

**Modernizing Public Benefit Eligibility During the Coronavirus
Pandemic: Long-Term Lessons and Short-Term Recommendations**



Modernizing Public Benefit Eligibility During the Coronavirus Pandemic: Long-Term Lessons and Short-Term Recommendations

TABLE OF CONTENTS

Executive Summary	ii
Introduction	1
A Modern Approach to Eligibility for Public Benefits	2
Lessons from the Coronavirus Pandemic — Areas for Modernization	3
1. Archaic Information Technology	4
2. Outdated or Conflict-Ridden Business Processes	5
3. Obsolete Methods for Rolling Out New Policies	7
4. Outdated Workforce Arrangements	9
Recommendations: Modernizing Eligibility to Help Benefit Programs Meet Pressing Needs During the Current Crisis	13
1. Invest in Staff, IT, and Business Processes that Affect Eligibility, Enrollment, and Renewal	14
2. Authorize and Encourage State and Local Benefit Programs to Leverage Federal Data Services	14
3. Allow Additional Data Sharing to Expedite Eligibility Determinations	14
4. Streamline Eligibility Criteria and Procedures	16
5. Develop Effective Methods to Provide Surge Capacity to Accommodate Spikes in Demand	17
6. When Fraud Risks Materialize, Base Interim Payment Rules on the Likelihood of Fraud as Shown by Relevant Data	18
7. Provide Additional Tools so Health Insurance Exchanges Can More Effectively Help Consumers Who Recently Experienced Job Loss or Other Income Reductions	19
Income fluctuations	19
No wrong door to coverage	20
Conclusion	21
Endnotes	23
Acknowledgements	27

Executive Summary

Since the novel coronavirus was first diagnosed on American soil in January 2020, it has triggered the worst public health emergency in a century and the deepest economic collapse since the 1930s. Millions of middle-class Americans are now seeking public benefits to meet their basic human needs. But they are frequently encountering daunting barriers to obtaining essential assistance.

Media accounts have profiled agency dysfunction. Eligible applicants have been frustrated when seeking unemployment insurance, relief checks from the IRS, loans from the Small Business Administration, food for hungry children, and more. A key recurring theme in these experiences involves the problems created by public benefit programs' failure to modernize. Done properly, such modernization can use state-of-the-art information technology and behavioral science to accomplish three goals: helping eligible people obtain aid in a simple, streamlined way; lowering operating costs; and increasing the accuracy of eligibility outcomes, including by preventing procedural glitches from denying benefits to those who qualify.

In this extraordinarily challenging moment, we can learn important lessons about how to improve eligibility systems and rules. Using the spotlight provided by the coronavirus, this report identifies four core obstacles to the effective operation of modern eligibility and enrollment in public benefit programs:

- 1. Archaic information technology (IT):** The IRS and many state unemployment agencies still depend on software dating back to the 1950s and 1960s. This illustrates broader trends that prevent millions of people from obtaining promised benefits. Benefit program software and hardware are typically decades behind systems that are

almost universally available to private firms and most U.S. households.

- 2. Outdated or conflict-ridden business**

processes: Benefit programs often use methods to determine eligibility that deny assistance unless families provide information that states could instead obtain on their own. When an applicant or beneficiary does not respond to state information requests, the state typically denies or terminates benefits, even for those who actually qualify for aid. Such steps can serve state financial interests but conflict with eligible families' need for assistance. State unemployment insurance (UI) programs provide an example: They added procedural requirements following the end of the Great Recession of 2008-2010 that, in one state official's words, were "built to assume you're guilty and make you prove that you're innocent." Those requirements saved money by preventing eligible workers from receiving assistance. That helped states repay federal loans to cover elevated UI costs states incurred during recession, but it denied necessary aid to laid-off workers and their families who were eligible for assistance.

- 3. Obsolete and cumbersome methods for rolling out new policies:** When benefit statutes change, federal agencies promulgate guidance, states publish rules, state IT staff and contractors develop



and implement new or modified software, states renegotiate vendor contracts, and vendors modify their systems. Such complex, multi-party procedures inevitably create delays and missteps.

- 4. Outdated workforce arrangements:** The pandemic is driving a surge in applications for many need-based programs. Program rules that forbid anyone but specified public employees from making final eligibility decisions have had the unintended effect of limiting families' access to essential benefits. For example, federal Medicaid officials authorized states to ignore timeliness standards in determining eligibility. This forced eligible low-income people who had no insurance to wait indefinitely for health coverage, even though a deadly pandemic was sweeping through many of their communities.

Overcoming these challenges fully will ultimately require policymakers to modify the operation of public benefit programs like UI, the Supplemental Nutrition Assistance Program (SNAP), Medicaid,

the Children's Health Insurance Program (CHIP), and advance premium tax credits (APTCs) that help people pay for private health insurance.

The lessons we have learned from the current crisis can inform those long-term changes. But in the meantime, several modernization interventions are essential for benefit programs to better serve their clients during the current, continuing Coronavirus crisis. Some interventions require federal legislation, but others can be done administratively. **With state budget cuts likely to limit administrative resources, the federal government must now take five steps to increase the effectiveness and efficiency of programs on which millions of families rely:**

- 1. Invest in state agency staff, IT modernization, and business-process improvements** that increase the efficiency of eligibility, enrollment and renewal while improving consumers' receipt of benefits and strengthening program integrity. For states to qualify for new federal funding,

modernized eligibility systems could be required to achieve congressionally specified benchmarks, such as reducing consumers' need to provide information that programs could instead obtain by linking to available sources of reliable data. Providing broad fiscal relief to states is essential, but states also need supplemental, targeted assistance to help them transition to more efficient and effective program operations.

- 2. Authorize and encourage state and local benefit programs to leverage federal IT services.** Innovators at the General Services Administration (GSA) and the U.S. Digital Service of the Executive Office of the President have built digital tools that could help state and local programs function more efficiently — a top priority as recession-driven budgetary challenges now limit state and local hiring. Such tools include high-quality identity-proofing functions and Application Programming Interfaces that process consumer data to determine eligibility using approved and updated federal program rules. Federal policymakers could authorize, encourage, and fund state and local benefit programs to use such federal services to avoid the need for costly, risky and slow development of identical functionalities in multiple states.
- 3. Increase authorization of data sharing to expedite eligibility determinations.** Limiting the need for qualified applicants to provide information can simplify and accelerate their receipt of assistance. In addition, by substituting the automated exchange of electronic information for cumbersome manual procedures, data-driven eligibility can cut operating costs for public agencies, helping them meet residents' needs despite severe budgetary limitations on administrative spending.

- 4. Streamline eligibility criteria and procedures.** When one public agency has already found a household qualifies for benefits, other agencies should be able to use those findings. For example, if a family receives UI and SNAP, this could help establish their eligibility for Medicaid. For states to take such steps, it will be important for federal administrative agencies to provide encouragement and explicit guidance. .

- 5. Commission a study to recommend strategies for benefit programs to develop surge capacity to accommodate spikes in demand** when the need for timely processing of applications or renewals exceeds what staff can reasonably undertake using standard procedures. The study should examine the impact of innovations tested during the pandemic, including temporary authorization for UI agencies to process applications by hiring retirees, temporary employees, and contractors to undertake roles ordinarily reserved for merit-based public employees.

In addition to building state programs' capacity to function effectively despite constrained administrative resources, two additional changes are needed to address current conditions:

- » **When fraud risks threaten UI's program integrity, base interim payment rules on the likelihood of fraud as shown by relevant data.** Congress should direct states to use readily available data in distinguishing between claims that are highly likely to be fraudulent and those where data do not establish probable fraud. States should suspend payment of claims in the first category, pending completion of an investigation, while making interim payments for

Leading forecasters now anticipate years of economic sluggishness. Millions of families will likely continue calling on public programs to meet their basic needs....Federal policymakers must take major steps toward bringing public benefit eligibility up to modern-day standards.

the second category. After the fraud investigation concludes, the state can reverse decisions in either direction. But in the meantime, payment rules should reflect known facts.

