Want to know what CMS is telling your state agency? Tune in - and check out the 1/31/23 All-State call for specifics on CAA Section 5131 and unwinding.

PHE Unwinding Deep Dive

How will your state unwind? Find out! Document links now available.

HHS maintains a list of declared disasters.

Unwinding Tips for Advocates and KFF's Top 10 Things to Know!

CAA Section 5131 also includes state agency reporting requirements for 4/1/23 to 6/30/24, which will be publicly available.

CMS Resources: SHO# 23-002, CMS Bulletin from 1/5/23, and SHO #22-001, 10/17/22 guidance, and state unwinding resources.

Timely and adequate written notice is required! Limited exceptions at 42 CFR 431.213, 431.214, and 435.403. Retroactive termination of enrollment (for a validly enrolled beneficiary, whose benefits continued under MOE) violates FFCRA 6008(b)(3) and 42 CFR 431.211.

1/1/20 1/27/20 3/18/20 **PHE Effective** Start Date FFCRA 6008(b)(1)-(4) Start date for provided temporary MOE FMAP increase if requirements states complied with 4

MOE requirements

(b)(1), (2) & (4): initially ran to end of quarter PHE ended

Continuous Enrollment (b)(3): initially ran to end of month PHE ended

Chart developed by Lindsay Jones, Esq., attorney at Schraff Thomas Law, LLC, and proud member of the National Academy of Elder Law Attorneys.

CMS effected policy and regulatory revisions based on FFCRA 6008(b), via 42 CFR 433.400 and the IFR (modifying the continuous enrollment

11/2/20

Mod 1: protections limited to those "validly enrolled" as of 3/18/20

requirements)

Mod 2: introduced a three tier structure with intra-tier transitions

> Tier One had MSP (reduced services)

A nationwide preliminary injunction (Carr v. Becerra) rolls this back, in line with the order clarifying relief

CAA Section 5131 changed FFCRA language to gradually phase out the FMAP increase, and updated MOE end dates (separating those out from the end date for PHE)

12/29/22

42 CFR 433.400(c)(2)&(3) and 433.200 not updated by Section 5131, and still link directly to the PHE end date. CMS has indicated states will implement the modified effective dates, consistent with SHO #23-002

FFCRA 6008(b)(1),(2) & (4) will now end 12/31/23

FFCRA 6008(b)(3), ie continuous enrollment, will now end 3/31/23

End date for continuous enrollment requirements

State agencies must

3/31/23

comply with federal renewal requirements (42 CFR 435.916, 435.917, 431.211, 431.200, SSA 1902(e)(14)(A) & authorized alternatives) or corrective action under SSA 1904 and CAA Section 5131 ie SSA 1902(tt)(2)(B). A daily civil money penalty of up to \$100k can apply

Action Required! Timing is state specific. Advocate for transparency, ex parte renewals, fair hearing rights, and soft landings

PHE will expire at end of day

5/11/23

HHS Fact Sheet on the PHE expiration

Section 1135 Waivers will expire (unless SPA submitted)

End dates Covid-19 **Flexibilities**