

Criteria for eRegulations Supplementary Content Placement

This document explains the eRegulations contractor team's process and criteria for determining which documents/links are tagged to which regulation section/subpart.¹ We welcome CMCS input on these criteria. Please see the appendix for a full description with examples.

The overall approach to tagging supplementary content to certain regulation sections/subparts is two-fold:

- 1. Make the Medicaid/CHIP policy research process more efficient by providing connections between explicitly relevant pieces of policy content.**

For example, when a State Medicaid Director Letter (SMDL) clearly indicates a very specific topic-area and has a citation to a Medicaid or CHIP regulation section or subpart that specifically pertains to that topic-area, the SMDL will appear on the website in the right sidebar of the relevant subpart.

- 2. Guide researchers to all potentially helpful content by linking materials that are not explicitly related to the regulation text but have general relevance that could benefit the research.**

For example, there may be a CMCS Informational Bulletin (CIB) related to the process for states to obtain a home and community-based services (HCBS) waiver, which is described in part 441, subpart G. However, someone researching that information may also find it useful to understand what services can be offered under a HCBS waiver, which is detailed in part 440, subpart A. Therefore, we might link the CIB to both part 441 and part 440 to give the user a more comprehensive view of the general subject matter they are researching, to help them feel more confident they have found all possible information.

In addition, by linking policy content in multiple places, it reduces the likelihood researchers will miss relevant information. Going back to the example above, an Internet search may have brought the person to part 440, subpart A, but what they were really looking for was information about the HCBS waiver application process. If they review the subregulatory guidance linked to part 440, subpart A, they will still find information about the application process. The more we can link related policy information in multiple (but relevant) places, the more researchers will be able to find information they may not have been able to find otherwise.

The following is an overview of the criteria we used to relate a piece of subregulatory guidance or implementation resource to specific regulation sections/subparts. There is a more detailed description with supporting examples in the appendix for reference.

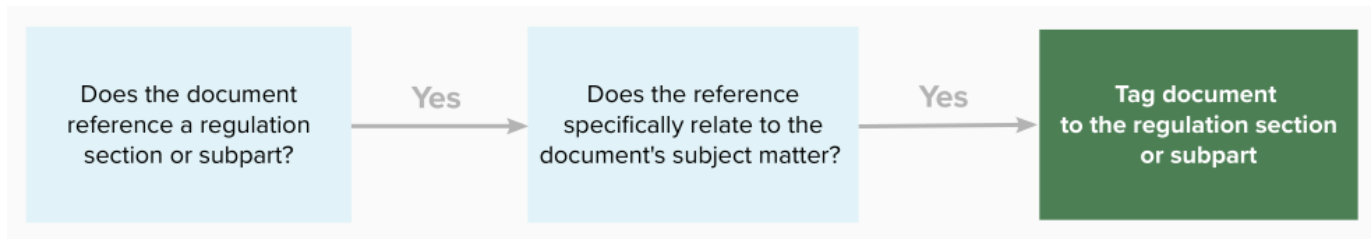
¹ Note: the information compiled is broken down by regulation section, however, the website currently only allows for a subpart view. See [CFR Part 435 | Medicaid & CHIP eRegulations \(cms.gov\)](#).

Subregulatory Guidance and Implementation Resources

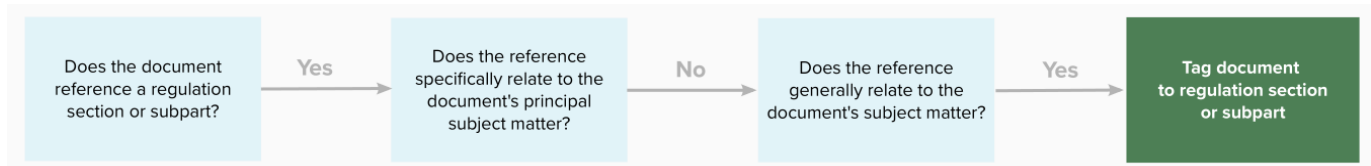
State Medicaid Director Letters (SMDLs), State Health Official Letters (SHOs), CMCS Informational Bulletins (CIBs), Frequently Asked Questions (FAQs), SPA/Waiver Resources, Templates, Toolkits, State Technical Assistance

