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Division of Medicaid Services

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DMS Operations Memo 20-24

To: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff

Affected Programs:

- ☒ BadgerCare Plus
- ☐ FoodShare
- ☒ Medicaid
- ☐ SeniorCare
- ☐ Caretaker Supplement
- ☐ FoodShare Employment and Training

From: Rebecca McAtee, Bureau Director
Bureau of Enrollment Policy and Systems
Division of Medicaid Services

Suspension of Health Care Coverage During Incarceration

CROSS REFERENCE

- BadgerCare Plus Eligibility Handbook, Section 3.6 Inmates
- Medicaid Eligibility Handbook, Section 6.9 Inmates
- Operations Memo 14-49

EFFECTIVE DATE

October 24, 2020

PURPOSE

This operations memo announces a new policy to suspend instead of terminate health care coverage for incarcerated BadgerCare Plus, SSI-Related Medicaid, and Wisconsin Well Woman Medicaid (WWWMA) members.

BACKGROUND

Under federal law, Medicaid may not pay for health services provided to individuals who are incarcerated, with the exception of someone who is outside of prison or jail for 24 hours or more (for example, when admitted as an inpatient to a hospital). Given this restriction, Wisconsin has had a longstanding policy of terminating health care eligibility when a member becomes incarcerated, and requiring a new application upon release.

The Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, passed in October 2018, specifies that the state must not terminate Medicaid eligibility for juveniles up to age 21 and Former Foster Care Youth (FFCY) up to age 26 who are inmates of a public institution. Correctional facilities, such as prisons and jails, are public

institutions. Instead, the state must suspend coverage while the juvenile or FFCY is an inmate, redetermine eligibility upon release without requiring a new application, and restore coverage unless the person no longer meets the eligibility requirements for Medicaid.

Additionally, in 2016, the Center for Medicare and Medicaid Services (CMS) issued guidance for states to support individuals who are transitioning from incarceration to their communities. In the guidance, CMS recommended that when a member becomes incarcerated, the state should put the person in a suspended status rather than terminating eligibility altogether. A suspension means that health care remains open but Medicaid does not pay for any services except for inpatient hospital services.

Wisconsin has developed a suspension policy for inmates of all ages in various correctional facilities such as state prisons, federal prisons, and local jails. The suspension process will allow inmates to maintain health care eligibility to support easier transition to the community and provide continuity of care so that they can immediately access Medicaid-covered services upon release from the facility.

POLICY

Effective October 24, 2020, eligibility for BadgerCare Plus, SSI-Related Medicaid, and WWWMA will no longer be denied or terminated based on the applicant or member's incarceration status. Instead, eligibility will be suspended if the incarcerated applicant or member is otherwise eligible for BadgerCare Plus, SSI-Related Medicaid, or WWWMA. During the suspension, BadgerCare Plus/Medicaid will only cover inpatient services received while the member is outside of jail or prison for 24 hours or more.

Incarcerated applicants and members may only be suspended under BadgerCare Plus, SSI-Related Medicaid, or WWWMA. If a member of a different health care program becomes incarcerated, eligibility for that program will be terminated. The income maintenance (IM) agency must then determine if the member could be eligible for BadgerCare Plus or SSI-Related Medicaid. If found eligible, the member will open for BadgerCare Plus or SSI-Related Medicaid in a suspended status.

For health care program purposes, an individual is considered to be an inmate if they are in custody and held involuntarily in a correctional facility through operation of law enforcement authorities with a primary purpose of involuntary confinement. People who are on parole, probation, or have been released to the community pending trial (including those under pre-trial supervision) are not considered inmates. These people may be eligible for full-benefit BadgerCare Plus or Medicaid if they meet the regular program criteria.

Note: Non-health care programs will continue to follow their existing policies for people who are incarcerated. Even though a case may remain open for health care, eligibility for other programs may end due to incarceration.

SUSPENSION CERTIFICATION PERIOD AND RENEWALS

Existing health care members who become incarcerated and are determined eligible for the health care suspension will be certified for the suspension from the first of the month after the incarceration is reported. Suspended members will maintain their existing certification period and renewal date.

People who apply for health care when they are already incarcerated and are determined eligible for BadgerCare Plus, SSI-Related Medicaid, or WWWMA will have their suspension start the first of the month of application if they have been incarcerated since the beginning of the application month. If they were incarcerated after the first of the application month, the suspension will start the first of the month following the application month. The certification period is 12 months.

Example 1: Mark is incarcerated on January 17, 2021. He applies for health care on April 20, 2021, and is found eligible for BadgerCare Plus. Mark's certification period starts on April 1, 2021, and ends on March 31, 2022. Assuming that he continues to be incarcerated, his eligibility will be in suspended status from April 1 through March 31, which will be the date of his next renewal.

