

CMS CLARIFIES GUIDANCE ON PPACA MANDATORY MEDICAID TERMINATIONS

The Centers for Medicare & Medicaid Services (CMS) released updated guidance on Section 6501 of the Patient Protection and Affordable Care Act (PPACA) that requires state Medicaid agencies to terminate the participation of any individual or entity if such individual or entity is terminated under Medicare or any other state Medicaid plan.

While not expressed in PPACA, the final implementing regulations includes terminations from the Children's Health Insurance Plan (CHIP).

In 42 C.F.R. §455.101, *et seq.*, a "termination" is defined as occurring when a state Medicaid program, CHIP, or the Medicare program has taken action to revoke a Medicaid or CHIP provider's or Medicare provider or supplier's billing privileges and the provider has exhausted all applicable rights or the timeline for appeal has expired. CMS also indicated in the same regulations that the requirement to terminate under this Section of PPACA only applies in cases where providers, suppliers, or eligible professionals have been terminated or had their billing privileges revoked "for cause."

CMS stated "for cause" terminations do not include any voluntary action taken by the provider to end its participation in the Medicaid program, except where that voluntary action is taken to avoid a sanction. Providers who are terminated by states because they allow their medical license to expire due to relocation to another state does not qualify as a "for cause" termination and should not be reported or shared with other states. CMS does not believe this type of termination is within the spirit of the final rule and does not meet the definition of "for cause." While states must follow their own law regarding termination, CMS recommends states should only share terminations with other states when the termination is based upon fraud, integrity, or quality.

There are waivers states may request from the Secretary from carrying out a "for cause" termination. A state may request a waiver from CMS if the termination would impose a hardship in Medicaid beneficiaries in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.

Should you have any questions, please contact:

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