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BUILDING AN EXPRESS LANE ELIGIBILITY INITIATIVE: A ROADMAP OF KEY DECISIONS FOR STATES

SUMMARY

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) included provisions to encourage and help states reach and enroll the estimated 5 million children who are already eligible for Medicaid or the Children's Health Insurance Program (CHIP) but remain uninsured. One key tool provided to states under CHIPRA is Express Lane Eligibility (ELE), which allows state Medicaid and CHIP agencies to borrow and rely on eligibility findings from other need-based programs (such as the National School Lunch Program) to determine and/or renew Medicaid or CHIP eligibility for children. States have significant flexibility to design and build ELE initiatives that meet their unique needs in reaching eligible but uninsured children.

This brief provides an overview of key decisions a state will need to address in designing an ELE initiative, including:

Choosing an Express Lane Agency (ELA) or Agencies. States have wide discretion in selecting an ELA from which to obtain eligibility findings and data. CHIPRA also allows states to rely on state income tax return information and income findings for ELE. A state should consider a number of key factors in selecting an ELA, including: characteristics of the children served by the ELA, eligibility data available through the ELA, and whether the ELA offers favorable administrative conditions to support a cross-program effort. States should also consider running ELE through more than one ELA.

Determining whether to use ELE for both Medicaid and CHIP or just Medicaid. A state may choose to operate ELE through an ELA that serves children with family incomes that are below Medicaid income limits, thus focusing its ELE effort solely on Medicaid. This approach removes some administrative complications but also limits an initiative's potential to reach more moderate-income uninsured children who could benefit from ELE. If an ELA connects with children with family incomes above Medicaid income limits, then ELE is likely to result in both Medicaid and CHIP enrollment. This enables a state to reach a larger share of uninsured children, but also requires it to address additional administrative issues, such as screen and enroll procedures.

Deciding whether to use ELE for enrollment, renewal, or both activities. Constructing an initiative that focuses on enrollment and renewal offers the greatest potential benefit. However, a state may determine that its ELE initiative is best-suited for focusing on one activity based on the children reached and the data collected through the ELA(s). Other factors that may influence a state's decision include the degree to which the application and renewal process currently occurs online, whether renewal periods can be synchronized with those of the ELA program, and the degree to which the enrollment system can obtain missing data needed to determine eligibility electronically. Further, a state's coverage goals may influence this decision.

Designing a process to gather all necessary data and authorizations to determine eligibility. Ultimately, ELE aims to streamline the enrollment process so that it can get as close as possible to a one-step, automated process that does not require families to submit a separate Medicaid/CHIP application. However, a state's ability to fully streamline the process depends on the choice of ELA and the eligibility elements that can be borrowed from the ELA.

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Some need-based programs provide access to most if not all of the eligibility findings and data that are needed to make a Medicaid or CHIP eligibility determination, while others offer a limited set of findings and data. Thus, a Medicaid or CHIP agency may need to take additional steps to obtain necessary information and authorizations in order to complete the enrollment or renewal process. Ideally, a state's ELE process will minimize the need for such gap-filling and, where gap-filling is necessary, simplify and streamline the process.

Deciding whether to provide presumptive eligibility as part of ELE. Presumptive eligibility is the process through which temporary health coverage is granted to a child while a final Medicaid or CHIP eligibility determination is being made. If an ELE initiative involves a period of follow-up to complete an eligibility determination, a state can offer presumptive eligibility while the Medicaid or CHIP agency obtains additional information. Presumptive eligibility provides children with immediate access to coverage at the time they are seeking coverage and may be most likely to need it or use it.

Designing the point of entry for families that initiates the ELE process. States must establish what actions will trigger an ELE determination. An effective ELE process will build on a family's existing involvement with an ELA, for example, when an applicant applies to or renews coverage in the ELA program. A state can also initiate the ELE process itself by using data available through the ELA (via automatic enrollment or renewal procedures).

Mapping out the role of technology in the ELE process. In selecting an ELA, a state should factor in its available technology and how much that technology can facilitate the ELE process. Effective eligibility and enrollment systems can support the use of online applications, identify and retrieve relevant information from other state databases, apply rules engines to evaluate relevant data and findings, and provide real-time determinations and documents that help a family access care. As such, they can minimize or eliminate the need for a family to provide additional information and largely or fully automate the enrollment or renewal process. As a state determines the role of technology in its ELE initiative, it should keep in mind available federal resources to help support systems upgrades that can facilitate an ELE process.

