

Extending Medicaid Coverage for Pregnant People beyond 60 Days Postpartum

(As of September 2023)

State Legislative and Regulatory Pathways

States operate their Medicaid programs within broad federal rules and are allowed to waive some of these requirements to test innovative approaches to delivering care. States can do this through Section 1115 waivers and state plan amendments (SPAs).

State Plan Amendments

- Federal Medicaid law sets broad requirements for the program and mandates coverage of some populations and benefits, while leaving many optional. Currently, states are required to provide full Medicaid benefits to eligible postpartum individuals for 60 days after delivery.
- As federal requirements and state policies change over time, updates are made through state plan amendments.
- The American Rescue Plan Act, signed into law on March 11, 2021, makes available an additional pathway that allows states to extend Medicaid coverage for pregnant people from 60 days to one year postpartum. The pathway became effective on April 1, 2022. The SPA option was initially set to expire in 2027, but the Consolidated Appropriations Act of 2022 made it permanent.
- Changes made by SPAs are not generally subject to periodic renewal. In other words, once approved, a SPA does not expire, but a state can change it through a subsequent SPA.
- SPA approvals are not contingent on meeting any budgetary target, but states are required to indicate on the transmittal form the expected federal financial impact.
- Generally, the only federal public notice requirements for SPAs apply when states plan significant changes in payment methods and standards, although states may have their own public notice requirements.
- Most states have elected to take up the SPA option to extend postpartum Medicaid coverage. This process may vary state by state, so check with your state Medicaid agency for details about how a SPA can be enacted.

Resources for State Advocates on Enacting a SPA

- [Extend Postpartum Medicaid Coverage | ACOG](#)
- [Medicaid Postpartum Coverage Extension Tracker | KFF](#)
- [CMS Guidance for State Health Officials](#)
- [HHS Issue Brief: Medicaid After Pregnancy: State-Level Implications of Extending Postpartum Coverage](#)
- [Map of Maternal Mortality Review Committee Reports](#)

Section 1115 Waivers

- Section 1115 of the Social Security Act gives the secretary of HHS authority to approve experimental, pilot, or demonstration projects proposed by states that are likely to promote Medicaid program objectives.
- The HHS secretary has some discretion over which Section 1115 waivers to approve and encourage, but that discretion is not unlimited: there are some Medicaid requirements that are not waivable.
- Section 1115 waivers provide states considerable flexibility to shape their programs to achieve state-specific goals.
- Section 1115 waivers must be budget neutral to the federal government, meaning that during the project, federal Medicaid expenditures must not be more than they would be without the demonstration.
- Section 1115 waivers are generally approved for an initial five-year period and can be extended for up to an additional three to five years, at which time they would need to be reappraised.
- Section 1115 waivers are subject to public notice and comment period at both the state and federal level.

How to Use Section 1115 Waivers to Extend Medicaid Coverage for Pregnant People beyond 60 Days Postpartum

- Determine whether the legislative or executive branch of government in your state has the power to make changes to the Medicaid program.
 - States have different rules about which kinds of Medicaid policy changes can be authorized by regulation at the direction of the governor or by the legislature through legislation.
 - State legislative and regulatory process and the federal HHS and CMS review and approval process are independent of one another. In other words, a state passing a law directing the Medicaid agency to submit a waiver request does not guarantee the request's approval.
- If the state decides to pursue a Section 1115 waiver there will be a state-level public comment process.
 - Typically, the public comment process includes a 30-day public comment period, during which time the state will hold public hearings.
 - At the end of the state-level public comment process, the state Medicaid agency will review all comments and may make changes to the proposal before submitting to CMS for review.