- » **Provide additional tools so health insurance exchanges can more effectively help consumers who recently experienced job loss or other income reductions.** Congress and the administration should start by authorizing health insurance exchanges to provide more effective and timely help to laid-off workers. APTCs that help consumers buy private health coverage through the insurance exchanges broadly reflect an assumption that incomes generally remain stable year after year. With more than half of all adults losing employment earnings since mid-March, many consumers face a very different situation today.

Responding to that situation requires statutory APTC supplements that make coverage more affordable during part-year income drops. Also, Congress should limit APTC beneficiaries' obligation to make year-end payments to the IRS based on unexpected changes in household circumstances. Such limitations would

prevent tax penalties that are unfair in view of unpredictable economic swings.

Moreover, the federal government should change applicable regulations so all exchanges provide a true "no wrong door" to Medicaid eligibility. This means that when a Medicaid-eligible consumer applies to an exchange for insurance, the exchange should make a final determination of eligibility using the Medicaid agency's chosen verification procedures and data sources. Rather than shuttling uninsured consumers from program to program, one application at a single agency should lead to a single eligibility determination, followed by immediate enrollment into the applicable program.

Leading forecasters now anticipate years of economic sluggishness. Millions of families will likely continue calling on public programs to meet their basic needs. At the same time, state budget woes will almost certainly prevent administrative agencies from receiving the resources they need to accommodate demands for help. To answer this moment's call, federal policymakers must take major steps toward bringing public benefit eligibility up to modern-day standards.

Introduction

Long before the current pandemic began, millions of families in America relied on public benefit programs to meet their basic needs. Some people cannot work due to age, disability, or caretaking responsibilities. Others seek employment but cannot find it.

Involuntary unemployment can occur nationally during an economic downturn, and it can happen locally when particular communities experience prolonged economic decline. But even when the economy booms, many jobs fail to pay enough to meet families' needs without supplementation, especially in geographic areas with high housing costs and for workers whose education ended with high school. For example, health care has grown so expensive that few can afford it without help from an employer or the government. And the cost of postsecondary education, which is increasingly essential for jobs that pay well and provide essential benefits, has outstripped most families' ability to pay without help.

It thus comes as no surprise that, as of 2018, fully 54% of all U.S. residents benefited from either publicly funded health care (Medicare, Medicaid, Department of Veterans Affairs, etc.); Social Security; Earned Income Tax Credits; the Supplemental Nutrition Assistance Program (SNAP); or federal grants and loans for postsecondary school education.¹ Millions more rely on other programs that either provide broad income support or target specific pressing needs, such as affordable housing, help with utility bills, or access to nutritious school meals.

Now that a deadly pandemic has triggered the deepest, steepest economic decline since the 1930s, more families have learned about public benefit programs.

As of early September, roughly 30 million workers were receiving unemployment insurance or had applications pending.² Most families qualified for special payments from the IRS, and numerous small businesses sought grants and loans from the Small Business Administration (SBA). Along with helping many in need, these and other benefit programs have suffered serious administrative failures, highlighted in numerous media accounts of obsolescence and dysfunction.

In this report, we:

- » Outline a general vision for modernized benefit programs, focusing on eligibility determination, enrollment, and renewal.
- » Identify lessons learned from the pandemic about obstacles to modernization, as well as possible future directions for these vital but often overlooked American institutions to benefit from recent improvements in information technology and behavioral science.
- » Explore options for policymakers to address urgent unmet needs during the pandemic by modernizing the administration of benefit programs.

Almost all states are legally required to balance their budgets even during economic downturns, when revenues decline and service demands increase. As a result, over the next few years, states will likely experience considerable budget pressures that limit administrative resources. Implementing more efficient and modernized ways of doing business could prove crucial during a time when policymakers are likely to ask underfunded benefit programs to do much more with much less.

A Modern Approach to Eligibility for Public Benefits

Recent decades' advances in information technology (IT) and behavioral science point the way toward reshaping the benefit programs so many families in America rely on. Contemporary IT increasingly makes it possible for government agencies to determine eligibility for assistance by accessing data electronically, rather than by denying assistance until (1) families complete and submit their paperwork and (2) agency staff process those documents manually.

At the same time, behavioral science increasingly shows that small procedural requirements can trigger sharp drops in program participation by people who qualify for aid. To illustrate:

- » When companies that offer 401(k) retirement savings plans tell new employees that, by completing a simple form, they can receive benefits, only 33% sign up after six months on the job. When companies that offer identical plans tell new employees that they will be enrolled unless they complete a simple form opting out, 90% participate within six months.³
- » When Louisiana's Medicaid program first implemented "Express Lane Eligibility" to qualify children for health coverage based on eligibility determinations already made by the Supplemental Nutrition Assistance Program (SNAP), families could consent to enrollment by using their Medicaid cards to access care. More than 80% did so. Information technology problems eventually forced the state to shift to a different system in which parents had to consent to their children's health coverage by checking a box on the SNAP application. Adding that simple step cut children's Medicaid enrollment by 62%.⁴

These two advances work together. IT gains make it possible for benefit programs to shift from manual to electronic systems of eligibility determination. Behavioral science teaches that such changes, and the resulting lifting of procedural barriers, are essential for many eligible people to receive promised benefits.

This report is the first of several in which the National Center for Coverage Innovation at Families USA is pursuing a vision of 21st-century eligibility for public benefit programs that has three goals:

- 1. Help families by eliminating burdensome paperwork** and ending procedural requirements that needlessly deny benefits to those who qualify.
- 2. Lower agency operating costs** by automating procedures for eligibility determinations, enrollment, and renewal and by preventing eligible people from "churning" on and off programs.
- 3. Reduce erroneous eligibility outcomes** by using well-founded business rules to base eligibility on matches with reliable, probative data and by preventing procedural requirements from wrongfully denying benefits to eligible people.

The project primarily focuses on health coverage programs like Medicaid, the Children's Health Insurance Program (CHIP), and APTCs and cost-sharing reductions (CSRs) for people who buy private coverage in health insurance exchanges. But modern-day eligibility methods are likely to include the same core elements for health and non-health programs alike:

- » **Data-driven eligibility:** Whenever possible, modern benefit programs will determine eligibility based on matches with reliable data, rather than by asking families for documentation. This will often require two steps: (1) increasing the availability of relevant data while protecting privacy and data security; and

(2) realigning eligibility criteria, which were typically crafted during an era of manually determined eligibility, to fit the available data.

- » **Proactive public agencies:** Modern benefit programs should assume responsibility for determining eligibility proactively, whenever possible. This includes actively helping people receive assistance for which they qualify, in addition to barring aid to the ineligible. It also includes efforts to renew eligibility by accessing available data that show continued qualification for assistance and, when such data are unavailable, making multiple attempts to query beneficiaries by phone or text message before ending their assistance. Modern benefit programs will not ask families to do what agencies can do on their own. In particular, eligible people will no longer be denied assistance until they have documented facts that the government can learn on its own.
- » **Data-based defaults:** Behavioral science teaches that defaults are powerful, as illustrated by the above example involving 401(k) accounts. In a modernized benefit program, the default outcome when consumers fail to act will vary based on context. For example, when available data establish a high likelihood of continuing eligibility, program beneficiaries will receive notices explaining their duty to inform the administering agency of relevant changes in household circumstances. If the beneficiary does not respond, the default will be to continue aid, since eligibility is highly likely. But if available data show that continued eligibility is unlikely, the default will be to end assistance if the beneficiary does not respond to a reasonable request for necessary information.

In recent years, some benefit programs have made significant progress toward realizing this vision,

including with health coverage under the Affordable Care Act (ACA). In fact, researchers at the Kaiser Family Foundation have offered the latter as a possible model for state unemployment insurance programs.⁵

Despite that progress, government benefit programs rarely provide their customers with the service most have grown to expect in other arenas. Many Americans can order a book by phone at breakfast, confident that it will reach their door by dinner. With voice commands, many can direct their cars to call family members or provide directions to the nearest open gas station, correcting any wrong turns taken along the way. Technology provides us with these conveniences, served up by large private companies. But when it comes to public benefits that can literally be a matter of survival, families can find themselves plunged back into a world of frustrating obstacles, prolonged delays and arbitrary service denials. This year's events have shown how much work is needed for America's public benefit programs to meet basic expectations of modern operation, as we explore next.

