

## CS31 – Incarcerated CHIP Beneficiaries



**Statute:** 2102(d), and 2110(b)(7) of the Act

## INTRODUCTION

This state plan page (fillable PDF) applies only to states with separate child health assistance programs.

This state plan page must be completed by states which currently have or elect to provide coverage to Targeted Low-Income Children (TLIC) or Targeted Low-Income Pregnant Women (TLIPW).

In this state plan page, states provide information about their policies and procedures with regard to the treatment of TLIC or TLIPW who are or become incarcerated. Regulations at 42 C.F.R. § 457.310(c)(2)(i) apply the Medicaid definition for an “inmate of a public institution” under § 435.1010 to CHIP.<sup>1</sup>

## BACKGROUND

Sections 2110(b)(2)(A) and 2112(d)(2)(C) of the Social Security Act (the Act) and 42 CFR 457.310(c)(2)(i) specify that children and pregnant women who are inmates of a public institution are excluded from the definition of a TLIC or TLIPW and, therefore, generally ineligible for a separate CHIP.

However, under amendments made by Section 5121 of the Consolidated Appropriations Act (CAA), 2023, effective January 1, 2025, section 2110(b)(7) of the Act provides limited exceptions to this CHIP eligibility exclusion for: (1) incarcerated children that are within 30 days prior to their release and (2) at state option, children who are incarcerated while pending disposition of charges. Note that if the state selects to provide CHIP eligibility to incarcerated children awaiting disposition of charges, those individuals are provided full CHIP state plan benefits during that time. Additionally, effective January 1, 2025, section 2102(d)(1)(A) of the Act prohibits states from terminating otherwise eligible children in CHIP who are inmates of a public institution;<sup>2</sup> however, the state may instead suspend coverage during the enrollee’s incarceration. States that elect to suspend coverage may implement either a benefits or eligibility

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<sup>1</sup> See [SHO #24-004](#) “Provision of Medicaid and CHIP Services to Incarcerated Youth” section “Background on Medicaid and CHIP Eligibility and Coverage During Incarceration” (pages 1-2) for more information on the definition of who is an inmate of a public institution. We note that while 42 CFR 457.310 defines “targeted low-income child”, section 2112(d)(2)(C) of the Act generally applies the same eligibility criteria for children to TLIPW.

<sup>2</sup> A correctional institution is considered a public institution and may include prisons, jails, detention facilities, or other penal settings (e.g., boot camps or wilderness camps). See [SHO #24-004](#) section “Carceral Settings” (page 13) for more information on applicable settings.

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suspension (see page 3 below for further information). States must also provide screening, diagnostic, and case management services available under the CHIP state plan in the 30 days prior to release to TLIC in accordance with section 2102(d)(2) of the Act.

Effective January 1, 2026, the prohibition on terminating eligibility for an individual who is an inmate of a public institution is expanded to include TLIPW enrolled in CHIP as the CAA, 2024 further amended section 2102(d)(1)(A). States also have the option to implement either a benefits or eligibility suspension for TLIPWs (described further on page 3).<sup>3</sup> However, the CAA, 2024 does not provide any exceptions to the CHIP eligibility exclusion under section 2112(d)(2)(C) of the Act for pregnant women who are incarcerated and newly applying for CHIP.

## TECHNICAL GUIDANCE

### PREREQUISITES:

**State plan pages CS7 - Targeted Low-Income Children and/or CS8 – Targeted Low-Income Pregnant Women** must have been submitted prior to or concurrently with state plan page CS31.

### *Review Criteria*

*If state plan pages CS7 and/or CS8 are not approved, state plan page CS31 cannot be approved.*

### STATE PLAN PAGE CONTENT:

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

1. Targeted Low-Income Children Who Become Incarcerated
2. Children Determined Eligible for CHIP While Incarcerated
3. Targeted Low-Income Pregnant Women Who Become Incarcerated

## Targeted-Low Income Children Who Become Incarcerated

This section includes assurances regarding eligibility and coverage for TLIC who become incarcerated and describes how the state operationalizes its policies. The state will also provide descriptions of any limitations to its implementation of the requirements under sections 2102(d) and 2110(b)(7) of the Act as applicable.

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<sup>3</sup> PLACEHOLDER FN for 205 CIB

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Under the first assurance, states confirm that they do not terminate eligibility for children enrolled in a separate CHIP because they became incarcerated.

### **Review Criteria**

***The state must check this box at the first assurance of this section or this state plan page cannot be approved.***

During periods of incarceration, states may elect to either suspend a child’s CHIP coverage or continue providing CHIP state plan services that are otherwise not provided by the carceral facility. The state will answer yes or no to the following question: “The state elects to suspend CHIP coverage for the duration of a child’s incarceration.”

Under a benefits suspension, the state must continue to complete annual renewals or act on certain types of changes in circumstances while the child is in a suspended status; however, under an eligibility suspension, completing annual renewals or acting on certain changes in circumstances is optional. For more detailed information about the suspension options, please see [SHO #24-0004](#) “Provision of Medicaid and CHIP Services to Incarcerated Youth” published on July 23, 2024, section “Additional Eligibility Changes for CHIP Under Section 5121 of the CAA, 2023” on pages 24 and 25.