Coordinating funding and workload issues with the ELA(s). A key challenge of the ELE process is determining how to structure a program that imposes the least burden on the ELA and that falls within an ELA's allowable activities. A state can facilitate an effective ELE initiative by identifying an ELA that is willing to invest in the process, crafting an ELE process that can operate without any investment of time or money from the ELA, identifying additional sources of eligibility data to reduce the amount of data required from the ELA, and/or identifying private funding to support the process.

In sum, the ELE option provides states significant flexibility to design and build enrollment and retention initiatives to reach uninsured children. Thus, there are a number of key decisions a state will face in designing an ELE effort. This flexibility provides a tremendous opportunity for states to design an effective and efficient ELE program to help support low-income children's enrollment and coverage.

INTRODUCTION

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) included a number of provisions designed to encourage and help states reach and enroll the estimated 5 million children who are already eligible for Medicaid or the Children's Health Insurance Program (CHIP) but remain uninsured. One key tool provided to states through CHIPRA to help with outreach and enrollment efforts is Express Lane Eligibility (ELE). ELE allows state Medicaid and CHIP agencies to borrow and rely upon eligibility findings from other need-based programs (such as the National School Lunch Program) to determine and/or renew Medicaid or CHIP eligibility for children (see text box). ELE offers a number of potential benefits to states, including increased opportunities to reach large numbers of eligible but uninsured children, simplify and streamline Medicaid and CHIP eligibility and renewal processes, achieve administrative and program savings, improve coordination across programs, and develop modernized enrollment systems.[1]

Under the ELE initiative, Congress gave states significant flexibility to design and build enrollment and retention initiatives that meet their unique needs. Thus, in designing an ELE initiative, there are a number of key decision points a state will face. This brief provides an overview of key decisions states will need to address in designing an ELE initiative and guidance for considering these decisions.

A Brief Overview of Express Lane Eligibility

- Medicaid and CHIP agencies can borrow and rely upon eligibility findings from a wide array of need-based programs, called Express Lane agencies, to determine or renew Medicaid and CHIP eligibility for children.
- Any timely eligibility finding made by an Express Lane agency, except citizenship, is available for use in ELE, even in cases in which the agency used a different methodology to make the finding.
  - Medicaid and CHIP agencies have the option to verify citizenship through an electronic exchange of data with the Social Security Administration.
  - Medicaid and CHIP agencies can accept electronic signatures to meet any applicable signature requirements. They do not need to obtain a signature for borrowed data or findings.
- States can conduct "automatic" enrollment or renewal by using available data and findings from other programs to initiate enrollment or renewal. If a child is found eligible through these processes, a state must obtain affirmative consent for enrollment through oral, written, or electronic means.
- Medicaid and CHIP agencies can use streamlined screen and enroll procedures when doing ELE by establishing an income threshold below which children are placed in Medicaid and above which into CHIP or by using presumptive eligibility and a simplified screening.
- For children found ineligible for enrollment or renewal through ELE, states must revaluate eligibility through standard Medicaid and CHIP eligibility determination methods.
- States are not exposed to penalties for errors related to ELE enrollment. ELE-related enrollment will not be included in Medicaid Eligibility Quality Control or Payment Error Rate. Separate procedures will be used to analyze error rates related to ELE.

KEY DECISIONS FOR STATES

Choosing an Express Lane Agency or Agencies

States have wide discretion in selecting an Express Lane Agency and should consider which agencies have functions and characteristics that would facilitate effective ELE.

The first and most basic decision facing a state will be determining: What need-based program(s) will work best for creating an ELE initiative? CHIPRA refers to these potential programs by referencing the agency that administers the program (i.e., the "Express Lane agency" (ELA)), and lists a number of public agencies as possible ELAs (see text box). However, the list is not meant to be exhaustive. Instead, the law opens the door wide for states to choose ELAs.