Lessons from the Coronavirus Pandemic — Areas for Modernization

In response to the pandemic and the ensuing economic collapse, millions of people who see themselves as middle class have turned to benefit programs like UI and SNAP for help. But they have often encountered obstacles that result from a lack of investment in program modernization. These obstacles have focused public attention on problems that, in the past, were familiar mainly to low-income people and their advocates. Although triggered by serious dysfunction, this broadened attention has created opportunities for progress.

In this section, we touch on four categories of lessons learned about the challenges public benefit programs face when it comes to modernization: IT; business processes; policy rollouts; and workforce roles.

1. Archaic Information Technology

The problem

Modernizing IT systems that process applications for public benefits has rarely been a top priority for elected officials. Even IT systems that power public agencies that touch the lives of U.S. residents at multiple income levels, such as the IRS and Social Security Administration, suffer from ongoing and systemic underfunding. Out of the estimated \$90 billion a year the federal government spends on IT, approximately 75% pays for ongoing operation, leaving modernization starved for resources.⁶

This longstanding weakness in core public infrastructure has led to serious failures as officials struggled to provide pandemic-related assistance in recent months:

- » Millions of laid-off workers experienced prolonged delays in processing their applications for UI, due in significant part to “aging or neglected computer systems.”⁷ Some states administer UI using 40-year-old mainframe computers that run on “COBOL,” a programming language dating back to 1959.⁸ On average, UI agencies’ IT systems are 28 years old.⁹ Illustrating these challenges’ roots, states cut administrative funding for UI agencies by one-third, in constant dollars, between 2001 and 2020.¹⁰
- » The IRS is also hobbled by outdated IT, reliant on COBOL and in-house software purchased in 1962. The agency’s obsolete data infrastructure was an important reason why numerous people were unable to quickly get relief payments approved by Congress.¹¹ Despite herculean efforts, 70 million out of 150 million Coronavirus payments were delayed.¹²
- » SBA’s outdated IT infrastructure delayed the initial approval of loans (convertible to grants)

by banks to qualifying small businesses.

According to one academic expert, “SBA was asked to do the impossible on top of antiquated technologies.”¹³ One vendor serving multiple small firms shared his experience: “I tried to submit one application in the morning and it was circling for eight hours. I couldn’t submit hundreds of applications.”¹⁴

Lessons learned

These events highlight the importance of investing in the modernization of public sector IT. But the need to update IT on an ongoing basis is rarely a political priority until an emergency happens, by which time problems can be much harder to solve. As explained by leading UI experts, “we can’t ignore systems for decades and then throw money at them only when there is an emergency. We cannot lose this lesson about what happens when we let important systems fall into disrepair...”¹⁵

One possible legislative remedy would establish streams of mandatory funding for IT upgrades, with clear guardrails promoting the efficient, effective, transparent and accountable use of new resources. Applying the behavioral economics frame to political science, mandatory funding would mean that upgrading becomes the default. Elected policymakers could stop or change the funding stream if problems emerge, but unless policymakers intervene, IT would undergo modernization and updates on a regular basis.

Medicaid already uses this strategy, to some degree, by guaranteeing a 90% administrative match when states invest in IT that is used for eligibility determinations or claims processing. Yet even that effort has limitations, since it relies on state initiative. But the availability of these funds has made it possible for Medicaid eligibility systems to make enormous strides during the past decade.

IT modernization is essential, but it should not proceed in isolation. For improved technology to achieve its goals, business processes require modernization as well, as we discuss next.

2. Outdated or Conflict-Ridden Business Processes

The problem

In many public benefit programs, the processes for deciding eligibility, enrollment, and renewal fail to incorporate the lessons taught by contemporary behavioral science about how minor procedural requirements can dramatically lower program participation among eligible people. In addition to reflecting an outdated view of behavior, some of these antiquated processes advance the financial interests of administering agencies, in opposition to the interests of those who qualify for benefits.

Unemployment insurance provides a dramatic example. Since the Great Recession of 2008-10,¹⁶ when UI claims peaked, many state workforce agencies modified their business processes to add procedural requirements that unemployed people needed to meet before they could obtain or keep UI. These requirements included mandatory in-person rather than telephonic registration with employment services, weekly documentation of job search activities, reporting of past employer income by laid-off workers rather than the employers themselves, and submission of all forms online. Agencies imposed the latter restriction without making staff available to answer questions and without accommodating workers who lacked internet access.

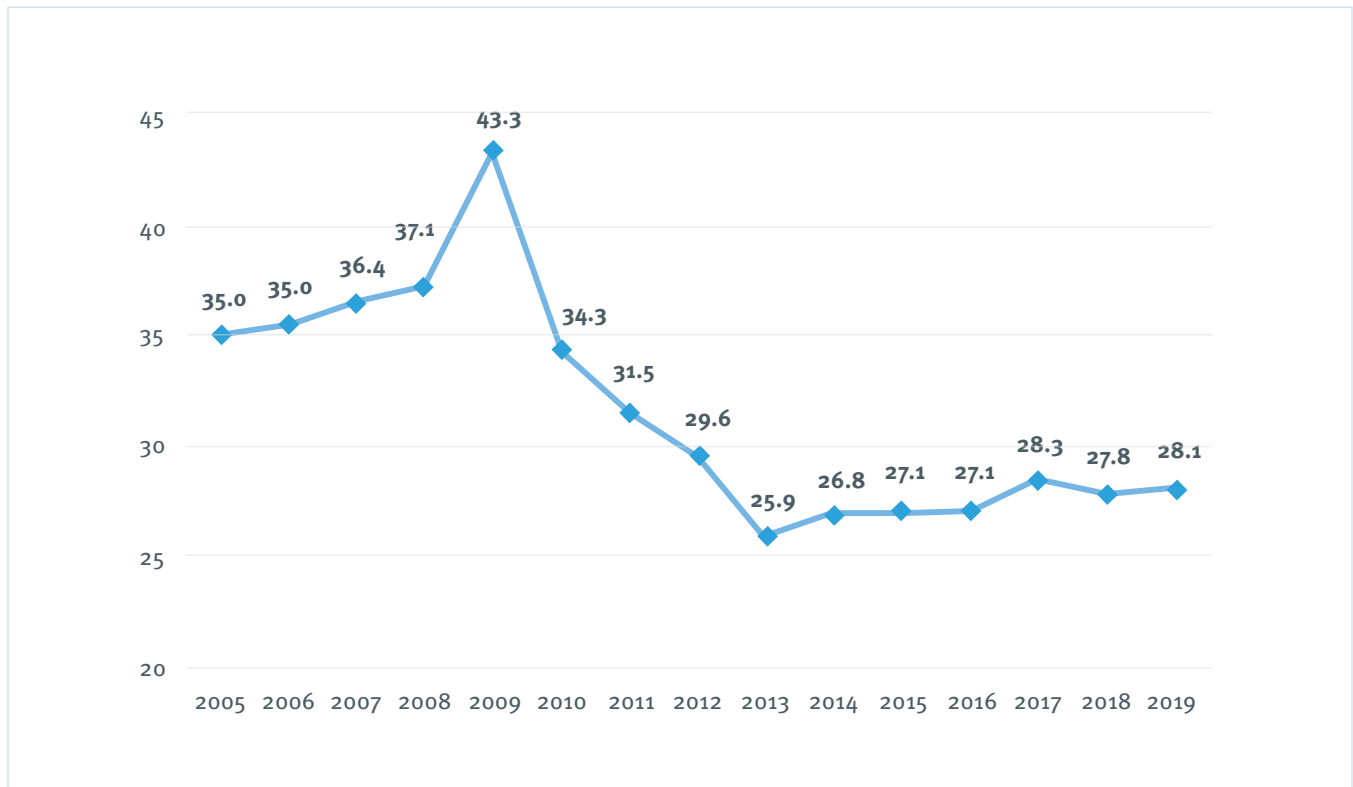
According to a leading academic expert, “All of these things, they’re small. If you looked at them on their own, you might imagine they’re totally reasonable. But they end up, layer after layer, adding red tape.” One state official described these processes as “built

to assume that you’re guilty and make you prove that you’re innocent.” Noting that no more than roughly a quarter of eligible people received benefits before the current downturn, he added, “In a time when pretty much everybody who’s applying should be eligible, we’re working with a system that got us to a 26 percent reciprocity rate.”¹⁷