We use five criteria to determine which regulatory sections/subparts to tag for subregulatory guidance or implementation resources:

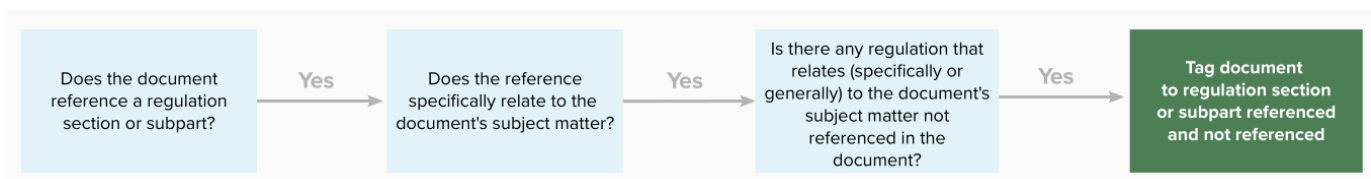
1. The document references a regulation section/subpart that **specifically relates to the document's subject matter**. The document will be tagged to all such regulation sections/subparts that are referenced.



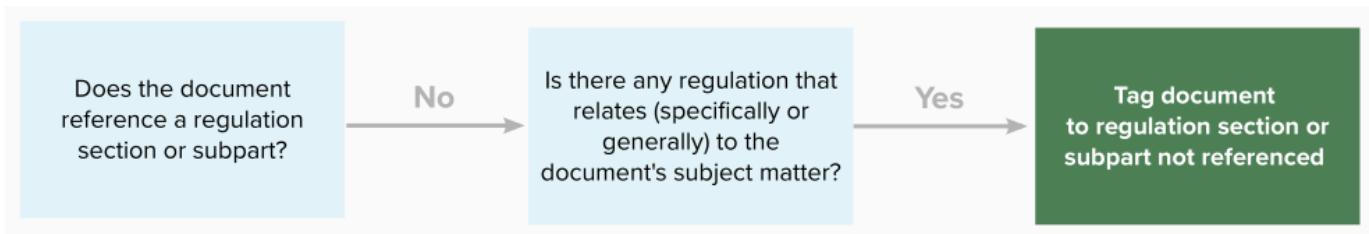
2. The document references a regulation section/subpart that **does not specifically relate to the document's principal subject matter, but is germane** to the overall subject matter. The document will be tagged to this referenced regulation section/subpart.



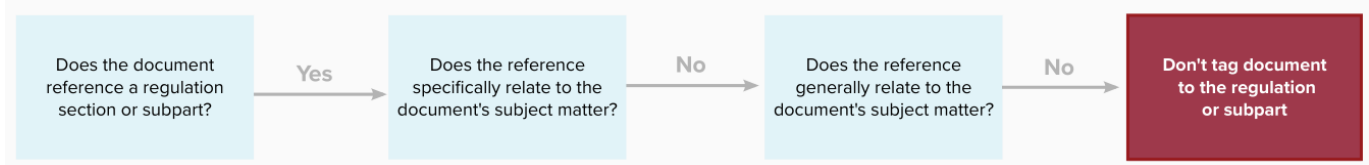
3. The document references a regulation section/subpart that specifically relates to the document's subject matter but **there are other regulations not referenced in the document that have general or specific relation to the subject matter**. In this case, the other regulation sections will also be tagged to the document.



4. The document **does not reference any regulation section or subpart**. In this case, the eRegulations policy SME reviews the content and determines if there are regulations that relate to the document's subject matter, whether specifically or generally. If there are, the document gets tagged to those regulations. If not, the document will not get tagged for inclusion on the eRegulations site.