To serve as an ELA, an agency must have fiscal liability or legal responsibility for the accuracy of its eligibility determinations (ensuring that under its own rules, it has financial and legal incentives to make an accurate eligibility determination). The only agencies explicitly excluded from consideration as ELAs are those that solely determine eligibility for a program established with Title XX Social Services Block Grant funding or a private, for-profit organization. Further, beyond agencies that determine eligibility for need-based programs, CHIPRA also allows states to rely on information obtained from state income tax records or returns, including gross income or adjusted gross income, in the same manner that it relies on a finding from an ELA.[2]

Notably, CHIPRA specifically lists Medicaid and CHIP agencies as possible ELAs, creating the potential for increased linkages between the programs. This could be particularly useful in a state that operates a separate CHIP program by helping to simplify and smooth transitions between the programs. For example, when the family of a child enrolled in Medicaid experiences an increase in income above Medicaid limits, the file can be transferred to CHIP and that agency can then borrow Medicaid's finding of income and other eligibility elements to enroll the child in CHIP with no break in coverage and no need to re-request information from the family or recalculate the findings.

Potential Express Lane Agencies Identified in CHIPRA

CHIPRA gives states discretion to choose an ELA, but specifically identifies public agencies that determine eligibility for the following programs as potential ELAs:

- Temporary Assistance for Needy Families (TANF)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Supplemental Nutrition Assistance Program (formerly known as Food Stamps)
- Child Support Enforcement
- Head Start
- Subsidized Child Care
- National School Breakfast and Lunch Program
- Homeless Assistance
- Housing Assistance
- Native American Housing Assistance
- State Medicaid and CHIP Programs

In addition, CHIPRA specifically authorizes states to use gross income or adjusted gross income from state income tax records or returns in the same manner as an ELA finding.

Given the wide discretion states have in selecting an ELA, there are a number of key issues they should consider in evaluating potential ELAs. In terms of functions, they should ensure that the ELA is capable of making eligibility determinations; able to notify a family of information disclosure, as needed, and allow the family to opt out of such disclosure; and can enter into an interagency agreement that limits the disclosure and use of information. However, beyond these necessary functions, the state should also consider the extent to which an ELA:

- *Offers a promising enrollment and/or retention opportunity.* A state should consider the characteristics of children served by the ELA program and whether connecting with the ELA will enable the state to reach large numbers of uninsured children to enroll in Medicaid or CHIP and/or large numbers of children already covered by Medicaid or CHIP who would benefit from ELE-enabled renewal efforts. The state may also consider whether the ELA connects with children who are particularly difficult to reach through traditional outreach methods or children in specific priority or target groups (e.g., school-age children or children in recently unemployed families).

- *Provides access to valuable eligibility data or the opportunity to collect such data.* It is important for a state to consider the extent to which the ELA collects eligibility information necessary to make a Medicaid or CHIP eligibility or renewal determination. Beyond that basic consideration, it is useful to assess whether the ELA:
  - Conducts an in-person interview and, if so, if the interview can be slightly modified to facilitate ELE;
  - Collects an electronic or other signature as part of its application or requires any attestation as to the truth of the applicant's statements;
  - Utilizes current data and verifies that data before making an eligibility finding; and
  - Collects documentation as part of the application and retains the documentation in electronic form.

- *Offers favorable administrative conditions for a cross-program effort.* For an ELE initiative to be successful, inter-program or interagency cooperation and coordination will be important. Thus, there are benefits to building an ELE effort with a program or agency that already works closely with the Medicaid and/or CHIP agency or that could easily adapt to build a closer relationship with the agency. For example, programs or agencies that already use the same eligibility workers as Medicaid or CHIP, that use the same eligibility systems technology, and/or that already exchange data with Medicaid or CHIP are well-positioned to facilitate an ELE effort. Further, a state might consider whether the rules that govern the ELA program lend themselves toward supporting the cooperation needed to develop an ELE initiative and whether the leadership and staff of the ELA support the goals of ELE.

Determining Whether to Use ELE for Both Medicaid and CHIP, or just Medicaid

Using ELE in both Medicaid and CHIP enables a state to reach a larger share of children, but requires it to address additional administrative needs, such as "screen and enroll" procedures.

