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## ***CMCS Informational Bulletin***

**DATE:** May 24, 2023

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Center for Medicaid and CHIP Services

**SUBJECT:** Medicaid Enterprise Systems Compliance and Reapproval Process for State Systems with Operational Costs Claimed at the 75 Percent Federal Match Rate

### ***Introduction***

This CMCS Informational Bulletin (CIB) provides guidance specific to state compliance with regulatory requirements for Medicaid Enterprise System (MES) modules and solutions for which states are claiming a 75 percent Federal match rate for ongoing operational costs, pursuant to section 1903(a)(3)(B) of the Social Security Act (the Act) and 42 CFR § 433.116. Regulations at 42 CFR § 433.119 note CMS may periodically review and reapprove each operational system to validate all federal requirements continue to be met, and thereby requalify the MES module for the 75 percent Federal match rate for system operations.

This informational bulletin outlines CMS's reapproval process for MES modules, state development of corrective action plans for systems CMS determines non-compliant, penalties for ongoing system non-compliance, and state submission of a reapproval request following resolution of outstanding MES issues.

### ***Background***

In accordance with section 1903(a)(3)(B) of the Act and 42 CFR § 433.116, Federal matching funds are available at a rate of 75 percent for state expenditures for operation of an MES module or component approved by CMS.

States obtain CMS approval for an MES module following the streamlined modular certification process described in State Medicaid Director Letter (SMDL) #22-001<sup>1</sup> and the supporting Streamlined Modular Certification (SMC) for MES Guidance (Certification Guidance) document,<sup>2</sup> which provides a detailed description of the certification process and the regulatory citations for all certification requirements. The SMC process for MES is structured around the three elements:

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<sup>1</sup> <https://www.medicare.gov/federal-policy-guidance/downloads/smd22001.pdf>

<sup>2</sup> <https://www.medicare.gov/medicaid/data-and-systems/downloads/smc-certification-guidance.pdf>

- **Conditions for Enhanced Funding** – As a condition of receiving the enhanced federal matching rate for state expenditures on MES operations, states must ensure the system complies with federal Medicaid conditions for enhanced funding for design, development, and installation (DDI) as provided in 42 CFR § 433.112(b)(1) through (22), and the system remains compliant with federal Medicaid conditions for the enhanced federal matching rate specific to operations as provided in 42 CFR § 433.116.
- **Outcomes** – Outcomes describe the measurable improvements to a state’s Medicaid program resulting from the delivery of a new module or enhancement to an existing module. Outcomes should support Medicaid program priorities, be directly enabled by the state’s IT project, and be clearly stated in the Advance Planning Document (APD) as required under 45 CFR part 95, subpart F.
- **Metrics** – Metrics provide evidence confirming whether the intended outcomes are achieved through the delivery of a new module or enhancement to an existing module. States must submit operational reports to CMS containing metrics in support of a state’s annual Operational Advanced Planning Document (OAPD) request for an MES module or solution.<sup>3</sup> CMS may determine states must report some metrics more frequently.<sup>4,5</sup> In accordance with 42 CFR §§ 433.112(b)(15) and 433.116(b), (c), and (i), states must be capable of producing data, reports, and performance information from and about their MES modules to facilitate evaluation, continuous improvement in business operations, and transparency and accountability, as a condition for receiving enhanced federal matching for MES expenditures. Reporting metrics enhances transparency and accountability of IT solutions, helping ensure the MES and its modules are meeting statutory and regulatory requirements, as well as the state’s program goals. State reporting also gives states and CMS early and ongoing insight into program evaluation and opportunities for continuous improvement.

Evidence from metrics the state collects and reports are continually evaluated by CMS to determine whether the system is achieving the identified outcomes. To ascertain the continued success and compliance of MES solutions, CMS will coordinate with states to use existing data sources and reporting systems, such as Transformed Medicaid Statistical Information System (T-

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<sup>3</sup> Per 42 CFR § 433.116(i), Federal financial participation (FFP) is available at 75 percent of state expenditures for operation of an MES module if the system meets conditions required at 42 CFR § 433.112(b)(10) through (b)(16), including production of transaction data, reports, and performance information that would contribute to program evaluation, continuous improvement in business operations, and transparency and accountability pursuant to 42 CFR § 433.112(b)(15), and as further described in SMDL # 22-001 and the associated Certification Guidance document.