5. The document references a regulation section/subpart **that does not specifically or generally relate to the document's subject matter**. These may be references to a regulation section/subpart in the body of the document or in a footnote that reminds states of continued compliance in another area of Medicaid policy as they take into account implementation of the document's subject matter. In this case, the document will not be tagged to the regulation section/subpart referenced.



OIG and GAO Reports

When determining which regulatory sections/subparts to tag for OIG and GAO reports, we use the same criteria for subregulatory guidance or implementation resources. However, our approach to incorporating these reports into eRegulations vary from subregulatory guidance and implementation resources, in that we include only those reports with “open” recommendations, or recommendations that congressional and agency leaders have not addressed. We exclude reports with “closed” recommendations, as they have been implemented with changes in regulation or updated guidance and therefore are likely no longer applicable.

Appendix

Criteria and Examples for Supplementary Content Placement

Subregulatory Guidance and Implementation Resources

State Medicaid Director Letters (SMDLs), State Health Official Letters (SHOs), CMCS Informational Bulletins (CIBs), Frequently Asked Questions (FAQs), SPA/Waiver Resources, Templates, Toolkits, State Technical Assistance

We use five criteria to determine which regulatory sections/subparts to tag for subregulatory guidance or implementation resources:

1. The document references a regulation section/subpart that **specifically relates to the document's subject matter**. The document will be tagged to all such regulation sections/subparts that are referenced.

Example: [SMD# 09-004/ARRA # 4 Prompt Pay Requirements and Claims Processing Requirements](#). This letter is about a very specific policy area — “prompt pay” requirements — and cites a very specific regulation related to the topic: [42 CFR §447.45](#). Therefore, we tagged the document to 42 CFR § 447.45.

§ 447.45 Timely claims payment.	Subpart A Resources
<p>(a) Basis and purpose. This section implements section 1902(a)(37) of the Act by specifying -</p> <p>(1) State plan requirements for -</p> <p>(i) Timely processing of claims for payment;</p> <p>(ii) Prepayment and postpayment claims reviews; and</p> <p>(2) Conditions under which the Administrator may grant waivers of the time requirements.</p> <p>(b) Definitions. <i>Claim</i> means (1) a bill for services, (2) a line item of service, or (3) all services for one beneficiary within a bill.</p> <p>Clean claim means one that can be processed without obtaining additional information from the provider of the service or from a third party. It includes a claim with errors originating in a State's claims system. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.</p> <p>A shared health facility means any arrangement in which -</p> <p>(1) Two or more health care practitioners practice their professions at a common physical location;</p>	<p>^ Subregulatory Guidance</p> <p>SMDLs, SHOs, CIBs, FAQs</p> <p>^ State Medicaid Director Letter (SMDL)</p> <p>June 24, 2011 SDL # 11-007/ACA # 17</p> <p>RE: New Medicaid Tobacco Cessation Services, June 24 ↗</p> <p>January 22, 2010 SMDL#: 10-001/ARRA #: 6</p> <p>Re: ARRA Protections for Indians in Medicaid and CHIP ↗</p> <p>August 19, 2009 SMD #09-005/ARRA #5 ARRA</p> <p>Increased Federal Medical Assistance Percentage (FMAP) and Maintenance of Effort (MOE) Requirements ↗</p> <p>July 30, 2009 SMD# 09-004/ARRA # 4</p> <p>Prompt Pay Requirements and Claims Processing Requirements ↗</p>

2. The document references a regulation section/subpart that **does not specifically relate to the document's principal subject matter, but is germane** to the overall subject matter. The document will be tagged to this referenced regulation section/subpart.