Between the Great Recession and the recent crash, states erected administrative barriers and took other steps to limit UI costs. The latter included cuts to benefit duration, benefit amounts and eligibility for assistance.¹⁸ Altogether, these actions reduced the proportion of unemployed workers receiving UI as follows:

- » In 2006, before the Great Recession, 35.5% of laid-off workers obtained help
- » In 2011, after the Great Recession, the proportion dropped to 31.5%
- » From 2013 through 2019, a period of economic growth when fewer needed assistance, the proportion of eligible workers who received help fell to between 25.9% and 28.3% (Figure 1).

**Figure 1. Percentage of Unemployed Workers Receiving UI: 2005-2019
(average annual rates)**



Source: U.S. Department of Labor, “Unemployment Insurance Data,” 2005 Quarter 1 through 2019 Quarter 4, https://oui.doleta.gov/unemploy/data_summary/DataSum.asp.

One driving force behind those trends is UI’s financing structure. Generally speaking, each state raises money for its UI trust fund by charging employers. When economic contraction causes UI costs to outstrip trust fund dollars, as during the Great Recession, the federal government pays some of the added benefits but also makes loans to cover the remaining excess costs. States must later repay those loans. They can fund such repayments by increasing taxes on employers or by reducing UI benefits. Rather than raise taxes on business, most states reduced benefits after the Great Recession ended, using the strategies described above.

Even under optimal conditions, state UI agencies would face challenges coping with 2020’s unprecedented explosion of claims. Nonetheless, archaic business processes have greatly worsened those challenges by making it hard for eligible people to obtain benefits. The procedural decisions that UI agencies made in obscurity during economic boom times now make headline news, as millions of middle-class people encounter “systems trained to treat each case as potentially fraudulent,” filled with “boxes to check and mandates to meet that couldn’t possibly apply in a pandemic.”¹⁹

Lessons learned

These business process problems teach two overarching lessons: 1) Minimize conflicts of interest between the agencies that administer benefit programs and the families who rely on them; and 2) Protect program integrity through measures, including data-driven eligibility determination, that reduce denials and termination of aid for purely procedural reasons.

Conflicts of interest

Federal policymakers should eliminate or dampen inherent conflicts of interest that emerge whenever administrative agencies have a financial incentive to deny benefits to eligible people. With UI, for example, Congress could change the program's structure so that, instead of federal loans, federal grants cover the full cost of higher claims that result from economic downturns, without any obligation for states to repay. Or, more ambitiously, the federal government could greatly increase its role in UI funding and administration.

Another important arena for cleaning up conflicts of interest involves federal and state reviews and audits. When federal officials analyze state decisions to grant or deny benefits, erroneous denials should have the same consequences as erroneous grants of eligibility. Currently, with many benefit programs (including Medicaid and CHIP), questionable grants of eligibility can generate public disapproval and financial penalties. On the other hand, denials of aid to eligible people are passed over in silence. This skewed system creates skewed incentives. Administrative agencies should be rewarded for accuracy, not for unwarranted denials of aid to eligible people.

Finally, when the administrative agency bears some or all of the cost of providing benefits, the resulting financial incentive to limit assistance needs effective checks and balances. One such check would grant an unambiguous right for aggrieved consumers to go to court and compel agencies to follow the law.²⁰

Data-driven eligibility processes

Business processes need methods that protect program integrity without imposing procedural requirements that deny or terminate assistance for eligible people. A logical approach involves the data-driven eligibility strategy flagged on page 14. As part of our project's future work, we will develop this approach in more detail. But in brief, it includes:

- » Increasing benefit programs' access to relevant and probative data.
- » Revising eligibility criteria so eligibility determinations can be made based on data matches.
- » Addressing income fluctuations by providing attestation-based, presumptive and continuous eligibility.

3. Obsolete Methods for Rolling Out New Policies

The problem

Much pandemic-related legislation has made major changes to diverse benefit programs, from SNAP to UI to SBA loans. The implementation of such statutory changes typically begins with promulgation of written federal documents, stating rules or providing guidance using words alone, without corresponding computer code. In state-administered programs, state agencies then release further guidance and instructions in the form of words. After that, state IT staff or contractors develop software that drives eligibility determinations, and eligibility staff are trained. When private contractors are involved in program administration, their contracts may need revision, states may need to furnish instructions, and contractors may need to change their systems.

Errors, delays, and uncertainty can creep into every stage of this process. Often, this approach asks each state and the District of Columbia to simultaneously

figure out how best to implement the same federal policy changes. This wastes precious public resources, as multiple state and local agencies each act alone to devise individual solutions to common problems.

Lessons learned

Challenges posed by the pandemic and economic downturn have spotlighted the need for more efficient and reliable methods to implement policy changes in complex benefit programs. Fortunately, federal Innovators at “18F,” part of Technology Transformation Services at the U.S. General Services Administration (GSA), are developing precisely such methods.²¹

Instead of promulgating federal policy in words alone, a modernized approach has teams of federal policy experts and technical staff “write and publish policy rules as computer code,”²² moving forward in tandem with more traditional policy documents expressed in words. Under this approach, an Application Programming Interface (API) uses open-source code employing a popular software language with a large community of expert developers. States, community-based nonprofit organizations, agency contractors, and others can submit application data to the API and receive determinations of whether the individuals described in the data qualify for benefits. When federal rules change, the API changes. This makes available “a core of shared federally set rules across all localities.” A state agency that accesses such an API would be assured of complying with federal guidelines without conducting costly, risky and time-consuming IT procurement and issuing complex, expensive change orders to existing vendor contracts.²³

Federal and state agencies seeking more effective and efficient methods of implementing policy should explore using both APIs and other innovative work products that are under federal development. For example, GSA’s IT Modernization Centers of Excellence is developing functionalities like the following for

federal programs, which policymakers could make available to state and local agencies as well:

- » *Login.gov* is an identity-proofing and authentication service that is continuously updated, monitored for compliance with applicable federal legal standards and IT best practices, and accessible to end users online. Instead of requiring each state’s multiple benefit programs to develop separate identity-proofing methods, policymakers could move toward using this single, high-quality federal service in multiple programs and states.

This approach would achieve administrative efficiencies at a time when states are looking for budget savings that do not cut benefits to vulnerable families. In addition, modernized identity-proofing systems would also overcome some of the challenges of today’s outdated systems. For example, several SNAP agencies have had trouble developing identity-proofing methods that clients can easily use electronically.²⁴ And health programs have long struggled with identity-proofing for low-income people who do not have a credit history, since their programs’ identity-proofing functions often rely on credit agencies for validation.²⁵

- » *Forms-as-a-service* is a new functionality in its final stages of development. It will let government agencies quickly build forms that comply with federal standards involving data security, privacy, accessibility and more. Forms can be reused as applicable and integrated automatically into APIs, which simplifies data use to achieve core agency missions. These forms can also be structured for automatic prepopulation based on data that is in agency hands or accessible to the agency.

Put simply, the stresses of coping with a rapidly unfolding public health and economic emergency have exposed problems in our country's complex and decentralized benefit programs that are so fundamental as to go unnoticed by practitioners.