<sup>4</sup> In accordance with 45 CFR § 95.615, the state must allow the Department of Health and Human Services (DHHS) access to the system in all of its aspects, including operational records at such intervals as are deemed necessary by the Department to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system.

<sup>5</sup> For example, CMS could require a state to submit monthly or quarterly metrics to demonstrate compliance with timely claims processing requirements at 42 CFR § 447.45, or timely eligibility determinations per 42 CFR § 435.911, if other evidence calls into question the state’s ability to perform these key Medicaid program administrative functions within the time limits specified by regulation.

MSIS) and Medicaid and Children’s Health Insurance Program (CHIP) Performance Indicators,<sup>6</sup> to avoid redundancy and minimize administrative burden whenever possible.

### ***CMS Periodic Review and Reapproval of State Systems***

Per regulations at 42 CFR § 433.119, CMS periodically reviews and reapproves each system initially approved under 42 CFR § 433.114 for 75 percent Federal financial participation (FFP) in state expenditures for the system’s ongoing operations. CMS may review a state’s entire MES, focus on a particular module or solution, or examine other specific, discrete components of a system. However, at a minimum, CMS reviews under 42 CFR § 433.119 will look to validate the system is operating in alignment with all pertinent federal requirements, and may give particular attention to regulatory reapproval conditions for which the system or module demonstrated weakness in previous reviews. Furthermore, CMS may prioritize for reapproval review those MES modules that state operational reporting and metrics indicate may not be meeting applicable federal and state requirements, including the conditions for enhanced federal matching rates and continuous achievement of outcomes. In general, the reapproval process will be consistent with the Streamlined Modular Certification (SMC) process outlined in SMDL # 22-001.

### ***Operational Reporting and Metrics as Evidence of System Success***

To effectively demonstrate ongoing, successful system operations, states must submit operational reports to CMS<sup>4</sup> containing metric data<sup>3</sup>, verification of compliance with the conditions for enhanced federal matching rates required under 42 CFR §§ 433.112 and 433.116 (i.e., the conditions for enhanced funding, per SMC guidance), and other evidence MES modules meet all applicable requirements for the state’s claimed federal matching funds, in accordance with regulations at 45 CFR § 95.615 allowing CMS access to a state’s Medicaid system in all aspects, including operations records, and 42 CFR § 433.116(i), which incorporates the reporting condition (42 CFR § 433.112(b)(15)) an MES module must meet for the state to claim 75 percent FFP for associated operational expenditures. The operational reporting requirement is further described in SMDL # 22-001 and the Certification Guidance document. State operational reporting enables monitoring of system performance and functionality, and provides ongoing demonstration of continuous achievement of required outcomes. States must meet all other federal reporting requirements, such as T-MSIS<sup>7</sup> and Performance Indicator<sup>8</sup> data, and must

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<sup>6</sup> See the CMCS Informational Bulletin dated January 24, 2013, for information on Performance Indicators for Medicaid and CHIP Business Functions, available at: <https://www.medicaid.gov/Federal-Policy-Guidance/downloads/CIB-01-24-13.pdf>.

<sup>7</sup> Section 4735 of the Balanced Budget Act of 1997 amended section 1903(r) of the Social Security Act to include a statutory requirement for states to submit claims data, enrollee encounter data, and supporting information. Section 6504 of the Affordable Care Act strengthened this provision by requiring states to include data elements the Secretary of DHHS determines necessary for program integrity, program oversight, and administration. CMS has operationalized these statutory state reporting requirements as the T-MSIS initiative.

