CS20 –Non-Financial Requirements – Substitution of Coverage

Statute: Section 2102(b)(3)(C) of the SSA
Regulation: 42 CFR 457.805

INTRODUCTION

This state plan page (fillable PDF) must be completed by states with separate child health assistance programs.

In state plan page CS20, states provide information about their policies and procedures to prevent the substitution of group health coverage or other commercial health insurance with public funded coverage.

States must use this state plan page if they are making changes to their waiting period policies effective January 1, 2014. Those states that do not currently have a waiting period need not complete this state plan page, unless they are making changes to other substitution of coverage prevention strategies.

BACKGROUND

Children who are eligible or potentially eligible for Medicaid or covered under a group health plan or under health insurance coverage, as defined in section 2791 of the Public Health Service Act, are not included in the definition of targeted low-income child and therefore are not eligible for CHIP.

Section 2102(b)(3)(C) of the Social Security Act requires states to include in their state plan a description of procedures the state uses to ensure that CHIP coverage does not substitute for coverage under group health plans.

This state plan page addresses only substitution related to enrollment in coverage provided directly through CHIP. Substitution of coverage for states offering premium assistance or family coverage is addressed in those sections of the state plan.

States use various procedures to prevent substitution of coverage, including monitoring through survey data, private insurance database checks, and strategies that encourage or support affordable employer-sponsored health insurance coverage for children. Another common mechanism states use to discourage substitution is the imposition of a minimum period of uninsurance (waiting period) for individuals who drop private coverage.

Due to concerns that waiting periods in CHIP may cause disruptions in coverage, 42 CFR 457.340 was amended to require states to implement processes to facilitate the enrollment of a

CHIP eligible child, following the completion of the waiting period, without requiring a new application or information already provided by the family. The processes must ensure a smooth transition for children from coverage through the Exchange or other insurance affordability program to CHIP, and enrollment of otherwise CHIP-eligible children at the end of a waiting period.

For individuals enrolled in another insurance affordability program during the waiting period, the state must notify the other insurance affordability program of the date on which the waiting period ends and the individual is eligible to enroll in CHIP (42 CFR 457.350(i)(3)). These provisions were made final in rulemaking published on July 15, 2013 (78 FR 42160).

In addition, pursuant to the July 15, 2013 final rule, states with waiting periods must apply the following exceptions from the waiting period:

- The premium paid by the family for coverage of the child under the group health plan exceeded 5 percent of household income;
- The child's parent is determined eligible for advance payment of the premium tax credit for enrollment in a QHP through the Marketplace because the ESI in which the family was enrolled is determined unaffordable in accordance with 26 CFR 1.36B–2(c)(3)(v);
- The cost of family coverage that includes the child exceeded 9.5 percent of the household income;
- The employer stopped offering coverage of dependents (or any coverage) under an employer-sponsored health insurance plan;
- A change in employment, including involuntary separation, resulted in the child's loss of employer-sponsored insurance (other than through full payment of the premium by the parent under COBRA);
- The child has special health care needs; and
- The child lost coverage due to the death or divorce of a parent.

States have the flexibility to allow additional exceptions.

Note: waiting periods may not be applied to children losing eligibility for Medicaid or other insurance affordability programs.

Effective Date: The waiting period provisions in the July 15, 2013 final rule are effective on January 1, 2014, unless a change in state law is needed for a state to comply with this provision. States that need a change in state law must notify CMS in writing with an explanation, and those states will not be required to submit this state plan page in 2013. For states with annual

legislative sessions, the effective date for the application of the 90-day maximum waiting period and required exemptions must be no later than the first day of the next fiscal year beginning after the close of the first regular session of the 2014 state legislature. For states that have a two-year legislative session, each year of the session is considered a separate regular session for this purpose.