Put simply, the stresses of coping with a rapidly unfolding public health and economic emergency have exposed problems in our country's complex and decentralized benefit programs that are so fundamental as to go unnoticed by practitioners. A better way of implementing policy change is now available, which integrates policy, business, and IT specialists from the start, issuing integrated modules of words and computer code that states can rely on.

Literally thousands of federal, state and local benefit programs share core eligibility functions. Rather than reinvent wheels slowly, redundantly, inefficiently, and at high risk of error, benefit programs at all levels of government should be encouraged and equipped to participate in high-quality, shared federal eligibility services like those described here.

4. Outdated Workforce Arrangements *The problem*

Many public benefit programs are administered by state and local agencies that operate with significant workforce constraints. In some places, workplace cultures have been slow to change, resisting flexibilities such as teleworking that have long been common in the private sector. Technological limits, noted earlier, can further impede remote work by making it hard for offsite employees to access public agency resources needed to use data and safeguard its privacy and security.

Federal agencies sometimes encounter similar limitations. For example, the absence of a telework infrastructure at the IRS contributed to the agency's difficulties making prompt pandemic-related payments. And since the agency is set up for traditional 9-to-5 operations, it had problems coping with the demands imposed by the pandemic. Herculean efforts were required to aid most eligible households, and even so, payment was delayed for millions of people.²⁶

Other workforce constraints result from the longstanding pursuit of important objectives involving fairness, transparency and integrity. Traditional methods of achieving those goals can create unwanted trade-offs. For example, to guard against favoritism and corruption, state procurement must typically follow detailed rules concerning the soliciting, gathering and evaluation of competing bids. Those rules delay state action, and preferences for lowest-cost proposals can lead to the selection of vendors with a record of problematic performance.

Another example involves civil service reforms from the early 20th century, which similarly guard against corruption by requiring hiring and promotion of public employees to be based on merit. Hiring must follow specified procedures that aim for open and fair competition among job candidates.

Neither those hiring standards nor the underlying civil service reforms are the subject of our analysis. Rather, we focus on program protocols that forbid providing benefits unless and until a public employee who is hired on the basis of merit has made a formal eligibility determination. This role constraint can impede agency functioning when existing staff and resources are ill-equipped to nimbly address new challenges, potentially delaying or even denying assistance to households already known to qualify.

Over recent months, these constraints have sometimes created problems for families who need assistance. The most obvious example involves the prolonged application delays that resulted when state UI agencies lacked the staff needed for timely processing of applications and responding to client questions. Agency requirements made it difficult to quickly hire the needed extra help.

Subtler problems have emerged as well. For example, the Centers for Medicare & Medicaid Services (CMS) authorized state Medicaid agencies to disregard the usual standards for timely processing of applications. Among other factors prompting this decision, CMS was concerned that “workforce shortages may impact [a state] agency’s ability to process applications timely.”²⁷ Rather than require states to meet timeliness standards, even if that meant temporarily expanding their workforce or engaging contractors, CMS authorized states to delay processing health coverage applications from low-income people, even as a pandemic of deadly infectious disease was sweeping through many of their communities.

In other contexts, selected workforce flexibilities sought to ease the circumstances of benefit programs (and the families who rely on them). As part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress specifically authorized UI

programs, through the end of 2020, to determine eligibility with retired or temporary staff or through contracts with private entities if needed for timely processing of UI claims.²⁸ In February 2020, the USDA authorized state SNAP agencies to use private contractors and non-merit-based employees to staff call centers.²⁹ State employees must still make the final SNAP eligibility decisions. However, with federal approval, others can complete such tasks as “screening for eligibility; providing application assistance; answering client questions about missing information; pursuing missing information; and providing verification guidance” to families.

Lessons learned

Legacy workforce practices that serve important goals but may impose unintended service limitations are particularly visible now that a multifaceted national emergency has caused a surge in applications to programs administered by understaffed agencies. Recent challenges have reinforced the need for federal policymakers to assess the circumstances under which exceptions to standard workforce roles and constraints could improve service to vulnerable families.

Modernizing workforce practices, including through increasing IT use and telecommuting options, could advance other fundamental state interests as well. In particular, many states face the imminent retirement of numerous key staff, and they frequently encounter challenges when recruiting new talent. A recent national survey of state chief administrative officers published by the National Association of State Chief Administrations (NASCA) and its partners found that the most frequently cited workforce management challenge was “difficulty attracting new employees.”³⁰

The modernizations described earlier could help address that challenge. NASCA noted, unsurprisingly, that to recruit Millennials, it was important to offer

"Digital transformation, including using automation to augment human resources, is key not only to better serving citizens but also to attracting and retaining a strong workforce."

flexibility involving telework and hours. A less obvious point is that increasing automation could also help attract new employees and retain valued staff:

"Digital transformation, including using automation to augment human resources, is key not only to better serving citizens but also to attracting and retaining a strong workforce. As part of digital transformation, greater automation helps reduce or eliminate manual, repetitive tasks. That frees state workers to engage in more meaningful activities and make a bigger difference in their communities. Furthermore, millennials expect the latest technology. Of public sector jobs seekers, 43 percent of 18- to 34-year-olds indicated that the government's readiness to

adopt the latest technology had a major impact on their willingness to work in government."

Finally, state and local budgets have entered a period of recession-driven stress. In many states, staffing for benefit programs is likely to suffer from hiring freezes or even furloughs and layoffs. To accomplish mission-critical functions with fewer staff, agencies must develop and quickly implement efficient, streamlined methods of administration. At the same time, modernization of benefit programs cannot become an excuse for hiring freezes, furloughs, or layoffs of agency staff. For the agencies that administer benefit programs to adapt effectively to tough times without creating unacceptable tradeoffs, federal policymakers may need to reexamine longstanding assumptions about those programs' workforce rules and methods.

RECOMMENDATIONS:
MODERNIZING ELIGIBILITY TO HELP
BENEFIT PROGRAMS MEET PRESSING
NEEDS DURING THE CURRENT CRISIS

Recommendations: Modernizing Eligibility to Help Benefit Programs Meet Pressing Needs During the Current Crisis

Before making specific recommendations, several preliminary comments are important to set the stage. First, some of the following approaches can be implemented administratively through federal or state action, but others would require federal statutory change. Such changes could be included in pandemic-related legislation, building on the House-passed Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES Act). It now seems unlikely that such a bill will pass before November's elections, but new developments may change prospects for immediate action. Moreover, COVID-19 relief legislation could return to the stage during a post-election Congressional "lame duck" session this year or when a new Congress takes office 2021. Under any of these scenarios, some ideas discussed below could be part of a broader legislative package.

Second, the economy will probably remain in a prolonged downturn, based on projections from the Congressional Budget Office, the Federal Reserve, the International Monetary Fund and other forecasters. Forecasters acknowledge considerable uncertainty, but a return to pre-pandemic economic conditions appears unlikely for several years.³¹ Benefit programs will thus probably continue facing demands above previous levels. This leaves room to consider approaches that may take months for implementation without those efforts being too late to help under-resourced agencies better assist families in need.

Third, state-administered benefit programs are likely to face calls to "do more with less." Based on past experience, state budgetary pressures will grow over

time as rainy day funds are spent down and creative approaches to filling budget gaps, such as by deferring costs from one state fiscal year to the next, are exhausted. Agency staff reductions are likely, whether through furloughs, layoffs, or hiring freezes followed by attrition. For state-run programs to cope effectively with high ongoing demand despite constrained administrative resources, they will need to use modernized approaches to program administration that increase efficiency while streamlining families' access to essential benefits and maintaining or strengthening program integrity.

This section's first five recommendations thus seek to give state benefit agencies the resources and legal authority needed to function more effectively under current constraints and demands. The last two recommendations address specific challenges that UI and health coverage programs now face.