Example 2: Jane is incarcerated on April 15, 2021. She applies for health care April 20, 2021, and is found eligible for BadgerCare Plus. She is certified for full-benefit BadgerCare Plus from April 1, 2021, until April 30, 2021. Jane's suspension starts on May 1, 2021, and her certification period ends on March 31, 2022.

If an applicant is determined eligible for a health care backdate and was incarcerated during any of the backdated months, they will open in a suspended status for any backdated months in which they were incarcerated for the entire month. For any backdated months in which the person was not incarcerated for the entire month, they will be certified for full-benefit health care. The earliest a suspension can start is October 1, 2020.

Example 3: Sophia is incarcerated on December 4, 2020. Her husband applies for health care for their household on May 21, 2021, and requests three months of backdated benefits. They are found eligible for BadgerCare Plus. Sophia is certified for suspended BadgerCare Plus starting February 1, 2021. Her husband is certified for full-benefit BadgerCare Plus starting February 1, 2021.

Example 4: Brady is incarcerated on February 9, 2021. He applies for health care April 20, 2021, and requests three months of backdated benefits. He is found eligible for BadgerCare Plus, and certified for full-benefit BadgerCare Plus from January 1, 2021, until February 28, 2021. He is certified for suspended BadgerCare Plus starting March 1, 2021.

Example 5: Denise is incarcerated on June 13, 2020. She and her spouse apply for health care on November 10, 2020, and request three months of backdated benefits. Denise is not eligible for backdated benefits prior to October 2020 since the suspension policy was not in effect. She is denied backdated benefits for August 1, 2020, until September 30, 2020. She is certified for suspended BadgerCare Plus starting October 1, 2020.

Suspended members who met a deductible before being incarcerated will maintain their existing certification period and renewal date, which is the end of the six-month deductible period.

Example 6: Jordan has a Medicaid deductible period from April 1, 2021, until September 30, 2021. He meets his deductible on May 10, 2021, and becomes eligible for full-benefit Medicaid. He is incarcerated on June 19, 2021. His suspension starts July 1, 2021, and his certification period goes to September 30, 2021.

The Notice of Decision will indicate the member's suspended status. In addition, an informational letter explaining the member's suspension status will be sent to the suspended member's facility (for members aged 18 or older) if there is a valid facility address on file.

Members in a health care suspension will go through the normal renewal process at the end of their certification period, including administrative renewals when applicable (see Medicaid Eligibility Handbook, Section 3.1 Renewals and BadgerCare Plus Eligibility Handbook, Section 26.1 Renewals). Members must complete the renewal and continue to meet program eligibility criteria in order to maintain their suspension. If the member does not complete the renewal or no longer meets program eligibility criteria, the member's suspension will end and they will not be enrolled in BadgerCare Plus or Medicaid.

HEALTH CARE HOUSEHOLD COMPOSITION FOR SUSPENDED MEMBERS

If the incarcerated member belongs to a household, the person will be considered "temporarily absent" from the household and remain a countable member of the household for BadgerCare Plus or Medicaid during the suspension. The other household members will also remain countable within the incarcerated member's suspended assistance group. There is no limit to how long inmates can be considered temporarily absent from the BadgerCare Plus or Medicaid household, as long as they continue to meet program rules. Applicants and members are responsible for determining if an individual who is incarcerated is part of their household or not. They will be able to include this information in the application and when reporting a change. IM workers should accept this information that is provided by the applicant or member. Verification of this information is not required. Members can also report changes to the household status during the incarceration period.

Example 7: Quinton and Meg are married and both are enrolled in BadgerCare Plus. Meg is incarcerated on January 3, 2021. Quinton reports Meg's incarceration and that she is still part of the household. Meg's suspension starts on February 1, 2021, and she continues to be on the same case as Quinton. On June 7, 2021, Quinton decides that Meg is no longer part of the household. He reports that Meg is still incarcerated but is no longer part of the same household as Quinton. Meg is removed from the case and her suspension ends June 30, 2021. Meg must fill out a new application for herself if she wants to continue having suspended health care benefits going forward.

If the incarcerated member is the primary person on the case and there is a spouse or coparent in the household, the primary person will be suspended, if eligible, and all other health care assistance groups will remain open.

If the suspended member is the primary person and there is **no** spouse or coparent in the household, any children on the case receiving health care will remain eligible for a three-month grace period. Eligibility for the children will end after the three-month grace period unless they open for health care on another case. The Notice of Decision will inform the member of the three-month grace period for the children and the need for them to apply with another primary person.

Example 8: Faye and her 10 year old daughter, Chantelle, are both enrolled in BadgerCare Plus as a household of two. On March 9, 2021, Faye is incarcerated. Faye's suspended BadgerCare Plus starts April 1, 2021. Chantelle will remain open for full-benefit BadgerCare Plus on Faye's case for the three-month grace period. Chantelle's BadgerCare Plus will end June 30, 2021. Chantelle could re-enroll in BadgerCare Plus as part of the household she now resides in or through another program such as Foster Care Medicaid, depending on her situation.

