

**Congress of the United States**  
**Washington, DC 20515**

October 27, 2023

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue SW  
Washington, DC 20201

The Honorable Daniel Tsai  
The Deputy Administrator and Director  
Center for Medicaid and CHIP Services  
Centers for Medicare and Medicaid Services  
200 Independence Avenue SW  
Washington, DC 20201

RE: Preserving Floridians' Access to Health Coverage During Medicaid Redetermination

Dear Administrator Brooks La-Sure and Deputy Administrator and Director Tsai:

As members of the Florida congressional delegation, we write with concern about the unnecessary and improper loss of health coverage for hundreds of thousands of Floridians, especially children, under the State of Florida's faulty Medicaid redetermination process. We urge the Centers for Medicare and Medicaid Services (CMS) to closely examine the health coverage losses in Florida, assess whether or not the state is properly following federal rules and regulations and determine appropriate remedies for the state's failure to properly cover eligible Floridians.

Florida's Department of Children and Families (DCF) has redetermined eligibility for over 2.2 million individuals since the end of the Medicaid continuous coverage requirement.<sup>1</sup> Of the nearly 675,000 individuals who have been terminated from the program, 72% of them were for procedural reasons, not because the individual was no longer eligible for the program.<sup>2</sup> We are particularly concerned that through October 2023, Florida has disenrolled 201,078 children from the Medicaid program, while the net enrollment in KidCare – Florida's Children's Health Insurance Program (CHIP) – has only been 25,281.<sup>3</sup> State officials' claim that that every child who is determined ineligible is automatically referred to Florida Healthy Kids, but the large discrepancy demands review.<sup>4 5 6</sup> While the state claims that it is doing the ex-parte determination process correctly, there are numerous stories of children losing coverage inappropriately.<sup>7 8</sup> Any gap in children's health coverage can result in children missing needed care and puts families at risk of medical debt – which remains a leading cause of bankruptcy.

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<sup>1</sup> Florida Department of Children and Families, [Medicaid Redetermination Flyer](#) (Sept. 2023).

<sup>2</sup> Georgetown University Center for Children and Families, [What is happening with Medicaid renewals in each state?](#) (Oct. 2023).

<sup>3</sup> Georgetown University Center for Children and Families, [Almost 2 Million Fewer Children are Enrolled in Medicaid: Are They Moving to CHIP?](#) (Oct. 2023).

<sup>4</sup> Florida Senate Appropriations Committee Meeting Packet, [Medicaid Redetermination Updates](#) (Oct. 2023).

<sup>5</sup> Florida Department of Children and Families, [Florida's Medicaid Redetermination Plan](#) (Apr. 2023).

<sup>6</sup> Florida Department of Children and Families, [Medicaid Redetermination Flyer](#) (Sept. 2023).

<sup>7</sup> CNN, [An 'obscene' number of kids are losing Medicaid coverage](#), (Aug. 2023).

<sup>8</sup> Florida Health Justice Project, [The Lived Experience: Unwinding the Continuous Coverage Requirement](#).

Children are at the greatest risk for coverage losses while they remain eligible for public coverage, particularly in a state like Florida that operates a complex system of three separate CHIP programs. This means that the eligibility information for a child must be transferred from Medicaid to another state program if the family income has changed. Additionally, Florida is one of only four states that charges premiums for families with income at the lowest level allowed in CHIP, which clearly poses barriers for children enrolling in this coverage. We agree with those voices in the state who have called on the Governor to provide 12 months of continuous coverage for all children currently being redetermined, to immediately reinstate coverage for children who have experienced procedural disenrollments during redetermination, and to temporarily waive premiums for new enrollees in KidCare.<sup>9</sup> We also believe that the state should enhance transparency by creating a public-facing dashboard, updated monthly with data on the redetermination process, as the vast majority of other states have done. This dashboard should include data disaggregated by age to help us understand what has happened to the children who lost their Medicaid coverage in Florida.

We have also been made aware of several issues within Florida’s Medicaid redetermination process that we wish to bring to CMS’ attention.