For state-run programs to cope effectively with high ongoing demand despite constrained administrative resources, they will need to use modernized approaches to program administration that increase efficiency while streamlining families' access to essential benefits

1. Invest in Staff, IT, and Business Processes That Affect Eligibility, Enrollment, and Renewal

SNAP and UI agencies are both struggling to process an avalanche of applications with limited staff, often working from home under suboptimal conditions. Similar patterns are likely to emerge with Medicaid agencies and other need-based programs. An important near-term priority would have the next pandemic relief package provide such agencies with additional resources needed to maintain staffing and modernize their eligibility IT, building on provisions already in the HEROES Act.

Effective IT modernization requires simultaneous reforms to business processes, practices and routines that agency staff use to make decisions. Adding new computers alone rarely accomplishes much by itself. On the other hand, great improvements can result when policymakers integrate a new data stream into updated procedures that leverage the data to expedite and improve decision-making. It is therefore imperative to provide additional federal resources to support not just IT modernization, but also the time and effort needed to update business processes.

A complementary policy would specify benchmarks that programs must commit to achieving in order to qualify for new federal resources. For example, to obtain federal dollars for IT modernization, a UI agency could be required to use those resources to link to employer records and other data that limit the need to ask UI applicants for information about past wages and employment. As discussed earlier, CMS provides one useful model: It promulgated regulations letting states access 90% funding for eligibility-related IT development, but only if their Medicaid programs submitted plans showing they would use the funds to achieve specified objectives.³²

2. Authorize and Encourage State and Local Benefit Programs to Leverage Federal Data Services

As noted earlier, the GSA has developed digital resources that perform some of benefit programs' common functions. As overstretched and understaffed state agencies struggle to achieve demanding missions under severe budgetary constraints, these federal resources could prove critical. For example, the federal identity-proofing function noted earlier might help identify potentially fraudulent UI claims based on stolen identities without denying benefits to those who likely qualify. And APIs that allow states to easily put into effect changing federal rules could greatly simplify state agency challenges and keep up with an ever-evolving legal landscape.

More broadly, taxpayer dollars would be spent more efficiently if, instead of 51 state-level agencies, each paying to solve the same problem over and over, federal experts developed a single, good solution that all states could use. The Department of Labor has already leveraged the U.S. Digital Service of the Executive Office of the President to help more than 10 states with “updating public-facing website design, resolving technical database configuration problems, and identifying ways to use automation to handle massive claims volume.”³³ To broaden such efforts, Congress should use the next pandemic-related relief package to fund and authorize the use of federally developed functionalities by state and local agencies.

3. Additional Data Sharing to Expedite Eligibility Determinations

Particularly during an economic downturn when state agencies are likely to be short-staffed while facing enormous needs, it is important for Congress to authorize enhanced data sharing to determine eligibility based on reliable, probative information. One model

comes from a Medicaid statute enacted in 2009 during CHIP's reauthorization. Social Security Act Section 1942 provides: "Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this title ... is authorized to convey such data or information to the State agency administering the State plan under this title," so long as the individual does not opt out of data sharing and the conveyance satisfies specified requirements for data security and privacy. Similar broad-based language could authorize the sharing of data relevant to determining eligibility for other benefit programs, including APTCs and human services programs.

In some cases, more specific authorization of data sharing could be helpful. For example, the National Directory of New Hires (NDNH) contains information about quarterly wages paid in all states and by federal agencies. The HHS Office of Child Support Enforcement, which administers NDNH, takes the position that access to the data can only result from amending the NDNH statute itself. For health programs to gain the same access to NDNH data as other programs enjoy, including UI and federally funded college student aid, Congress may need to change the NDNH statute.

As a second example, special confidentiality and security requirements apply to personal data on federal income tax returns. The efficacy of revenue collection requires taxpayer confidence that

information on their returns will remain confidential, unless it falls within an exemption specified in the Internal Revenue Code. Statutory amendments may thus be needed to provide full access to tax data, and opt-in procedures would likely remain required to safeguard federal revenue collection.

However, some important advances in data sharing could be achieved administratively, without the need for statutory change. For example, the federal data services hub that provides eligibility information to Medicaid agencies and health insurance exchanges was originally envisioned as serving other benefit programs as well. The hub does not currently perform this function, mainly because the source agencies and private companies that provide the hub with data limit the data's use to verifying eligibility for health coverage.

HHS should resume pursuit of the hub's original vision by seeking amended agreements with source agencies to broaden access to data. If those negotiations do not succeed with all such agencies, HHS could make a portion of data from the hub available to other need-based programs. According to the Government Accountability Office,³⁴ some work along these lines was underway in 2017, but much remains to be done.³⁵

As the transition to data-driven eligibility moves forward, policymakers will need to ensure full and ongoing protection of privacy and data security. Such safeguards are necessary both intrinsically and to maintain the public's trust in data-matching arrangements.³⁶

Social Security Act Section 1942 provides: "Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to [Medicaid] eligibility determinations ... is authorized to convey such data or information" to a state Medicaid program.

4. Streamline Eligibility Criteria and Procedures

Legislative and administrative action can help achieve important goals modernizing eligibility criteria and processes. As one key goal, federal officials should let benefit program findings be used to qualify people for other benefits with similar eligibility requirements. Why force two separate agencies to reexamine the same basic question about the same family, especially when administrative resources are thin and community needs are pressing?

This strategy sometimes requires programs to overlook small technical differences in eligibility criteria. For example, nutrition programs like SNAP and free or reduced-price school meals, as well as Medicaid, all limit eligibility to people with low incomes, but the exact numbers are different: 130% of the federal poverty level (FPL) for SNAP and 138% of FPL for Medicaid's income-based adult eligibility. Moreover, the two programs use slightly different methods of counting income and slightly different definitions of which members of a household count in determining the family's FPL level.

Notwithstanding those differences, Express Lane Eligibility gives states the option to automatically qualify children who receive SNAP or other need-based assistance as financially eligible for Medicaid. Before the ACA's enactment, diverse states ranging from Louisiana and South Carolina to Massachusetts and Oregon experimented robustly with strategies to provide additional children with health coverage at substantially reduced state administrative cost based on reliable data from other programs.³⁷

Federal administrative agencies could expand on earlier efforts to find authorization under current statutes for states to take steps that streamline eligibility determination. For example:

- » CMS could authorize Medicaid programs to provide automatic, time-limited eligibility to UI beneficiaries.³⁸ If such beneficiaries attest to current monthly income that is at or below Medicaid thresholds, their continuing UI receipt could be used to establish ongoing Medicaid eligibility, since UI stops when a claimant gains employment. Medicaid programs should also be authorized to credit the UI agency's determination of citizenship or satisfactory immigration status, notwithstanding the UI program's slightly broader definition of the latter, compared to most forms of federally funded Medicaid.³⁹
- » SNAP receipt could similarly count as sufficient verification of financial eligibility for Medicaid. Earlier research shows that among SNAP recipients, 95% of adults and 98% of children qualify for Medicaid.⁴⁰ Simply by amending its verification plan, a state should be allowed to use SNAP receipt as sufficient verification to confirm an attestation of modified adjusted gross income at Medicaid levels or to renew eligibility administratively.
- » Some benefit programs rely on capped federal block grants for funding. In such cases, states typically have broad flexibility in how they spend those dollars. States seeking to maximize the portion of these grants used to help families in need, rather than cover administrative costs, could leverage eligibility determinations already made by Medicaid, SNAP and UI. To illustrate, the low-income home energy assistance program (LIHEAP) provides emergency assistance to prevent utility shutoffs. LIHEAP agencies could automatically qualify for LIHEAP emergency assistance applicants who show they were recently found eligible for Medicaid or SNAP.

- » Previous pandemic-related relief legislation authorized payment of the maximum amount of SNAP benefits to families who would otherwise qualify for less than the maximum. In such cases, the USDA should authorize states to suspend procedures that seek to determine income with precision. So long as the SNAP agency verifies that someone’s income does not exceed the maximum permitted threshold, there is no need to waste scarce administrative resources and delay paying vital assistance by investing the time and effort needed to determine the margin by which income falls below that threshold.⁴¹

States are far more likely to take such steps when federal agencies provide clear guidance. In addition to describing available state options, federal agencies should make clear that, when states properly use the identified authority to streamline enrollment and renewal, they will not be penalized later. For example, in calculating program error rates, federal officials need to assess whether states correctly implemented the interim or emergency policy being applied without regard to the eligibility policies and rules that are used under other circumstances.