<sup>8</sup> CMS noted in two final rules that it would collect business process performance indicators for all Medicaid and CHIP programs in association with the development of new information technology systems: “Federal Funding for Medicaid Eligibility Determination and Enrollment Activities” (75 FR 21950) and “Eligibility Changes under the Affordable Care Act of 2010” (77 FR 17144). Final rule requirements specific to state production of performance indicator data are found in regulation at 42 CFR § 433.112(b)(15) and 42 CFR § 435.912(c)(2)(iii).

continuously meet T-MSIS data quality standards<sup>9</sup> outlined by CMS for reporting of this data.

States should submit operational reports in support of the annual OAPD submission required by regulation at 45 CFR § 95.610. However, CMS may require more frequent reporting for key operational metrics,<sup>3,4</sup> such as those measuring state compliance with regulatory requirements specific to timely eligibility determinations or claims payment, wherein early detection for noncompliance is critical.

As state operational reports provide recurring insight into system performance, they will inform CMS's selection and prioritization of MES modules for reapproval review. In conjunction with other evidence (e.g., Independent Verification and Validation [IV&V] contractor reports) and state-reported data (including T-MSIS), operational reporting facilitates CMS's monitoring of state MES compliance with the conditions for enhanced federal matching rates, metrics corresponding to the agreed-upon outcomes listed in the APD for the MES module, and other requirements.

CMS will not approve state OAPDs requesting 75 percent FFP for system operational expenditures if the state does not submit the required operational reporting, metric data, and/or other evidence demonstrating successful system performance,<sup>10</sup> ongoing attainment of outcomes,<sup>11</sup> and compliance with federal and state requirements.<sup>12</sup>

For previously certified systems, those operating as a system of record, and/or those for which the state is claiming enhanced federal matching rates for DDI or operations, the state should work with their CMS State Officer to plan and coordinate submissions of operational reports with their next annual OAPDs.

### ***Corrective Action Plan Requirements for System Issues Identified in Operational Reporting and/or a Reapproval Review***

Following a reapproval review per 42 CFR § 433.119, if CMS determines a state's MES module

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<sup>9</sup> <https://www.medicaid.gov/federal-policy-guidance/downloads/cib031819.pdf>

<sup>10</sup> Per 42 CFR § 433.116(c), FFP is available at 75 percent of state expenditures for operation of an MES module if the system meets conditions required under 42 CFR § 433.112(b)(1) through (b)(22), including supporting accurate and timely processing and adjudications/eligibility determinations and effective communications with providers, beneficiaries, and the public per 42 CFR § 433.112(b)(14), and supporting seamless coordination and integration with the Marketplace, the Federal Data Services Hub, and allowing interoperability with health information exchanges, public health agencies, human services programs, and community organizations providing outreach and enrollment assistance as applicable, pursuant to 42 CFR § 433.112(b)(16).

<sup>11</sup> Per 42 CFR § 433.116(c), FFP is available at 75 percent of state expenditures for operation of an MES module if the system meets conditions required under 42 CFR § 433.112(b)(1) through (b)(22), including that the system is likely to provide more efficient, economical, and effective administration of the State plan pursuant to 42 CFR § 433.112(b)(1).

<sup>12</sup> Per 42 CFR § 433.116(c), FFP is available at 75 percent of state expenditures for operation of an MES module if the system meets conditions required under 42 CFR § 433.112(b)(1) through (b)(22), including production of transaction data, reports, and performance information that would contribute to program evaluation, continuous improvement in business operations, and transparency and accountability pursuant to 42 CFR § 433.112(b)(15).

or solution is no longer compliant with the conditions of enhanced matching,<sup>13</sup> CMS will issue a letter requiring the state to submit a corrective action plan within 30 days of the date of the letter. The state's corrective action plan must identify the issue(s) preventing the system from attaining compliance with applicable federal requirements, as well as the state's plan and proposed timeline for meeting the conditions of reapproval. The state will coordinate with their CMS State Officer as necessary during development of the corrective action plan and timeline for remediation of the MES module. Upon finalizing the corrective action plan, the state will submit it to the Director of the Division of State Systems (DSS) as an APD-Update via the correct CMS APD mailbox.

