
CMCS Informational Bulletin

DATE: August 15, 2023

FROM: Daniel Tsai, Deputy Administrator & Director
Center for Medicaid and CHIP Services

SUBJECT: Further extension of the Spousal Impoverishment Rules for Married Applicants and Recipients of Home and Community-Based Services

The purpose of this CMCS Informational Bulletin is to advise you that the “Consolidated Appropriations Act, 2023” (P.L. 117-328, enacted on December 29, 2022) modifies section 2404 of the Patient Protection and Affordable Care Act (ACA) to require that state Medicaid agencies apply the spousal impoverishment rules to married applicants and beneficiaries eligible for home and community-based services (HCBS) through September 30, 2027.¹

The Consolidated Appropriations Act, 2023 provides a temporary extension of the ACA’s spousal impoverishment-related provision, which initially was set to expire on December 31, 2018, but has been extended several times through subsequent legislation.² CMS has informed states of prior extensions through CMCS Informational Bulletins.³ As CMS has noted with regard to previous extensions, states should continue to follow the guidance CMS published in SMDL #15-001 (“Affordable Care Act’s Amendments to the Spousal Impoverishment Statute,” available at <https://www.medicaid.gov/federal-policy-guidance/downloads/smd050715.pdf>) relating to the application of the ACA’s spousal impoverishment-related provision so long as section 2404 of the ACA is in effect.

CMCS is available to provide technical assistance as needed. If you have any questions, please contact Gene Coffey at Gene.Coffey@cms.hhs.gov.

¹ See Section 5115 (“Extension of Medicaid protections against spousal impoverishment for recipients of home and community-based services”) of the Consolidated Appropriations Act, 2023 (P.L. 117-328).

² See Section 3812 (“Extension of spousal impoverishment protections.”) of the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136); Section 2302 (“Extension of spousal impoverishment protections”) of the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159); Section 1105 (“Extension of spousal impoverishment protections”) of the Further Continuing Appropriations Act, 2021, and Other Extensions Act (P.L. 116-215); and Division CC, Section 205 (“Extension of the spousal impoverishment protections”), of the Consolidated Appropriations Act, 2021 (P.L. 116-260).

³ See <https://www.medicaid.gov/federal-policy-guidance/downloads/cib020819.pdf>; <https://www.medicaid.gov/federal-policy-guidance/downloads/cib050819.pdf>; <https://www.medicaid.gov/federal-policy-guidance/downloads/cib090419.pdf>; <https://www.medicaid.gov/federal-policy-guidance/downloads/cib021020.pdf>; and <https://www.medicaid.gov/federal-policy-guidance/downloads/cib050421.pdf>.