5. Develop Effective Methods to Provide Surge Capacity to Accommodate Spikes in Demand

Increased demand for public benefits frequently accompanies economic downturns, whether nationally (as now) or regionally (as during the so-called “Oil Patch” recession of the late 1990s). It can also result from natural disaster, illustrated by Hurricanes Katrina and Sandy.

Moreover, a backlog of redeterminations can produce a spike in demand for agency activity. Such a backlog can result when redeterminations are placed on hold due to the challenges of implementing new eligibility

rules (as during the rollout of new Medicaid coverage in 2014) or failed IT procurements (as happened recently in Tennessee).

Forthcoming surges are likely:

- » When current prohibitions against Medicaid terminations expire.
- » If SNAP programs must respond to continued school closings by providing substitute benefits.
- » If Congress authorizes new forms of assistance.
- » If local economies worsen and more residents need aid.

The CARES Act authorized UI agencies to address that program’s extraordinary application spike by employing retirees, temporary employees, and contractors to determine eligibility, playing roles normally reserved for merit-based public employees. We do not yet know how this experiment has played out. In the absence of comprehensive information, Congress should direct an objective, expert body to conduct a study of benefit programs’ need to develop surge capacity and make recommendations for specific policy changes. Ideally, the National Academy of Social Insurance would conduct such a study and consider, among other things, lessons learned from UI and SNAP flexibilities granted during the pandemic.

6. When Fraud Risks Materialize, Base Interim Payment Rules on the Likelihood of Fraud as Shown by Relevant Data

In mid-May, the Secret Service reported that international crime rings had targeted UI programs for theft. These rings used personal identities previously stolen from public employees to make fraudulent UI claims.⁴² Based on that warning, state UI programs have been denying benefits to thousands of eligible claimants, putting benefits on hold pending the

States are implicitly setting their default at benefit denial whenever fraud is possible but unproven. Surely a more targeted approach would better balance the risk of improper payment and the risk of benefit denials — denials that could cause eligible claimants to go hungry or even lose their homes.

completion of fraud investigations.⁴³ One state stopped payment to 20% of all UI beneficiaries. Another state halted payments to 58,000 people, then found that most were eligible, but continued denying assistance while the state finished its investigations.

States are implicitly setting their default at benefit denial whenever fraud is possible but unproven. Surely a more targeted approach would better balance the risk of improper payment and the risk of benefit denials — denials that could cause eligible claimants to go hungry or even lose their homes. These risks are not hypothetical. According to a Census Bureau survey fielded in the first two weeks of September 2020:⁴⁴

- » **Almost 30 million adults** were out of work because of the pandemic,⁴⁵ of whom more than 6 million did not have enough food to eat during the seven days before the survey.
- » **Nearly 40 million adults** (38 million) had received UI since mid-March, of whom 17 million had children living at home. During the week before the survey, 13 million present or former UI recipients had to deplete their savings or sell assets to make ends meet.
- » **Almost 20 million people** (19 million) were behind on their rent or mortgage. 25 million had no confidence or only slight confidence that they could pay their next month's rent or

mortgage.

Rather than putting eligible claimants at risk of serious harm by flatly terminating all aid, a more targeted approach would distinguish between claims with and without evidence of probable fraud. States could use (or be required to use) existing tools that are well-suited to make such distinctions. The UI Integrity Center, developed by the National Association of State Workforce Agencies and the Department of Labor, includes an integrity data hub (IDH) that “allows for use of a suspicious actor repository, suspicious email domains, multi-state cross matching, monitoring foreign and suspicious IP addresses, and fraud alerting,” as well as methods for national fraud schemes to be “detected in all states as soon as they are detected in one state.”⁴⁶

When a UI claim exhibits characteristics the IDH associates with probable fraud, a UI agency could reasonably suspend payment of that claim until the agency completes its fraud investigation. But when available data do not show probable fraud, the agency should pay benefits during the investigation. If the investigation turns up additional evidence making fraud more likely than not, aid suspension would make sense, but not until that point.

To be clear, holding bad actors accountable for fraud needs to remain a priority. Even in cases where benefits continue being paid on an interim basis, if the investigation concludes with a finding of fraud,

repayment would be required, with penalties and potential additional civil and criminal liability. But so long as the available evidence does not show probable fraud, fundamental fairness strongly favors continued payment until the investigation reaches its conclusion, rather than deny subsistence to claimants whose innocence is more likely than not.

7. Provide Additional Tools so Health Insurance Exchanges Can More Effectively Help Consumers Who Recently Experienced Job Loss or Other Income Reductions

Congress and the administration need to take several steps for exchanges to function effectively under current conditions. Such steps involve increased responsiveness to income changes and greater implementing the ACA's vision of no wrong doors to coverage.

Income fluctuations

Reforms should address the mismatch between standard APTC eligibility procedures and facts on the ground for workers losing employment. APTC eligibility reflects a consumer's estimate of the annual income their family will earn by the end of the applicable coverage year. For example, during the open enrollment period that begins in November 2020, APTC eligibility will be based on applicants'

Reforms should address the mismatch between standard APTC eligibility procedures and facts on the ground for workers losing employment

estimated annual income for 2021. The resulting APTCs will be reconciled with final 2021 annual income when the worker files a federal income tax return in 2022. APTCs that turned out to be excessive must then be repaid, subject to income-based limits. If APTCs were too low, beneficiaries can claim additional credits on their return for tax year 2021.

Exchanges verify applicant income attestations based on tax returns from 2018 and 2019 as well as other available information. If the attestation and available income records are inconsistent, the applicant must resolve that inconsistency to qualify for the requested APTCs.

This system implicitly presumes stable year-to-year income that makes it possible for households and exchanges alike to make reasonable predictions about future earnings. For many households, including those who have recently lost employer-sponsored insurance, incomes are now anything but stable. Congress can take two immediate legislative steps to improve the process for APTC eligibility determination when applicants' earnings have recently declined:

- » APTC beneficiaries should not be required to repay APTC amounts that turned out to be excessive because of factors outside the beneficiaries' control. At a minimum, Congress should greatly strengthen income based limits on repayment until the economy stabilizes.
- » When household circumstances worsen by more than a specified margin during part of the year, the affected individuals should be able to qualify for APTC supplements based on current rather than annual income, without risking penalties at year-end reconciliation. Eligibility for additional mid-year assistance could reflect the exchange's determination of current monthly income, which it could make through contracting with the state Medicaid agency.⁴⁷

Without any need for legislation, both state and federal exchanges should implement reasonable business rules for APTC applicants who attest to unemployment following job loss in 2020. In such cases, exchanges should not delay processing applications based on data showing past financial circumstances. So long as the applicant makes a reasonable projection of future annual income, taking into account both earlier earnings and current circumstances, the exchange should give that attestation significant weight.

No wrong door to coverage

ACA Section 1413 requires both exchanges and Medicaid programs to serve as open doors to all health insurance affordability programs, determining each applicant's eligibility and enrolling them in the appropriate program. During the current pandemic-induced downturn, full implementation of this "no wrong door" requirement is especially important, given the significant losses of employer-sponsored health insurance that result from unemployment.

If a consumer is ineligible for APTCs because their income is low enough to qualify for Medicaid, the consumer's fate varies based on which state they live in. Most states that run their own exchanges provide a single determination of eligibility and route eligible consumers directly from the exchange to Medicaid, generally as envisioned by ACA Section 1413. However, statutory requirements for employing merit-based employees in determining Medicaid eligibility have been interpreted to interrupt this "no wrong door" enrollment process. If the exchange made its eligibility determination without using public employees hired on the basis of merit, the Medicaid agency must use its own merit-based employees to provide final eligibility certification, even if the consumer is already known to qualify.⁴⁸

In a state where applications are processed by healthcare.gov, the federal exchange's online enrollment platform, the state can choose to be an "assessment" state or a "determination" state. Assessment states have the federal exchange assess a consumer's eligibility for Medicaid, then forward the application to Medicaid for further processing. A determination state accepts the exchange's eligibility findings, but the state Medicaid agency's public employees must make a final certification of Medicaid eligibility before an uninsured consumer receives coverage. The federal exchange applies the eligibility standards used by the state Medicaid program, but it does not access the state's data sources or use the state's verification procedures.