The state is currently the subject of multiple legal challenges. Consumer advocates have filed a lawsuit in federal court claiming that the state termination notices to Medicaid beneficiaries are confusing, provide inadequate explanations for the state’s decision, and lack specific information about how to appeal the state’s decision.<sup>10</sup> Additionally, a coalition of state and national groups filed a civil rights complaint against the state alleging that the state’s Medicaid redetermination process discriminates against minorities, particularly Latino, Black, and immigrant individuals.<sup>11</sup> This includes the inability for individuals to access the state’s Medicaid website on smart phones, the limited amount of Latino and immigration organizations confirmed to participate in the state’s approved community partners program, and major discrepancies in call center wait times.<sup>12</sup> A study found that English-language callers had an average wait time of 36 minutes, but Spanish-language callers had an average wait time of 142 minutes in Florida. This is directly counter to a Department of Health and Human Services Office for Civil Rights letter to state health officials emphasizing the need for states to “provide meaningful language access for individuals with limited English proficiency” and to “adequately fund and staff call centers to ensure they are accessible without prolonged delays.”<sup>13</sup>

In August, CMS sent a letter to the state with a warning that Florida’s Medicaid redetermination process may not be compliant with federal guidelines regarding average call center wait time, average call abandonment rate, percentages of procedural disenrollments, and timeliness of applications determined on the basis of Modified Adjusted Gross Income.<sup>14</sup> Florida was one of only five states that fell short on all of these criteria. According to the most recent data, there were

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<sup>9</sup> Florida Policy Institute, [50 Groups Sign Letter Urging Florida to Restore Medicaid for Eligible Kids](#) (Oct. 2023).

<sup>10</sup> D. et al. v. Weida et al, [3:23-cv-00985](#), Florida Middle District (Aug. 2023).

<sup>11</sup> WUSF, [Advocacy groups file civil rights complaints over Florida’s post-pandemic Medicaid process](#) (Sept. 2023).

<sup>12</sup> WUSF, [OCR Complaint Florida](#) (Sept. 2023).

<sup>13</sup> Department of Health and Human Services Office for Civil Rights, [Re: Ensuring language access for Limited English Proficient \(LEP\) individuals and effective communication for individuals with disabilities during the states’ unwinding of the Medicaid continuous enrollment condition](#) (Apr. 2023).

<sup>14</sup> Center for Medicare and Medicaid Services, [Pre-Compliance letter to Florida](#) (Aug. 2023).

over 2,230,796 calls made to the state in June and 36% of those were abandoned, one of the highest rates in the nation.<sup>15</sup> Despite these persistent problems, and a stated goal in its Medication Redetermination Plan to enhance call center performance and prioritize exceptional customer service, the state has not taken advantage of the \$3.3 million that lawmakers included in the Fiscal Year 2023 – 2024 state budget to increase call center capacity.

Along with the alarming data, we have heard troubling reports from local navigators and community assisters in the state. In Florida’s Medicaid Redetermination Plan, the state said that they would not prioritize reviews of individuals who have used Medicaid benefits and services in the last 12 months or of children with complex medical conditions, but we know that both scenarios have tragically happened.<sup>16 17 18</sup> These local partners have confirmed reports of families waiting hours to speak to someone at the call center and receiving confusing or contradictory information and notices that do not explain adequately why they were terminated.

Finally, Florida is the only state in the country that has not taken advantage of any of a range of flexibilities offered by CMS to help states process the historic volume of renewals and application determinations on a timely basis.<sup>19</sup> The evidence all points to a colossal abdication of responsibility for the well-being of Florida families by the Governor and state officials.

We strongly encourage CMS to investigate any and all remedies for Florida families and avenues to direct the state to comply with all federal rules and regulations regarding Medicaid redetermination. If necessary, we urge you to use every tool at your disposal, including potentially exercising statutory authorities to issue corrective action plans or pause procedural terminations, to ensure the state remedies serious flaws in its redetermination process. We look forward to working with you to ensure the state takes common-sense steps to improve their redetermination process, fully complies with federal requirements, and prevents even further unnecessary loss of coverage for our neighbors in Florida.

Sincerely,



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Kathy Castor  
MEMBER OF CONGRESS



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Sheila Cherfilus-McCormick  
MEMBER OF CONGRESS

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<sup>15</sup> Centers for Medicare and Medicaid Services, [Medicaid and CHIP Unwinding Operations Snapshot-June 2023 data](#) (Sept. 2023).

<sup>16</sup> Florida Health Justice Project Stories, [Marie](#) (May 2023).

<sup>17</sup> Florida Health Justice Project Stories, [Penelope](#) (May 2023).

<sup>18</sup> ABC Action News, [Florida mom left with no answers on Medicaid as her child waits for treatment](#) (May 2023).

<sup>19</sup> CMS Center for Medicaid & Chip Services, [COVID-19 PHE Unwinding Section 1902\(e\)\(14\)\(A\) Waiver Approvals](#) (Aug. 2023).



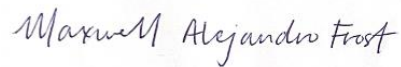
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Lois Frankel  
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CC: Shevaun Harris, Secretary, Florida Department of Children and Families  
Jason Weida, Secretary, Agency for Health Care Administration