If needed, the state can request 90 percent FFP for system modifications and enhancements via the APD process to bring the MES module into alignment with the conditions for enhanced matching for system operations, and to facilitate achievement of outcomes. The state should provide their CMS State Officer with ongoing monthly status updates on the work to resolve outstanding issues with the system, allowing the State Officer to monitor project progress against the corrective action plan schedule. The state's progress on implementing the corrective action plan should be tracked in monthly project status reports submitted to the State Officer.

### ***Reduction in FFP for Ongoing Operations of a Non-Compliant System***

At the end of the agreed-upon corrective action plan schedule (e.g., six months), if the state's MES module has still not attained compliance with the conditions for enhanced federal matching as noted in the state's corrective action plan, CMS will determine the state's corrective actions did not enable the system to meet the conditions for reapproval in 42 CFR § 433.119,<sup>14</sup> and will issue a letter reducing FFP from 75 percent to 50 percent for expenditures related to the operations of non-compliant functionality or system components, pursuant to 42 CFR § 433.120. The compliance letter will include:

- 1) CMS's decision to reduce FFP for system operations from 75 percent to 50 percent of expenditures, beginning with the first day of the first calendar quarter after CMS issues the written notice to the state.<sup>15</sup> The FFP reduction will be effectuated through an adjustment to the module's Medicaid Detailed Budget Table (MDBT), which will be included as an attachment to the compliance letter.
- 2) The findings of fact upon which the determination was made.
- 3) A statement that state claims in excess of the reduced FFP rate will lead to a deferral action and/or a disallowance action, and that any such disallowance action will be appealable to the HHS Departmental Appeals Board.
- 4) A description of the process by which the state can request reapproval of the MES module once the documented issues have been resolved.

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<sup>13</sup> A state must ensure its MES module complies with all of the conditions for enhanced funding as provided in 42 CFR § 433.112(b)(1) through (b)(22), and that the system remains compliant with federal Medicaid requirements for enhanced operations matching once it is in operation per 42 CFR § 433.116.

<sup>14</sup> 42 CFR § 433.119 Conditions for reapproval; notice of decision – available at <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-433/subpart-C>.

<sup>15</sup> Per 42 CFR § 433.120(b), CMS may reduce FFP from 75 to 50 percent for expenditures related to the operations of non-compliant functionality or system components.

### ***Returning to Compliance and Requesting Reapproval***

Upon correcting the system deficiencies identified in CMS’s compliance letter, the state can initiate a reapproval request. To do so, the state must submit a reapproval request letter to CMS, including:

- 1) The date the state remediated outstanding issues and the system once again meets the conditions for reapproval;
- 2) An operational report and any other applicable data demonstrating system compliance with the reapproval conditions for enhanced federal matching required under 42 CFR §§ 433.119, as well as metrics and related evidence demonstrating achievement of outcomes;<sup>16,17</sup> and
- 3) A proposed timeframe for the reapproval review.

The state’s reapproval request letter, metrics, and underlying data and explanatory or contextual information should be sent to the CMS State Officer and to [MES@cms.hhs.gov](mailto:MES@cms.hhs.gov). The state and CMS State Officer will agree upon a schedule for the review. The reapproval review will focus on metrics and other evidence (such as a system demonstration) establishing the MES module meets the conditions for reapproval.

Following the review in which CMS determines the state has resolved previously identified issues and the MES module now meets the conditions for reapproval, CMS will issue a letter confirming the system now complies with the conditions for enhanced federal matching. Pursuant to regulation at 42 CFR § 433.122(a), the CMS approval letter will verify the state is eligible for 75 percent FFP in expenditures for system operations beginning with the calendar quarter following CMS’ review determination that the MES module again meets the conditions of reapproval. The state can then submit an OAPD to request the 75 percent federal match for operations of the MES module retroactively from that quarter forward.

Per 42 CFR § 433.122(b), CMS may retroactively waive a reduction of FFP in expenditures for system operations if CMS determines that the waiver could improve the administration of the State Medicaid plan. However, CMS cannot waive this reduction for any quarter before the fourth quarter immediately preceding the quarter in which CMS issues the determination (as part of the review process) stating that the system is reapproved.