States also must consider whether to use ELE to enroll children into both Medicaid and CHIP or to structure the effort to support Medicaid enrollment alone. If an ELA is selected that targets and serves children with family incomes that are close to or below Medicaid income guidelines, then an approach that focuses solely on Medicaid enrollment will result. Targeting the lowest income children through an ELE initiative removes some administrative complications, such as the need for screen and enroll procedures. However, this approach also limits an initiative's potential to reach more moderate-income children who could benefit from ELE.

If an ELA connects with children with family incomes that extend above Medicaid income thresholds, then a state can use ELE for both Medicaid and CHIP. This would enable a state to potentially reach a larger share of children who would benefit from ELE, but also requires the state to choose and deploy a screen and enroll process.

The federal ELE provision offers two methods for ensuring that screen and enroll protections are applied to ELE in a streamlined manner:

- *Threshold Approach.* The most administratively simple approach is the Threshold Approach, which authorizes a state to set a threshold of at least 30 percentage points of the federal poverty level above the Medicaid eligibility limit. Using that higher threshold, a child with an ELA income finding that is below the threshold would be placed in Medicaid and a child with an ELA income finding that is above the threshold would be placed in CHIP.

- *Temporary Coverage Approach.* Under the second method, called the Temporary Coverage Approach, a state can temporarily enroll a child into Medicaid or CHIP, based on the child's eligibility as indicated by the borrowed ELA income finding. The state must then evaluate eligibility for children placed into CHIP using standard eligibility rules to make sure that they do not actually qualify for Medicaid, and the state is directed to use a simplified, expedited procedure to do so.

Examples of Screen and Enroll Processes Under ELE

Assume a state provides Medicaid coverage up to 133 percent of the federal poverty level (FPL) and CHIP up to 200% FPL. It chooses to implement ELE through WIC, which has an upper income limit of 185% FPL. As such, it must determine whether children are income-eligible for Medicaid or CHIP using one of the following approaches.

- *Threshold Approach.* Under this approach, any child whose family income is determined, according to WIC rules, to be within 30 percentage points above the Medicaid income limit of 133% FPL would be considered income-eligible for Medicaid. Thus, any child found by WIC to be at or below 163% FPL would be determined income-eligible for Medicaid and any child with income above 163% FPL would be income-eligible for CHIP. The state also could choose to set the threshold at a higher income level to reflect differences between the income methodologies of the WIC and Medicaid/CHIP programs, making a greater share of ELE applicants eligible for Medicaid rather than CHIP. The state is required to notify families of all children placed into CHIP about their children's potential eligibility for Medicaid and provide a description of the differences between the programs and information on how to request an evaluation of Medicaid eligibility under standard procedures.

- *Temporary Coverage Approach.* Using this approach, a state would temporarily enroll a child into Medicaid or CHIP based on WIC's income finding, enrolling children at or below 133% FPL into Medicaid and those above 133% FPL into CHIP. The state would then complete further evaluation of those above 133% FPL to assess eligibility using standard procedures. In doing so, the state is required to use a simplified process that minimizes the burden on the family and makes use of the information that the family has already provided.

Deciding Whether to Use ELE for Enrollment, Renewal, or Both Activities

Constructing an ELE initiative that focuses on both enrollment and renewal offers the greatest potential for covering uninsured children and maintaining coverage over time.

States can use ELE to help reduce the number of uninsured children by enrolling eligible children who lack coverage as well as to help children maintain stable coverage by facilitating renewals. In designing an ELE initiative, a state will need to determine whether to use ELE to facilitate enrollment of uninsured children, renewal of already covered children, or both activities. While constructing an initiative that focuses on both activities offers the most potential benefit, a state may determine that their ELE initiative is best-suited for focusing on one activity based on the children reached through their ELA(s) and/or the information and data collected by the ELA(s).

For example, if a significant number of children targeted by the ELA(s) are uninsured, then an ELE initiative focused on enrollment may make the most sense. However, if many of the children are already covered by Medicaid or CHIP, then it may be appropriate and simplest to focus primarily on renewal. Similarly, this decision can hinge on what information is collected by the ELA(s). Each possible ELA will provide Medicaid and CHIP agencies with access to different eligibility information and findings, with only a few providing all the information necessary to make a complete eligibility determination (see text box, below).

