



# Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

## Review of Medicaid Coverage Provisions in Two Recently Enacted Coronavirus (COVID-19) Relief Bills<sup>1</sup>

March 30, 2020

This brief from the IHS Tribal Self-Governance Advisory Committee (TSGAC) provides to Tribes and Tribal organizations information on the Medicaid coverage provisions included in two coronavirus (COVID-19) relief bills enacted in March 2020. On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (Families First Act), which contained several provisions designed to promote Medicaid coverage for coronavirus testing, including providing enhanced federal financial assistance for this testing, as well as for Medicaid services generally.<sup>2</sup> A second coronavirus relief bill—the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), signed into law on March 27, 2020—revised and clarified these Medicaid coverage provisions.<sup>3</sup>

### Medicaid Coverage Provisions

The Families First Act includes several Medicaid coverage provisions that will continue to apply for the duration of the public health emergency declared by the secretary of the federal Department of Health and Human Services (HHS) on January 31, 2020, in response to the coronavirus outbreak. These provisions include:

- **A requirement** that states provide Medicaid coverage with no cost-sharing to currently eligible Medicaid populations for coronavirus testing (*i.e.*, in vitro diagnostic products for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19), including the administration of this testing and any associated (*i.e.*, testing related) medical visit.
- **An option** for states to extend to uninsured individuals Medicaid coverage for coronavirus testing, with the federal government covering 100% of the cost.
  - The Families First Act defined “uninsured individuals” as individuals who 1) do not qualify for Medicaid under a mandatory eligibility category and 2) are not enrolled in a federal health care program, a federal plan, or private health insurance coverage.<sup>4</sup>
  - The CARES Act clarified that individuals who live in non-Medicaid expansion states and would qualify for Medicaid if their state had adopted the expansion, as well as individuals who are enrolled in limited Medicaid coverage (*e.g.*, individuals with tuberculosis or breast or cervical cancer), could qualify as “uninsured individuals” under this definition.
- A 6.2 percentage point increase in the standard federal medical assistance percentage (FMAP)

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<sup>1</sup> This brief is for informational purposes only and is not intended as legal advice. For questions on this brief, please contact Doneg McDonough, TSGAC Technical Advisor, at [DonegMcD@Outlook.com](mailto:DonegMcD@Outlook.com).

<sup>2</sup> See H.R. 6201 at <https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.pdf>.

<sup>3</sup> See H.R. 748 at <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>.

<sup>4</sup> See new paragraph (ss) in section 1902 of the Social Security Act (SSA).

for Medicaid services, provided that a state:<sup>5</sup>

- Maintains eligibility standards, methodologies, or procedures no more restrictive than those in place as of January 1, 2020;<sup>6</sup>
- Not charge premiums that exceed those in place as of January 1, 2020<sup>7</sup>;
- Provides Medicaid coverage with no cost-sharing for coronavirus testing and treatment; and
- **Not terminate individuals from Medicaid if these individuals were enrolled in the program as of the date of the beginning of the emergency period, or become enrolled during the emergency period, unless these individuals voluntarily terminate eligibility or leave the state.**

#### Other Medicaid Provisions

Apart from the Medicaid coverage provisions, the CARES Act included several additional Medicaid provisions. These provisions include:

- An extension of the Money Follows the Person demonstration through November 30, 2020;
- An extension of spousal impoverishment protections through November 30, 2020;
- An extension (and expansion) of the community mental health services demonstration project to November 30, 2020; and
- A delay of scheduled reductions to disproportionate share hospital (DSH) payments to December 1, 2020.

#### Additional Resources

- Guidance from the federal Centers for Medicare and Medicaid Services (CMS) titled “COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children’s Health Insurance Program (CHIP) Agencies,” which addresses eligibility and enrollment flexibilities and other issues related to coronavirus, is available at <https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf>.
- CMS guidance titled “Families First Coronavirus Response Act—Increased FMAP FAQs” is available at <https://www.medicaid.gov/state-resource-center/downloads/covid-19-section-6008-faqs.pdf>.
- A CMS fact sheet titled “Coverage and Benefits Related to COVID-19: Medicaid and CHIP” is available at <https://www.cms.gov/files/document/03052020-medicaid-covid-19-fact-sheet.pdf>.
- A Web page that includes links to all HHS resources related to coronavirus is available at <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/covid19/index.html>.

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<sup>5</sup> This 6.2 percentage point increase applies to services funded under the state-specific FMAP rates, and as such does not apply to the 100% FMAP for services by IHS and Tribal providers to IHS eligible individuals.

<sup>6</sup> This is likely to block, at least temporarily, efforts to impose work requirements and to impose coverage or other restrictions pursuant to a Medicaid block grant, if not in place on January 1, 2020.

<sup>7</sup> The CARES Act delayed the imposition of this requirement by 30 days to enable states that had increased premiums to modify (*e.g.*, cancel) the premium increase in order to comply with this requirement."