

September 9, 2024

Joyce Jordan  
Division of Medicaid and Children's Health Operations  
U.S. Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
90 Seventh Street, Suite 5-300 (SW)  
San Francisco, CA 94103-6707

**RE: Arizona SPA #AZ-23-0011, Kidscare Income Eligibility**

Dear Ms. Jordan,

This letter serves as Arizona's official request to withdraw CHIP State Plan Amendment (SPA) #AZ-23-0011, Kidscare Income Eligibility, which proposed to expand CHIP eligibility from 200 percent to 225 percent of the Federal poverty level (FPL). The State has decided to withdraw this SPA and pursue an 1115 waiver due to the existing limitations found in Section 2110(b)(1)(B)(ii)(II) of the Social Security Act and 42 CFR 457.310(b)(1)(iii)(A) and as further described in the May 6, 2024 letter to Director Heredia.

If any additional information is needed or if there are further questions about this withdrawal, please contact Maxwell Seifer at [Maxwell.Seifer@azahcccs.gov](mailto:Maxwell.Seifer@azahcccs.gov) or 602-417-4722.

Sincerely,



Kyle Sawyer  
Assistant Director, Public Policy and Strategic Planning  
Arizona Health Care Cost Containment System (AHCCCS)

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop: S2-01-16  
Baltimore, Maryland 21244-1850



**Children and Adults Health Programs Group**

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May 6, 2024

Carmen Heredia  
Director  
Arizona Health Care Cost Containment System  
801 East Jefferson Street  
Phoenix, AZ 85034

Dear Director Heredia:

This letter is regarding Arizona CHIP SPA, AZ-23-0012, submitted on August 30, 2023, via the OneMAC portal, and SPA AZ-23-0011, submitted on October 2, 2023, via the Medicaid Model Data Lab (MMDL) portal. These SPAs propose to expand CHIP eligibility from 200 percent to 225 percent of the Federal poverty level (FPL). AZ-23-0012 would update the paper CHIP state plan, and AZ-23-0011 would update the CS7 CHIP eligibility template.

On September 26, 2023, CMS informed the state that its proposed eligibility level expansion would not be permissible under the CHIP state plan due to statutory and regulatory limitations associated with the definition of a targeted low-income child. Arizona had previously expanded to the maximum income level permissible for all age groups according to the provisions discussed below.

Section 2110(b)(1)(B)(ii)(II) of the Social Security Act and 42 CFR 457.310(b)(1)(iii)(A) specify that eligibility is limited to 200 percent of the Federal poverty level (FPL) or 50 percentage points above the Medicaid applicable income level (the upper Medicaid eligibility level in place in 1997 before the creation of CHIP), whichever is higher. In Arizona, the Medicaid applicable income levels are as follows:

- For children ages 0-1: 147% FPL
- For children ages 1-6: 141% FPL
- For children ages 6-19: 104% FPL

Fifty percentage points above the Medicaid applicable income level in Arizona for each age group is less than 200 percent FPL. Thus, the maximum income standard for Arizona under the CHIP state plan is 200 percent FPL, consistent with section 2110(b)(1)(B)(ii)(II) of the Act.

Prior to January 1, 2014, states were permitted to use income disregards, including block of income disregards, to effectively expand eligibility to children under age 19 to the income level they chose under the CHIP state plan. However, effective January 1, 2014, the Affordable Care

Act introduced financial methodologies based on Modified Adjusted Gross Income (MAGI).<sup>1</sup> MAGI-based methodologies eliminated the use of block of income disregards and instead established a standardized income disregard equal to five percentage points of the FPL for the purposes of determining income eligibility in the highest applicable MAGI-based income standard in Medicaid or CHIP.<sup>2</sup>

Because the state has already expanded to its maximum income standard (200% FPL) under the CHIP state plan, CMS does not have authority to approve the state’s proposed CHIP SPAs to increase the separate CHIP income standard to 225 percent FPL. As alternatives, we presented Arizona with the option to either expand eligibility to children with title XIX funds under the “individuals above 133 percent of FPL under Age 65” Medicaid optional eligibility group, often referred to as the “XX Group” specified at section 1902(a)(1)(A)(ii)(XX) of the Act or seek title XXI funds for an expansion under section 1115 demonstration authority. Arizona elected the latter option and received approval through section 1115 demonstration authority to cover children to 225 percent of the FPL on February 20, 2024.

We had issued a request for additional information for AZ-23-0011 and AZ-23-0012 on October 16, 2023, and the SPA currently remain off the clock. As a next step, because we cannot approve the SPA, we recommend that the state withdraw AZ-23-0011. The state can either resubmit SPA AZ-23-0012 with modifications to include only the strategic objectives and performance goals in section 9 and remove references of the eligibility expansion or withdraw the entire AZ-23-0012 along with AZ-23-0011. A state may withdraw a proposed SPA or any portion of a proposed SPA at any time during the review process by providing written notice to CMS of the withdrawal.

We commend Arizona on its recent eligibility expansion for children. Please let us know if you have any questions on the recommended next steps for the pending CHIP SPAs.

Sincerely,

Meg Barry  
Director  
Division of State Coverage Programs

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<sup>1</sup> Sections 1902(e)(14) and 2107(e)(1)(I) of the Act.

<sup>2</sup> The effect of this disregard is to make the *effective* income standard in Arizona equal to 205 percent FPL, although the state’s nominal income standard remains 200 percent FPL.