

## Maintenance of Effort Requirements Under Health Reform

The historic health reform legislation (H.R. 3590) that was signed into law by the President on March 23, 2010, will have immediate implications for state Medicaid and CHIP programs. States are now required to maintain their eligibility levels for Medicaid until the Secretary of Health and Human Services (HHS) deems the states' new health insurance exchanges to be fully operational (anticipated to be on January 1, 2014). They are required to maintain their eligibility levels for children in Medicaid and CHIP through September 30, 2019. Although Congress is still debating the so-called reconciliation bill, which makes changes to certain parts of the health reform law, the maintenance of effort (MOE) provisions in H.R. 3590 took effect when the President signed it.

States are already subject to an MOE requirement mandated by the American Recovery and Reinvestment Act of 2009 (ARRA) that prohibits them from reducing eligibility levels for Medicaid through December 31, 2010. Congress is working on legislation that would extend the ARRA MOE (and provide extra federal Medicaid funding to help states balance their budgets) through June 30, 2011. The health reform MOE will effectively extend the ARRA MOE on Medicaid until 2014. The ARRA MOE does not affect CHIP programs, but the new health reform MOE does.

State legislatures are making critical decisions about state budgets now. Advocates and legislators should be aware that the health reform MOE will prevent cuts to Medicaid or CHIP eligibility levels, and it will also prohibit states from enacting policies that make it harder for people to get or keep Medicaid or CHIP coverage.

### Who Does the MOE Affect?

| Type of Coverage                      | Date It Went into Effect | Ending Date  | Populations Affected  |
|---------------------------------------|--------------------------|--|---|
| Children's Coverage (Medicaid & CHIP) | March 23, 2010           | October 1, 2019  | Children in Medicaid and CHIP and in Medicaid and CHIP waivers (under age 19 or as otherwise specified in the state plan for children's coverage) |
| Adults' Medicaid Coverage             | March 23, 2010           | The date the state exchange is fully operational (expected January 1, 2014)* | All non-child Medicaid populations  |

\* Beginning on January 1, 2014, states will be required to provide Medicaid coverage to all individuals with income below 133 percent of the federal poverty level who are not eligible for Medicare.

## What does the MOE cover?

- States are already subject to a Medicaid MOE as a condition of receiving the enhanced FMAP through the American Recovery and Reinvestment Act (ARRA).
- The health reform MOE is similar to the MOE in ARRA, but it also extends to CHIP. It prevents states from implementing cuts to eligibility levels, increases in premiums or enrollment fees, and more restrictive enrollment policies (for example, requiring more frequent recertifications, more documentary proof of income or assets than is currently required, or freezing enrollment in a program).
- States must maintain the eligibility and enrollment policies and procedures that were in effect on March 23, 2010. Cuts that have been enacted but that are not yet part of the state's Medicaid or CHIP plan cannot proceed, although states maintain the ability to expand their programs or implement more generous enrollment policies at any time.
- If a state violates either MOE (for Medicaid or CHIP), it will lose all federal matching funding for its entire Medicaid program until the violation is corrected.
- Between January 1, 2011, and December 31, 2013, states are exempt from the Medicaid MOE for non-pregnant, non-disabled adults with incomes greater than 133 percent of the federal poverty level if they certify to the Secretary of Health & Human Services (HHS) that they are facing a budget deficit for the current year or will face one for the succeeding year.



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