If an ELA does not collect or make findings needed to determine eligibility, a state may decide to focus on renewal, since it will have already established some of these elements as part of its initial eligibility determination process and, thus, will require less information from an ELA to process a redetermination. However, if a state can obtain the missing eligibility elements through other means, it may determine it is effective to use ELE for both enrollment and renewal.

Information Needed to Determine a Child's Eligibility for Medicaid and CHIP

In general, Medicaid or CHIP require the following information and findings about an applicant to determine eligibility (although rules do vary across states):

- Name;
- Name of parent or guardian;
- Address;
- Birth date;
- Social security number;
- Family income level (% of the federal poverty level);
- Citizenship/nationality or immigration status and date of entry into the U.S;
- For infants, whether the mother received Medicaid when the child was born; and
- Whether there is any other available insurance or has been coverage in the recent past.

Other factors that may influence a state's decision of whether to use ELE for enrollment and/or renewal include the degree to which the application and renewal process is conducted electronically, whether renewal periods can be synchronized with those of the ELA program, and the degree to which the enrollment system can electronically obtain missing data needed to determine eligibility. Further, a state's specific goals and targets may guide this decision. For example, if a state has already achieved significant success in reaching uninsured children, it may want to emphasize the use of ELE to improve retention efforts.

Designing a Process to Gather All Necessary Data and Authorizations to Determine Eligibility

In general, it is advisable to build an ELE process that utilizes as many of the available findings and data from an ELA as are useful, credible, and timely and that obtains as much missing information as possible through available databases.

Ultimately, ELE aims to streamline the enrollment process so that it can get as close as possible to a one-step, automated process that does not require families to submit a separate Medicaid/CHIP application. CHIPRA makes this possible by allowing Medicaid and CHIP agencies to use other programs' eligibility findings, despite differences in methodology, as well as other data that the state has already collected. However, the ability of an ELE effort to be fully streamlined depends on the state's choice of ELA(s), as discussed above, and the eligibility elements that it can borrow from the ELA(s).

Some need-based programs, like the Supplemental Nutrition Assistance Program (formerly Food Stamps), provide access to most if not all of the eligibility findings and eligibility data that are needed to make a Medicaid or CHIP eligibility determination. Others, such as the National School Lunch Program, offer a limited set of available findings and data, necessitating a streamlined method to obtain a full eligibility file.

Beyond eligibility data and findings, depending on the circumstances, Medicaid and CHIP agencies may need to take additional steps to provide notice of information disclosure and an opportunity to opt-out, obtain a family signature where none was obtained by the ELA, obtain additional eligibility information or reconcile conflicting information, obtain affirmative consent to enroll an eligible child following a state initiated enrollment process,[3] or conduct the screen and enroll review required of the "temporary coverage" screen and enroll approach.

To fill in such gaps, states have the following options available to them:

- An *ex parte* process that gathers information and fills in details without involving the family – using available state databases such as the vital statistics and unemployment insurance databases;
- A process by which eligibility workers contact the family directly, by phone or other means, to obtain needed information or authorizations; or,
- A follow-up mailing that attempts to get the family to send back any necessary information, documentation, or authorizations.

Ideally, a state's ELE process will be structured to minimize and even eliminate the need for such gap-filling for the majority of ELE-enabled applications. And, where there is gap-filling to be done, it is most effective if it is streamlined and simple for families as well as state agencies. Prior state experience with cross-program enrollment initiatives has demonstrated that *ex parte* strategies enhance the effectiveness of streamlined enrollment efforts while bi-furcated, two-step processes that place the burden of follow-up in the hands of the family result in significant attrition.

Deciding Whether to Provide Presumptive Eligibility as Part of the ELE Process

When incorporated into an ELE initiative, presumptive eligibility can provide immediate access to care.

Presumptive eligibility is the process through which temporary health coverage is granted while a final Medicaid or CHIP eligibility determination is being made. In an ELE initiative that involves a period of follow-up to complete the eligibility determination and fill in any gaps in necessary information or to conduct screen and enroll, as discussed above, states can offer presumptive eligibility while the Medicaid or CHIP agency obtains that additional information.

