



## Ending the COVID-19 Related Continuous Medicaid Coverage Requirement:

### *Impact on nursing facility residents and the importance of appealing both a DCF Medicaid termination notice and a potential nursing home discharge*

**Background:** After the pandemic-related moratorium on Medicaid terminations ended on 3/31/2023, states returned to pre-pandemic operations,<sup>1</sup> including redeterminations of eligibility and terminations of those who either fail to complete the renewal on time or who appear to no longer be eligible, e.g. over asset limit. Under Florida's Plan, redeterminations for certain vulnerable groups, including those receiving institutional care with limited income sources, will be postponed until the end of the redetermination period. (Plan at 12.)

The vast majority of Medicaid recipients who have previously met the level of care (LOC) and financial eligibility requirements for the institutional care program (ICP) should remain eligible. Notably, [Florida's Long-term Care \(LTC\) Model contract](#) provides that enrollees residing and remaining in the nursing facility setting are exempt from the annual LOC redetermination requirement. (Contract at 6).

### **Loss of Medicaid**

**Risks of Medicaid termination:** However, even those who are still Medicaid eligible face a risk of procedural terminations if they are unable to provide the requested verification on time, and providing the requested verification can be challenging. This [comment letter](#) to DCF raises some concerns. Additionally, there is a risk of erroneous termination even if the person provides the requested material and is still eligible. And although institutional care residents on Medicaid were not supposed to be subject to redetermination /termination until March or April 2024, residents have been going through redeterminations. DCF has not yet provided requested public records regarding how many ICP enrollees may have already been terminated from Medicaid.

---

<sup>1</sup>More information on the end of the continuous coverage requirement, also referred to as the "Medicaid Unwind" is available [here](#).

**Need to appeal:** People who are in nursing facilities are extremely vulnerable, and losing coverage (even temporarily if renewal is delayed), could pose serious problems. Thus, it is important to file an appeal of any termination that may be improper, including a procedural termination for failing to renew on time. The appeal should **preferably be filed before the end of coverage (in order to maintain continuous coverage) and at the very latest within 90 days of the date on the top of the termination notice.** More information about filing an appeal is available [here](#).

**How to request an appeal:** Appeals can be requested multiple ways, including calling DCF, mailing a request or going to a DCF office, but it is best to send an email to [appeal.hearings@myflfamilies.com](mailto:appeal.hearings@myflfamilies.com).

**How to get advice or assistance with DCF Medicaid appeal:** Contact a legal aid program in your area ([this link](#) has program contact information); or submit this [online form](#) and send a copy of Medicaid termination notice to the Florida Health Justice Project at [help@floridahealthjustice.org](mailto:help@floridahealthjustice.org).

**Risk of facility discharge:** Termination of Medicaid puts the resident at risk of discharge due to nonpayment. However, the resident cannot be discharged for nonpayment while a determination on the resident's Medicaid eligibility is pending. Thus, it is critical to appeal both the DCF Medicaid termination and the nursing facility discharge.

### **Discharge from Nursing Facility**

**Timing for appeal of nursing facility discharge:** If a request for a fair hearing regarding the discharge is made within 10 days of receiving the eviction notice, the facility cannot make the resident leave the facility while awaiting a hearing or a hearing decision unless an emergency eviction is necessary pursuant to state or federal law. See [this link](#) for more information regarding defenses to evictions from nursing facilities.

**How to get advice or assistance with a nursing home discharge:** Contact your Ombudsman at [this link](#) or your local legal aid program. A list of local legal aid programs can be found at [this link](#).

*Updated 12-14-2023*