



American Rescue Plan Act Section 9817 Maintenance of Effort Requirements

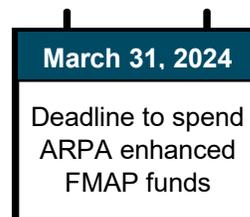
American Rescue Plan Act (ARPA) Section 9817

What is ARPA?	ARPA was signed into law in March 2021 and provides \$1.9 trillion in relief funds to support the country's recovery from the COVID-19 public health emergency (PHE).
What is the goal of ARPA Section 9817?	ARPA Section 9817 provides additional support for Medicaid home and community-based services (HCBS) by temporarily increasing Federal Medicaid payments (federal medical assistance percentage or FMAP) to states by 10 percent. ^{1, 2}
How can states spend the funds from the enhanced FMAP?	The Centers for Medicare and Medicaid Services (CMS) required states to submit a plan for spending the enhanced FMAP. The spending plan describes the state's initiatives to use the funds to expand, enhance, or strengthen HCBS. Kentucky's HCBS Spending Plan received conditional approval from CMS on February 14, 2022 and the state can begin implementing all activities. ^{3, 4}
When can states use the enhanced funding?	The enhanced FMAP funds are one-time, non-recurring funds which may be used through March 31, 2024. States may need to prioritize HCBS initiatives to ensure that all ARPA enhanced FMAP funds are spent on approved activities before the funds expire in 2024.

ARPA Maintenance of Effort Requirements

States must comply with certain conditions called "Maintenance of Effort" (MOE) requirements in order to receive the enhanced Federal funding.¹ **This means that state Medicaid agencies cannot make certain changes to their Medicaid or HCBS programs until March 31, 2024 or until the state expends the enhanced FMAP funds.** In order to receive the enhanced funding, states must:

1. **"Not impose stricter eligibility standards**, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021"
2. **"Preserve covered HCBS**, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021"
3. **"Maintain HCBS provider payments** at a rate no less than those in place as of April 1, 2021"



Additional MOE Requirements under the Families First Coronavirus Response Act (FFCRA) Section 6008:

ARPA is one of the multiple pieces of legislation enacted in response to the COVID-19 PHE. FFCRA Section 6008 was signed into law in March 2020 and **temporarily increases Federal Medicaid payments to eligible states by 6.2 percentage points through the end of the quarter in which the PHE ends.**⁵ To receive the temporary 6.2 percentage point increase, states must comply with the following **MOE requirements**:

1. **"Maintain eligibility standards**, methodologies, or procedures that are no more restrictive than what the state had in place as of January 1, 2020"
2. **"Not charge premiums that exceed** those that were in place as of January 1, 2020"
3. **"Cover, without impositions of any cost sharing, testing, services and treatments—including vaccines, specialized equipment, and therapies—related to COVID-19"**
4. **"Not terminate individuals from Medicaid** if such individuals were enrolled in the program as of the date of the beginning of the emergency period, or becomes enrolled during the emergency period, unless the individual voluntarily terminates eligibility or is no longer a resident of the state"

¹ Centers for Medicare and Medicaid Services, [State Medicaid Director's Letter \(SMD #21-003\)](#).

² The enhanced FMAP is based on eligible claims between April 1, 2021 and March 31, 2022.

³ Kentucky Department for Medicaid Services, [HCBS Spending Plan](#)

⁴ Kentucky's initial HCBS Spending Plan received partial approval on September 30, 2021.

⁵ Kaiser Family Foundation, [Medicaid Maintenance of Eligibility \(MOE\) Requirements](#).