Presumptive eligibility provides children with immediate access to care at the time they are seeking insurance coverage and may be most likely to need it or use it and can be particularly important if a state's ELE initiative is structured as a two-step process, requiring additional follow-up information from a family. Past experience demonstrates that in such two-step processes, significant attrition can occur between the first and second phases of the application.[4] Thus, if an ELE effort is structured to begin at a provider's office or at a public program that is authorized to grant presumptive eligibility (such as a Head Start agency), then incorporating presumptive eligibility into the ELE process can be an administratively simple way to provide important, immediate coverage protections to children.

Designing the Point of Entry for Families that Initiates the ELE Process

An ideal point-of-entry for an ELE initiative is simple and family-friendly.

In designing an ELE initiative, states must create a point of entry and establish what will trigger an ELE determination. An effective ELE process will build on a family's existing involvement with an ELA. For example, the ELE process can begin when an applicant applies to or renews coverage in the ELA program or it can be initiated by the state using data and findings available through the ELA (via automatic enrollment or renewal procedures). ELE can be triggered through the submission of an ELA application in paper, verbal, or electronic format. Where the ELA program's online application is publicly available, families should be able to utilize it to activate ELE themselves. However, when ELA workers assist a family in completing the ELA program application, they can help facilitate the ELE process.

As part of ELE, the ELA is required to provide families with prior notice of information sharing that will occur as part of the ELE process and offer families the chance to "opt out" of disclosure of this information unless longstanding ELA program rules impose a different standard and allow data sharing with Medicaid and/or CHIP for purposes of outreach and enrollment.[5] Such notice and opportunity could be provided on an ELA program application, on a multi-program application, or through a process that involves contacting families.

Mapping Out the Role of Technology in the ELE Process

Continued improvement and expanded use of state eligibility and enrollment systems as well as data-sharing capabilities can help improve the efficiency and effectiveness of ELE.

As discussed above, in selecting an ELA, a state should factor in its available technology and how much that technology can facilitate the ELE process. Modernized eligibility and enrollment systems can support the use of online applications, identify and retrieve relevant information from other state databases, apply rules engines to evaluate relevant data and findings, and

provide real-time determinations and documents that help a family access care.[6] Thus, they can minimize or eliminate requirements for a family to provide additional information and largely or fully automate the enrollment or renewal process.

As a state maps out the role of technology in its ELE initiative, it should keep in mind the following supports for making systems upgrades that can facilitate an ELE process:

- CHIPRA specifically provides enhanced federal matching funds for implementation and maintenance of electronic systems to verify a declaration of citizenship or nationality through the Social Security Administration[7] – an option that enables a state to create a fully *ex parte* ELE process for a large portion of applicants.
- Language in CMS' announcement of outreach grants, as funded by CHIPRA, specifically welcomes a range of proposals, including those for "technology-driven initiatives to modernize and streamline enrollment systems."[8] A second round of such grants will be awarded toward the end of 2011.
- States are under increasing pressure from the federal government to improve Medicaid and other administrative systems in a manner that supports cross-program data-sharing and cooperation, such as through the Medicaid Information Technology Architecture (MITA) initiative. Eligibility and enrollment systems are an integral part of such efforts.[9]

Coordinating Funding and Workload Issues with the ELA(s)

As a state designs its ELE initiative, it must determine how to parcel out the labor and financing required for coordinated, data-driven enrollment to take place.

An essential challenge of the ELE process is figuring out how to structure a program that imposes the least burden on the ELA and that falls within an ELA's allowable activities. In fact, many states exploring ELE may confront strong opposition to the idea of increasing ELA costs and/or requiring any additional labor on the part of their eligibility workers to support this process. Compounding that resistance are funding rules, which tend to be siloed and require some de-tangling to support cross-program efforts.

Thus, in assessing potential ELAs, it is important for a state to assess how the ELA program's mission may align with Medicaid and CHIP and the flexibility the ELA may have to support an ELE process. For example, some need-based programs (such as Head Start) are under a directive to help families obtain health coverage,[10] while others have much less flexibility to help support an ELE effort. Similarly, some may have access to funding that can help make ELE a reality, such as funding to improve information systems for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) that could improve linkages between WIC and Medicaid/CHIP programs, while others do not.[11]

Given these potential challenges, a state can facilitate an effective ELE initiative when it:

- Identifies an ELA that is willing to invest in the process, either through some limited time commitment by its eligibility staff or through an investment in its own data systems to support ELE;
- Crafts an ELE process that can operate without any investment of time or money from the ELA;
- Identifies additional sources of eligibility data to reduce the amount of data required from the ELA; and/or
- Identifies private funding to support the process.