TECHNICAL GUIDANCE

PREREQUISITES:

None

This state plan page is broken down into the following sections:

- Substitution of Coverage Assurance
- Substitution of Coverage Prevention Strategy
- Waiting Period
- Additional Assurances

Substitution of Coverage Assurance

State plan page CS20 begins with the state being asked to provide assurance that it has methods and policies in place to prevent the substitution of coverage

The state provides this affirmative assurance by checking the box next to the assurance statement.

Substitution of Coverage Prevention Strategy

In this section, the state enters its substitution of coverage prevention strategy or policy, other than a waiting period. If the state does not impose a waiting period, it must enter at least one strategy. If the state imposes a waiting period, it enters any other substitution prevention strategies it has here.

For each strategy/policy, the state must provide the name and description of the policy. If there is more than one strategy, the state reselects the button to the left of the name/description grid and repeats the process until all have been entered.

Review Criteria

If the state answers "No" to the waiting period (below the substitution prevention strategy name/description grid), the state must enter at least one substitution of coverage prevention strategy or this state plan page cannot be approved. The description should be sufficiently clear, detailed and complete to permit the reviewer to determine that the state's election meets applicable federal statutory, regulatory and policy requirements.

If the state has other substitution of coverage prevention strategies in addition to a waiting period, it must enter the other substitution of coverage prevention strategies in addition to selecting "Yes" to the waiting period question. The description should be sufficiently clear, detailed and complete to permit the reviewer to determine that the state's election meets applicable federal statutory, regulatory and policy requirements.

Waiting Period

This section begins with a Yes/No question as to whether the state has a waiting period during which an individual is ineligible due to having dropped group health coverage.

If the answer is no, the state continues to the additional assurances, described below.

If the answer is yes, the state then enters the length of the waiting period from the displayed options.

If the state selects "Other", the state must select the number of days from the list provided.

Review Criteria

The state must check the assurance box or this state plan page cannot be approved.

Exceptions to the Waiting Period

This section begins with the following statement: "The state allows exemptions from the waiting period for the following reasons:" followed by a list of seven pre-selected exemptions which are required of all states with waiting periods.

The exemption list is followed by a Y/N question for the state to indicate if it allows other exemptions.

If the answer is yes, the state must provide a description of each additional exemption(s). If there is more than one additional exemption, the state reselects the button to the left of the description box and repeats the process until all have been entered.

Review Criteria

The description should be sufficiently clear, detailed and complete to permit the reviewer to determine that the state's election meets applicable federal statutory, regulatory and policy requirements.

Note: While they currently do not appear on the state plan page, CMS is implementing the waiting period provisions of the July 15, 2013 final rule. As a result, CMS CHIP state plan reviewers will ask states electing to implement or continue a waiting period in 2014 questions in the following areas:

- State processes to facilitate enrollment of CHIP-eligible children at the end of a waiting period, without requiring a new application or information already provided by the family;
- State processes to coordinate coverage of children subject to a waiting period with other insurance affordability programs, including safeguards to prevent gaps in coverage for children transitioning from another insurance affordability program to CHIP at the end of a waiting period; and
- State notification of the other insurance affordability program of the date on which the waiting period ends and the individual is eligible to enroll in CHIP.

Additional Assurances

Pregnant Women Assurance

If the state provides coverage to targeted low-income pregnant women, the state must provide assurance that any waiting period does not apply to pregnant women.

The state provides this affirmative assurance by checking the box next to the assurance statement.

Review Criteria

If the state provides coverage to pregnant women, it must check the assurance box or this state plan page cannot be approved.

Dental Only Supplemental Coverage

States that provide dental only supplemental coverage must provide the following assurances:

- That the other coverage exclusion (i.e. substitution of coverage) does not apply to children who are otherwise eligible for dental only supplemental coverage as provided in section 2110(b)(5) of the SSA; and
- That the waiting period does not apply to children eligible for dental only supplemental coverage.

The state provides these affirmative assurances by checking the boxes next to the assurance statements.

Review Criteria

If the state provides dental only supplemental coverage, it must check both assurance boxes, or this state plan page cannot be approved.