



<b>Policy Memo</b>	
<b>KDHE-DHCF POLICY NO: 2020-11-01</b>	<b>From: Erin Kelley, Senior Manager</b>
<b>Date: November 16, 2020</b>	<b>Medical KEESM/KFMAM Reference(s):</b>
<b>RE: COVID-19 PHE Processing Flexibilities</b>	<b>Program(s): All Medical Programs</b>

This memo sets forth updated guidance for eligibility regarding modifications to current COVID-19 Medicaid policy based on CMS reinterpretation of the FFCRA.

Applicable to All Medical Programs:

- Coverage Approved in Error
- Others Who May Be Discontinued

Applicable to Elderly and Disabled Medical Programs only:

- Changes in Share of Cost

This memo supersedes PD2020-03-01 where applicable and is effective upon issuance.

## **I. CHANGES IMPACTING ALL MEDICAL PROGRAMS**

### **A. COVERAGE APPROVED IN ERROR**

#### **1. BACKGROUND**

Beginning March 1, 2020, discontinuance of medical coverage was suspended in all instances with the exceptions of out-of-state residency, voluntary withdrawal, incarceration, and death through the end of the COVID-19 (Public Health Emergency) PHE. The suspension of discontinuances has been applied to coverage active at the time the PHE was declared as well as coverage approved during the PHE. Based on that direction, coverage found to have been approved in error has been allowed to continue.

#### **2. POLICY**

Effective with this memo, coverage found to be incorrectly approved due to agency error as defined in Medical KEESM 11121.1 and KFMAM 8312 should be closed in the soonest available month, allowing for timely notice. Discontinuance of coverage due to

agency error is allowed for the following:

1. Eligibility determinations based on applications submitted on or after March 18, 2020
2. Initial determinations made for applications submitted prior to March 18, 2020
3. Renewals or redeterminations made prior to March 18, 2020

Likewise, active coverage resulting from fraud, as evidenced by a fraud conviction or finding of beneficiary abuse as established by a federal district court, should also be terminated in the soonest available month. Timely notice is not required in these situations.

**Note:** Discontinuance continues to be suspended in the case of client error as defined in Medical KEESM 11121.2 and KFMAM 8313. This would include typical fraud referrals where a conviction has not been established.

## **B. OTHERS WHO MAY BE DISCONTINUED**

### **1. BACKGROUND**

Previous guidance was issued indicating that eligibility shall continue through the scope of the PHE for individuals who were found to no longer meet eligibility criteria. With the release of this memo, that instruction has been modified for persons who are presumptively enrolled and refines instruction for persons who no longer meet state residence criteria.

### **2. POLICY**

With the release of this memo, individuals presumptively enrolled may now be discontinued from coverage allowing timely notice if no longer eligible. This includes individuals receiving Presumptive Tier 1 coverage based on a disability determination from the Presumptive Medical Disability Team. For example, an individual receiving Presumptive Tier 1 coverage fails to continue pursuing their application for Social Security benefits and is outside of their window for appeal. It would be appropriate to discontinue coverage allowing timely notice in this situation.

In addition, while out-of-state residence has always been considered a valid reason for discontinuance, this memo expands that definition to include persons who are receiving medical assistance in more than one state where the agency is unable to verify the individual's residence in the state of Kansas. Timely notice must be allowed to discontinue eligibility for this reason.

## II.CHANGES IMPACTING ELDERLY AND DISABLED MEDICAL PROGRAMS ONLY

### A. CHANGES IN SHARE OF COST

#### 1. BACKGROUND

With the issuance of PD2020-03-01: [Delayed Discontinuance – COVID-19](#), guidance was provided to staff advising that adverse changes in a share of cost due to a change in income were not allowed during the scope of the COVID-19 PHE. Staff were advised that actions on cases that would have otherwise experienced an adverse change in the consumer's share of cost due to a change in income were to be delayed until the end of the COVID-19 PHE.

#### 2. POLICY

Effective with the release of this policy memo, action may be taken to increase (or decrease) a consumer's share of cost when there is a change in income for all long-term care living arrangements (Nursing Facility, HCBS, and PACE). Any action taken to apply a change in the consumer's share of cost due to an increase in income shall be done so with timely notice provided. Overpayments shall not be considered for consumers whose share of cost would have otherwise increased notwithstanding the COVID-19 PHE. Changes in a consumer's share of cost due to a change in a long-term care living arrangement (i.e. HCBS to Nursing Facility) may continue to be made following current guidelines; however, adverse changes shall not be made as a result of a consumer moving from a long-term care living arrangement to an independent living arrangement (i.e. Nursing Facility to Medically Needy Spenddown).

**Note:** While changes may be made to a share of cost due to a change in income for long-term care recipients, adverse action to increase premiums for the Working Healthy and CHIP programs is not permitted.

## III.QUESTIONS

**For questions or concerns related to this document, please contact one of the KDHE Medical Policy Staff listed below.**

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