Deciding Whether to Use State Legislation or Administrative Action to Move Forward with ELE

While some states will require legislation to move forward with ELE, others may only require administrative action.

Most Express Lane Eligibility efforts will require the approval of the state legislature, since ELE involves a change in eligibility methodology and has implications for state budgets. Furthermore, to leverage the full value of data-sharing opportunities provided under CHIPRA, states may need to revise confidentiality laws and regulations. However, many states have laws in place that can accommodate ELE, whether or not ELE was explicitly contemplated at the time the laws were passed. In reviewing this issue, states should consider the chances for success through each avenue and the opportunity that each offers to build support for the effort. On the one hand, the process of advocating for legislative change can build a solid base of support for ELE and passage of ELE legislation can create a more certain future for the program. On the other hand, administrative avenues may move faster and can promote the buy-in of key program administrators.

Conclusion

ELE provides a key tool to states to support outreach and enrollment efforts that can help reach children eligible for Medicaid and CHIP who remain uninsured and facilitate stable and continuous Medicaid and CHIP coverage for low-income children. In drafting the terms of ELE, Congress gave states significant flexibility to design and build enrollment and retention initiatives that meet their unique needs. Thus, an ELE initiative can take many directions and forms and there are a number of key decision points a state will face in designing an ELE effort. At each key decision point, a state has the opportunity to craft an outreach and enrollment effort that is tailored to its characteristics and needs. This flexibility provides a tremendous opportunity for states to design an effective and efficient ELE program that promotes low-income children's enrollment and coverage.

This brief was prepared by Beth Morrow of The Children's Partnership in partnership with Samantha Artiga of the Kaiser Family Foundation's Commission on Medicaid and the Uninsured. The authors thank Dawn Horner at the Georgetown University Center for Children and Families for her valuable information and insights.

Endnotes

[1] For more information see Morrow, B. and S. Artiga, "Why Express Lane Eligibility Makes Sense for States and Low-Income Families," Kaiser Commission on Medicaid and the Uninsured and The Children's Partnership, October 2009, http://www.kff.org.
[2] Subparagraph (H) of Section 203(a) of CHIPRA.
[3] Automatic enrollment is the process by which a state initiates the Express Lane process using available information. States must obtain "affirmative consent" before enrolling those children found eligible through automatic enrollment. CHIPRA specifically states that "affirmative consent" can be obtained in writing, by phone, orally, through electronic signature, or through other methods approved by the Secretary. 42 U.S.C. 1396b(a)(3). States can use the ELA program application or renewal form to meet this requirement. Or, where that is not possible or preferable, states can explore other means that occur on a follow-up basis.
[4] The Children's Partnership, "California's Express Enrollment Program: Lessons from the Medi-Cal/School Lunch Pilot Program," The California Endowment, July 2006.
[5] Section 1942 (relating to authorization to receive data directly relevant to eligibility determination, added by CHIPRA), subsection (d), states that the "limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section)."
[6] The Children's Partnership, "Building Efficient and Effective Medicaid and CHIP Enrollment Systems: Core Requirements to Ensure the Greatest Value for Children and Families," Oct. 2009, http://www.childrenspartnership.org/EECoreFunctions.
[7] 42 U.S.C. 1396b(a)(3); Centers for Medicare & Medicaid Services, "Dear State Health Official Letter," December 28, 2009 (SHO #: 09-016; CHIPRA #: 11).
[8] U.S. Department of Health and Human Services Press Office, "Secretary Sebelius Announces Availability of $40 Million in Grants to Help Insure More Children," July 6, 2009.
[9] Centers for Medicare & Medicaid Services, "Medicaid IT Architecture (MITA): Framework 2.0," March 2006.
[10] 45 CFR 1304.20(a)(1)(i).
[11] For further information about funding for WIC technology improvements through the American Recovery and Reinvestment Act of 2009 as well as other sources, see http://www.fns.usda.gov/fns/recovery/recovery-wic.htm.

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