Note: This policy on household composition only applies for BadgerCare Plus and Medicaid. An individual who is incarcerated may be considered part of the household for BadgerCare Plus or Medicaid eligibility purposes, but not be counted as part of the household for other program eligibility purposes.

CHANGE REPORTING

Existing change reporting policy applies for members in a suspension (see BadgerCare Plus Eligibility Handbook, Chapter 27 Change Reporting and Medicaid Eligibility Handbook, Chapter 12 Change Reporting).

As a reminder, income earned through employment inside a prison in either Department of Corrections (DOC) or Badger State Industries (BSI) jobs does not need to be verified, since the maximum possible earnings in these positions are below program limits.

LIFTING A SUSPENSION AFTER RELEASE

When a member in a suspension is released from prison or jail and this information becomes known to the IM agency, eligibility can be reinstated without a new application for benefits. Upon release, the suspended member's eligibility will be redetermined. If eligible, the member's health care coverage will start the first of the month in which the member is released. The member's renewal date remains the same.

Example 9: Cameron is incarcerated and enrolled in suspended BadgerCare Plus. His renewal date is June 30, 2021. Cameron reports to the IM agency that he was released on December 15, 2020. The worker updates the case, and Cameron opens for full-benefit BadgerCare Plus starting December 1, 2020. His renewal date remains June 30, 2021.

The suspension must be lifted effective for the first of the month when the person was released from prison or jail, even if the release was reported untimely. However, this retroactive lifting may only go as far back as the last renewal.

The Notice of Decision will indicate if the member regains full benefits. In addition, an informational letter explaining the member's reinstatement of full benefits will be sent to the suspended member's facility (for members aged 18 or older) if there is a valid facility address on file.

BADGERCARE PLUS CHILDLESS ADULTS

During a suspension, incarcerated BadgerCare Plus childless adults (CLAs) are exempted from the BadgerCare Plus CLA premiums. They are also exempted from the requirement to answer the treatment

needs question (see BadgerCare Plus Eligibility Handbook, Section 44.2 Premiums for Childless Adults and Section 44.3 Treatment Needs Question for Childless Adults).

If a suspension is lifted retroactively for a CLA who is subject to premiums, the member will owe premiums for any past months in which full eligibility was reinstated.

BADGERCARE PLUS CHILDREN

During a suspension, BadgerCare Plus children who are incarcerated are exempted from BadgerCare Plus premiums.

If a suspension is lifted retroactively for a child who is subject to premiums, the member will owe premiums for any past months in which full eligibility was reinstated.

HUBER LAW PRISONERS

Current Huber Law policy for health care still applies (see the BadgerCare Plus Handbook, Section 3.6.3 Huber Law). Huber Law is also known as the Huber Program. Huber Law prisoners who are released from jail to attend to the needs of their families can be eligible for full-benefit BadgerCare Plus or Medicaid if they intend to return to the home and they continue to be involved in the planning for the support and care of the minor children. Their eligibility will not be suspended.

Huber Law prisoners who are released for a purpose other than attending to the needs of their families are not eligible for BadgerCare Plus or Medicaid. They will be treated as inmates and can be eligible for suspended BadgerCare Plus or Medicaid. Health care applicants and members are required to provide verification of their Huber status.

Note: Non-health care programs will continue to follow their existing policies for Huber Law prisoners.

PREGNANT INMATES

Pregnant members who are incarcerated will not be suspended. Their eligibility will continue to be determined under the BadgerCare Plus Prenatal Program (see the BadgerCare Plus Eligibility Handbook, Section 41.1 BadgerCare Plus Prenatal Program).

When the pregnancy ends, BadgerCare Plus Prenatal Program members must have their health care eligibility redetermined for the next month. If determined eligible for BadgerCare Plus or SSI-Related Medicaid, the member will open with a suspended status.

OUT-OF-STATE CORRECTIONAL FACILITIES

If a person is incarcerated in Wisconsin and then involuntarily transferred to a correctional facility in another state, the person is still considered a Wisconsin resident. If a person has committed a crime outside of Wisconsin and is incarcerated by that state in a correctional facility in that state, the person is considered to be a resident of that state and not Wisconsin.

Example 10: Oscar resides in Wisconsin. He commits a crime in Wisconsin and is incarcerated in a Wisconsin Department of Corrections facility. Due to a shortage of space, Oscar is transferred to a prison in Minnesota. Oscar remains a Wisconsin resident and may be eligible for suspended BadgerCare Plus or Medicaid while he is residing in the prison in Minnesota.

Example 11: Connor resides in Wisconsin. He commits a crime in Illinois and is incarcerated in an Illinois correctional facility. Connor is an Illinois resident while he is residing in the facility in Illinois. He is not eligible for BadgerCare Plus or Medicaid in Wisconsin since he is not a Wisconsin resident.

CONTACTS

BEPS CARES Information and Problem Resolution Center

DHS/DMS/BEPS/RW