to reinstate its earlier guidance regarding the FFCRA. On March 2, 2023, the Court issued a clarifying Order.

As a result of this injunction and the subsequent HHS guidance, the Department stopped the reduction from full MA or Medicare cost-sharing benefits to the Medicare Savings Program (Buy-In). Additionally, the Department is required to restore MA or Medicare cost-sharing benefits for affected individuals back to the higher level of coverage they had before benefits were reduced. The Department will restore coverage for each affected individual back to the date coverage was first reduced. The Department will notify each affected individual of the begin and end dates of the restored coverage.

PROCEDURE:

Effective with the issuance of this bulletin, Medicaid covered services and benefits, including payment of Medicare Part A & B deductibles and coinsurances for Medicare covered services that were not covered or paid for on or after November 1, 2020, for affected individuals can be retroactively covered and paid by the MA Program.

Affected individuals will receive notice of their retroactive reinstatement of MA or Medicare cost-sharing benefits. This notice informs affected individuals to contact their providers to let them know about their reinstatement effective date(s). Providers can obtain the reinstatement effective dates through the Provider Inquiry Service Center at 1-800-537-8862 Option 2, then Option 6, then Option 1. Providers can also use the PROMISE™ Provider Portal or the Electronic 270/271 Process to verify the individual's eligibility dates.

Affected individuals can contact providers about any paid or unpaid bills they have for MA covered services, including pharmacy, they received for dates of service on or after November 1, 2020. Providers must submit these claims to the Department through the PROMISE™ system for payment. These claims will not be subject to timely filing edits in PROMISE™ as system changes were made to allow for claim submission beyond the normal 180-day timeframe. These claims will also not be subject to prior authorization or require a benefit limit exception. Services or items provided after the issuance of this bulletin will be subject to any benefit limit exception or prior authorization requirements that would otherwise be applicable.

If claims are paid by the Department and the affected individuals already paid for the service or cost-sharing, the provider must refund to the affected individuals the amount they paid out of pocket for services rendered and/or for the Medicare cost-sharing.

Providers are reminded that 55 Pa. Code § 1101.63(a) provides that providers must accept as payment in full, the amount paid by the Department for covered services plus any copayment that is required to be paid by the beneficiary. Providers are prohibited from balance billing MA beneficiaries.

Providers with questions about submitting these claims to the Department through the PROMISE system can call the Provider Inquiry Service Center at 1-800-537-8862 Option 2, then Option 6, then Option 1.