Example: [SMDL #18-012: Ten Opportunities to Better Serve Individuals Dually Eligible for Medicaid and Medicare](#). The principal subject matter of this document is how CMS and states can improve coordination in terms of enrollment and provision of care to dual eligibles (those eligible for and/or enrolled in both Medicare and Medicaid). In this letter, there is a reference to enhanced funding for MMIS (Medicaid IT systems) under [42 CFR § 433.112](#). While Medicaid IT system funding is not the principal subject of this SMDL, access to, and the ability to share data between Medicare and Medicaid programs is. Therefore, the document was tagged to 42 CFR § 433.112 because it outlines the availability of enhanced system funding which would enable access to Medicare data through data exchanges to better serve dual eligible individuals.

<p>§ 433.112 FFP for design, development, installation or enhancement of mechanized processing and information retrieval systems.</p> <p>(a) Subject to paragraph (c) of this section, FFP is available at the 90 percent rate in State expenditures for the design, development, installation, or enhancement of a mechanized claims processing and information retrieval system only if the APD is approved by CMS prior to the State's expenditure of funds for these purposes.</p> <p>(b) CMS will approve the E&E or claims system described in an APD if certain conditions are met. The conditions that a system must meet are:</p> <p>(1) CMS determines the system is likely to provide more efficient, economical, and effective administration of the State plan.</p> <p>(2) The system meets the system requirements, standards and conditions, and performance standards in Part 11 of the State Medicaid Manual, as periodically amended.</p> <p>(3) The system is compatible with the claims processing and</p>	<p>Subpart C Resources</p> <p>▼ Related Statutes Statutes that relate to the subject matter of the Subpart</p> <p>▼ Related Regulations Regulations outside the Subpart related to the subject matter</p> <p>^ Subregulatory Guidance SMDLs, SHOs, CIBs, FAQs</p> <p>^ State Medicaid Director Letter (SMDL)</p> <div style="border: 2px solid green; padding: 5px; margin-top: 10px;"> <p>December 19, 2018 SMDL #18-012 RE: Ten Opportunities to Better Serve Individuals Dually Eligible for Medicaid and Medicare ↗</p> </div>
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- The document references a regulation section/subpart that specifically relates to the document's subject matter but **there are other regulations not referenced in the document that have general or specific relation to the subject matter**. In this case, the other regulation sections will also be tagged to the document.

Example: [Application, Verification and Renewals](#). This technical assistance slide deck covers information about a number of policy areas found in regulation but only specifically references 2 regulation sections (42 CFR [§§ 435.910](#), [435.956](#)). We tagged the document to an additional 8 regulation sections to comprehensively relate to all the information covered in the document.

§ 435.948 Verifying financial information.

(a) The agency must in accordance with this section request the following information relating to financial eligibility from other agencies in the State and other States and Federal programs to the extent the agency determines such information is useful to verifying the financial eligibility of an individual:

(1) Information related to wages, net earnings from self-employment, unearned income and resources from the State Wage Information Collection Agency (SWICA), the Internal Revenue Service (IRS), the Social Security Administration (SSA), the agencies administering the State unemployment compensation laws, the State-administered supplementary payment programs under section 1616(a) of the Act, and any State program administered under a plan approved under Titles I, X, XIV, or XVI of the Act; and

(2) Information related to eligibility or enrollment from the Supplemental Nutrition Assistance Program, the State program funded under part A of title IV of the Act, and other insurance affordability programs.

(b) To the extent that the information identified in paragraph (a) of this section is available through the electronic service established in accordance with § 435.949 of this subpart, the agency must obtain the information through such service.

(c) The agency must request the information by SSN, or if an SSN is not available, using other personally identifying information in the individual's account, if possible.

August 13, 2018

Role of Medicaid and CHIP in Responding to Public Health Crises and Disasters [↗](#)

2017

How to Obtain a Consumer's Authorization before Gaining Access to Personally Identifiable Information (PII) [↗](#)

June 22, 2015

Streamlined Eligibility and Enrollment for Non-MAGI Populations [↗](#)

December 2014

Streamlined Application Process for Consumers New to the Marketplace [↗](#)

June 2013

Integrated Human Services Application [↗](#)

June 2013

Integrated Human Services Application Analysis High-Level Summary Chart [↗](#)

June 2013

Integrated Human Services Application Analysis Cross Walk of Model Application [↗](#)

April 19, 2012

Application, Verification and Renewals [↗](#)

4. The document **does not reference any regulation section or subpart**. In this case, the eRegulations policy SME reviews the content and determines if there are regulations that relate to the document's subject matter, whether specifically or generally. If there are, the document gets tagged to those regulations. If not, the document will not get tagged for inclusion on the eRegulations site.