### **Review Criteria**

***The state must select “yes” or “no” or this state plan cannot be approved.***

- If the answer is yes, the state must then check off either ‘Benefits suspension’ or ‘Eligibility suspension’ or the state plan cannot be approved.

Under section 2102(d)(1)(B) of the Act, states are required to redetermine eligibility prior to a child’s release from a carceral setting. In order to meet this requirement, states must ensure that eligibility has been redetermined within the past 12 months prior to their release. For more information about these requirements please see [SHO #24-004](#), section “CHIP and Medicaid Redetermination Prior to Release” on page 25.

Under the second assurance, the state assures that it completes a redetermination of eligibility prior to a child’s release if the state has not completed a redetermination within the past 12 months.

### **Review Criteria**

***The state must check this box at the second assurance of this section or this state plan page cannot be approved.***

Under the third assurance, states must assure that they are providing any screening, diagnostic, or case management services that are otherwise available to TLIC under the CHIP state plan (or waiver of such plan). States must provide these services to eligible children within the 30 days prior to release, within one week of release, or as soon as practicable after release.

### **Review Criteria**

***The state must check this box at the third assurance of this section or this state plan page cannot be approved.***

If there are limitations on a state's ability to implement sections 2102(d) and 2110(b)(7) of the Act, states may be required to provide additional information. States should provide information in the text box indicating when it is not feasible to provide pre-release services prior to release. For example, states may describe why it is not feasible to provide pre-release services in certain types of facilities. States may also be asked to provide their internal section 5121 operational plan.<sup>4</sup>

### **Review Criteria**

***If there are limitations to implementing provisions of section 5121 of the CAA, 2023, the state must enter a description, such as the cause of the limitation, or this state plan page cannot be approved.***

States have the option to provide the full array of services offered under the CHIP state plan to children who are inmates pending disposition of charges.

### **Review Criteria**

***If the state elects to provide CHIP coverage to eligible children pending disposition of charges, the state must check this box at the fourth assurance of this section or the state plan cannot be approved.***

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<sup>4</sup> See [SHO #24-004](#) section "Section 5121 of the CAA, 2023 Internal Operational Plan" (page 19) for more information on the state's internal operations plan for Section 5121 of the CAA, 2023.

### Children Determined Eligible For CHIP While Incarcerated

This section includes two assurances related to state actions if children are determined eligible for CHIP while they are incarcerated.

Under the first assurance, the state must assure that it will process any applications received from or on behalf of an incarcerated youth and make an eligibility determination for child health assistance to provide all services available under the CHIP state plan (or waiver of such plan) upon their release from the carceral facility.

#### **Review Criteria**

**The state must check this box at the first assurance of this section or the state plan cannot be approved.**

Under the second assurance, states must assure that children who are within 30 days of release and are found eligible for CHIP must be provided with screening, diagnostic, and case management services that are otherwise available under the CHIP state plan (or waiver of such plan).

#### **Review Criteria**

**The state must check this box at the second assurance of this section or the state plan cannot be approved.**

### Targeted-Low Income Pregnant Women Who Become Incarcerated

This section includes assurances regarding eligibility for TLIPW who become incarcerated and describes how the state operationalizes its policies.

Under the first assurance, states confirm that they do not terminate eligibility for pregnant women enrolled in a separate CHIP because they became incarcerated.

#### **Review Criteria**

**The state must check this box at the first assurance of this section or this state plan page cannot be approved.**

Similar to children, states may elect to either suspend CHIP coverage for TLIPW during periods of incarceration or continue to provide CHIP state plan services that are otherwise not provided by the carceral facility. The state will answer yes or no to the following question: “The state elects to suspend CHIP coverage for the duration of a pregnant women’s incarceration.”

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Under a benefits suspension, the state must continue to complete annual renewals or act on certain types of changes in circumstances while the pregnant women is in a suspended status; however, under an eligibility suspension, completing annual renewals or acting on certain changes in circumstances is optional.<sup>5</sup> For more detailed information about the suspension options, please see [SHO #24-0004](#) “Provision of Medicaid and CHIP Services to Incarcerated Youth” published on July 23, 2024, section “Additional Eligibility Changes for CHIP Under Section 5121 of the CAA, 2023” on pages 24 and 25.

### **Review Criteria**

***The state must select “yes” or “no” or this state plan cannot be approved.***

- If the answer is yes, the state must then select either ‘Benefits suspension’ or ‘Eligibility suspension’ or the state plan cannot be approved.

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<sup>5</sup> States that provide continuous coverage through the 12-month extended postpartum period in Medicaid and CHIP under sections 1902(e)(16) and 2107(e)(1)(K) of the Act may only act on certain permissible changes in circumstances. Please see pages 5-6 of [SHO #21-007 “Improving Maternal Health and Extending Postpartum Coverage in Medicaid and the Children’s Health Insurance Program](#) for more information.