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<sup>16</sup> In accordance with 45 CFR § 95.615, the state must allow the Department of Health and Human Services access to the system in all of its aspects, including operational records at such intervals as are deemed necessary by the Department to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system.

<sup>17</sup> Evidence demonstrating achievement of outcomes can include testing results and/or demonstrations of system functionality verifying that the previously-identified system issues have been resolved and the MES module again meets federal requirements.

***Applying the Compliance Process: T-MSIS Example***

On August 10, 2018, CMS issued State Health Official (SHO) Letter # 18-008,<sup>18</sup> outlining T-MSIS data reporting requirements for state Medicaid and CHIP programs. Per the SHO Letter, ongoing access to enhanced federal matching for MES operational expenditures is contingent upon the state's continued ability to meet T-MSIS requirements of complete, accurate, and timely data reporting. As addressed in the CMCS Informational Bulletin (CIB) dated March 18, 2019<sup>19</sup> and subsequent T-MSIS guidance, states are required to maintain monthly production submissions of T-MSIS data files and continue to resolve T-MSIS data issues. To support this work, in each APD approval letter responding to a state's request for enhanced FFP for system development or operations, CMS provides a T-MSIS data submission currency report and data quality assessment for the state, based upon the most recent T-MSIS reporting period.

However, if CMS determines a state's MES module is no longer compliant with T-MSIS reporting or data quality requirements per the conditions for enhanced funding at 42 CFR §§ 433.112(b)(15) and 433.116(b), (c), and (i), CMS can require the state to submit a corrective action plan within 30 days of the date of the corresponding APD approval letter.<sup>20</sup> In line with the previously-described compliance process, the state must then submit a corrective action plan identifying the issue(s) preventing the system from meeting T-MSIS reporting or data quality requirements, as well as the state's plan and timeline for correcting the identified T-MSIS issues.

At the end of the agreed-upon corrective action plan schedule, if the state still has not resolved the system defects preventing the MES module from meeting T-MSIS reporting and data quality requirements, then CMS will follow the process detailed above and issue a written notice to the state reducing FFP for system operations from 75 percent to 50 percent of expenditures, beginning with the first day of the first calendar quarter after CMS issues the letter establishing the FFP reduction. As previously noted, once the state has remedied the outstanding T-MSIS reporting and/or data quality issues, it can initiate a reapproval request for FFP at the 75 percent rate for system operations.

If states have questions about this informational bulletin or need technical assistance regarding MES reporting related to system operational expenditure federal matching, please contact Edward L. Dolly, Director of the Division of State Systems at [Edward.Dolly@cms.hhs.gov](mailto:Edward.Dolly@cms.hhs.gov).

<sup>18</sup> <https://www.medicaid.gov/federal-policy-guidance/downloads/sho18008.pdf>

<sup>19</sup> <https://www.medicaid.gov/federal-policy-guidance/downloads/cib031819.pdf>

<sup>20</sup> CMS is not initiating FFP reductions due to state T-MSIS data quality issues for up to 14 months from the month states begin their redetermination process per SHO Letter # 23-002, which is available at <https://www.medicaid.gov/federal-policy-guidance/downloads/sho23002.pdf>

## **MES Compliance and Reapproval Process – Frequently Asked Questions**

**Q1:** If CMS determines after the reapproval review the system no longer meets the conditions for reapproval, CMS will reduce FFP for related expenditures for system operations. What does CMS mean by related operational expenditures? Is there a predefined list, or is this determined on a case-by-case basis?

**A1:** CMS will assess on a case-by-case basis the extent to which the state's system is non-compliant and will target reduction of FFP for specific system operation costs, which might include one or more module(s).

**Q2:** States are prioritizing funds and resources to ensure successful unwinding efforts. Will CMS extend any flexibility on enforcement of compliance during the unwinding period?

**A2:** CMS understands that states must devote significant resources to the “unwinding” effort from the public health emergency for COVID-19 and generally expects to adopt a flexible enforcement policy for up to 14 months from the month states begin their COVID-19 unwinding-related redetermination process. In general, we would not expect to prioritize reductions in the federal matching rate for MES operational expenditures during this time of increased strain on state administrative resources.