Example: [SMDL #02-008 - Transition Costs Covered under Home and Community Based Services Waivers](#). This SMDL provides guidance on the ability of HCBS waiver funds to cover one-time transition costs of individuals returning to the community from institutions, such as the cost of furnishing an apartment, the expense of security deposits, utility set-up fees, etc. This SMDL did not reference any regulatory section/subpart, so we tagged it to regulations that contained related subject areas. This helps researchers find this document while doing general research on services allowed to be funded under an HCBS waiver (42 CFR §§ [440.180](#) and [441.310](#)).

§ 440.180 Home and community-based waiver services.

(a) **Description and requirements for services.** "Home or community-based services" means services, not otherwise furnished under the State's Medicaid plan, that are furnished under a waiver granted under the provisions of part 441, subpart G of this chapter.

(1) These services may consist of any or all of the services listed in paragraph (b) of this section, as those services are defined by the agency and approved by CMS.

August 13, 2002 | **SMDL# 02-012**
Promising State Practices to Reduce Unnecessary Nursing Facility Placement [↗](#)

May 9, 2002 | **SMDL #02-008**
Transition Costs Covered under Home and Community Based Services Waivers [↗](#)

5. The document references a regulation section/subpart **that does not specifically or generally relate to the document's subject matter**. These may be references to a regulation section/subpart in the body of the document or in a footnote that reminds states of continued compliance in another area of Medicaid policy as they take into account implementation of the subject matter in the document. In this case, the document will not be tagged to the regulation section/subpart referenced.

Example: [SMDL# 10-015/ACA # 6 Re: Improving Access to Home and Community-Based Services](#). This SMDL is about legislation passed to allow states to provide some HCBS services under the State Plan authority. The document's subject matter relates to [part 440, subpart A](#). However, there is a reference to [42 CFR § 430.12](#) in the document, reminding states of the requirement to amend their State plans to take account of changes in Federal law. This section does not relate specifically or generally to the document's principal subject matter, so the document was not tagged to 42 CFR § 430.12.

Latest Version as of Dec 16, 2020

Subpart A - Definitions

§ 440.1 Basis and purpose.

This subpart interprets and implements the following sections of the Act:

1902(a)(70), State option to establish a non-emergency medical transportation program.

1905(a) Services included in the term "medical assistance."

1905 (c), (d), (f) through (i), (l), and (m) Definitions of institutions and services that are included in the term "medical assistance."

1913 "Swing-bed" services. (See §§ 447.280 and 482.58 of this chapter for related provisions on "swing-bed" services.)

1915(c) Home and community-based services listed as "medical assistance" and furnished under waivers under that section to individuals who would otherwise require the level of care furnished in a hospital, NF, or ICF/IID.

June 6, 2011 | **SMDL # 11-005**
Re: Coverage and Service Design Opportunities for Individuals Living with HIV [↗](#)

August 6, 2010 | **SMDL# 10-015/ACA # 6**
Re: Improving Access to Home and Community-Based Services [↗](#)

July 2, 2010 | **SMDL#10-013/ACA# 4**
RE: Family Planning Services Option and New Benefit Rules for Benchmark Plans [↗](#)

June 17, 2009 | **SMD# 09-003/ARRA # 3**
American Recovery and Reinvestment Act of 2009 (ARRA) Impact on Medicaid and CHIP Implementation [↗](#)

April 4, 2008 | **SMDL #08-001**
Home and Community-Based Services Expansion [↗](#)