The administration should take several steps to realize more fully the ACA's vision that a consumer submits one application to one agency, has their eligibility determined without delay, and is enrolled into the program for which they qualify:

CMS should eliminate the current regulatory provision that delays the start of Medicaid coverage until a public employee has approved an applicant already found eligible by a health insurance exchange. Such delays, as noted earlier, affect cases where the exchange found the consumer eligible for Medicaid without using a public employee hired based on merit to make that finding.

CMS should also modify current regulations so that (1) the federal exchange determines eligibility by using the data sources and verification procedures employed by the state Medicaid program; and (2) states cannot deny or delay Medicaid to individuals once the exchange finds them eligible. To facilitate ease of implementation by the national healthcare.gov platform, CMS could give state Medicaid programs a menu of verification procedures and business rules



The worst public health crisis in a century, combined with the most severe economic downturn since the 1930s, have created a “teachable moment” — an opportunity for national and state policymakers to modernize benefit programs so they can better serve the many people who rely on them to meet basic needs.

from which to choose, so that the federal exchange comes as close as possible to the methods used by the state Medicaid program.

The current pandemic is not the time to deny eligible families health insurance until they have jumped through unnecessary hoops and moved from agency to agency seeking coverage for which they are known to qualify. If the exchange can find that an uninsured applicant for health insurance is eligible for Medicaid, it should do so, and the consumer should receive immediate coverage.

Conclusion

With a deadly pandemic raging out of control and millions of laid-off workers overwhelmed by survival needs, many more families in America have experienced the challenges that frequently accompany interactions with government benefit

programs. More of us than in the past understand those programs’ importance as well as their limitations. Longstanding administrative challenges that created problems for low-income families are now frustrating middle-class people, many of whom are applying to benefit programs for the first time.

The worst public health crisis in a century, combined with the most severe economic downturn since the 1930s, have created a “teachable moment” — an opportunity for national and state policymakers to modernize benefit programs so they can better serve the many people who rely on them to meet basic needs. It is time for our country’s leaders to pursue a vision of benefit program eligibility that spends public resources more efficiently; that prevents erroneous benefit decisions; and that, above all, ensures that struggling families obtain the critical benefits they qualify for under federal law.

Endnotes

¹ National Center for Coverage Innovation at Families USA, analysis of data from the 2018 American Community Survey and March 2019 Current-Population-Survey, IPUMS USA, University of Minnesota, www.ipums.org.

² Heidi Shierholz, *UI Claims Rising as Jobs Remain Scarce* (Economic Policy Institute, September 10, 2020), <https://www.epi.org/blog/ui-claims-rising-as-jobs-remain-scarce-senate-republicans-must-stop-blocking-the-restoration-of-ui-benefits/>.

³ David Laibson, “Impatience and Savings,” *NBER Reporter: Fall Summary, Fall 2005*, <http://www.nber.org/reporter/fall05/laibson.html>

⁴ Stan Dorn, Margaret Wilkinson, and Sarah Benatar, *Case Study of Louisiana’s Express Lane Eligibility: Final Report, CHIPRA Express Lane Eligibility Evaluation* (Washington, DC: Urban Institute, January 2012) <https://www.urban.org/sites/default/files/publication/33691/413272-CHIPRA-Express-Lane-Eligibility-Evaluation-Case-Study-of-Louisiana-s-Express-Lane-Eligibility.PDF>.

⁵ Bradley Corallo and Samantha Artiga, *How Can Lessons from Medicaid Help Connect People to Unemployment Insurance?* (San Francisco, CA: Kaiser Family Foundation, May 12, 2020), <https://www.kff.org/medicaid/issue-brief/how-can-lessons-from-medicaid-help-connect-people-to-unemployment-insurance/>.

⁶ Dan Balz, “Crisis Exposes How America Has Hollowed Out Its Government,” *The Washington Post*, May 16, 2020, <https://www.washingtonpost.com/graphics/2020/politics/government-hollowed-out-weaknesses/>.

⁷ Tony Romm and Jeff Stein, “2.4 Million Americans Filed Jobless Claims Last Week, Bringing Nine-Week Total to 38.6 million,” *The Washington Post*, May 21, 2020, <https://www.washingtonpost.com/business/2020/05/21/unemployment-claims-coronavirus/>.

⁸ Balz, “Crisis Exposes How America Has Hollowed Out Its Government.” For information about COBOL, see Jean E. Sammet, “The Real Creators of Cobol,” *IEEE Software* 17 (2): 30–32, doi:10.1109/52.841602.

⁹ Statement of Eugene Scalia, Secretary, United States Department of Labor, Before the Committee on Finance, United States Senate, June 9, 2020, <https://www.finance.senate.gov/imo/media/doc/09JUN2020SCALIASTMNT.pdf>.

¹⁰ “Unemployment Insurance during COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic,” Testimony of Michele Evermore, National Employment Law Project, before the Senate Finance Committee, June 9, 2020, <https://www.finance.senate.gov/imo/media/doc/09JUN2020EVERMORESTMNT.pdf>.

¹¹ Heather Long, Jeff Stein, Lisa Rein, and Tony Romm, “Stimulus Checks and Other Coronavirus Relief Hindered by Dated Technology and Rocky Government Rollout,” *The Washington Post*, April 17, 2020, <https://www.washingtonpost.com/business/2020/04/17/stimulus-unemployment-checks-delays-government-delays/>.

¹² Lisa Rein, “As the Backlogged IRS Struggles to Open Mail and Answer the Phone, Taxpayers Face Long Delays,” *The Washington Post*, May 20, 2020, https://www.washingtonpost.com/politics/as-the-backlogged-irs-struggles-to-open-mail-and-answer-the-phone-taxpayers-face-long-delays/2020/05/19/e89910d8-93ce-11ea-82b4-c8db161ff6e5_story.html.

¹³ Balz, “Crisis Exposes How America Has Hollowed Out Its Government.”

¹⁴ Ken Sweet and Joyce M. Rosenberg, “Computer Issues at SBA Said to Hold Up Small Business Loans,” *ABC News*, April 7, 2020, <https://abcnews.go.com/Business/wireStory/computer-issues-sba-hold-small-business-loans-70029553>.

¹⁵ Michele Evermore, *Long Lines for Unemployment: How Did We Get Here and What Do We Do Now?* (Washington, DC: National Employment Law Project, April 2020), <https://www.nelp.org/publication/long-lines-for-unemployment-how-did-we-get-here-and-what-do-we-do-now/>.

¹⁶ Formally, the Great Recession began in December 2007 and ended in June 2009. However, economic activity remained low for months after that. For example, employment was still well below pre-Great-Recession levels through August 2010, the final month tracked by the National Bureau of Economic Research (NBER) in determining the recession’s timing. NBER made its data available in spreadsheet form. *Monthly Data Sheet*, Business Cycle Dating Committee, NBER, September 20, 2010, https://mirror.nber.org/cycles/BCDCFiguresData100920_ver5.xls.

¹⁷ Emily Badger and Alicia Parlapiano, “States Made It Harder to Get Jobless Benefits. Now That’s Hard to Undo.” *The New York Times*, April 30, 2020, <https://www.nytimes.com/2020/04/30/upshot/unemployment-state-restrictions-pandemic.html>.

¹⁸ Michele Evermore, *Are State Unemployment Systems Still Able to Counter Recessions?* (Washington, DC: National Employment Law Center, June 2019), <https://s27147.pcdn.co/wp-content/uploads/Data-Brief-State-Unemployment-Systems-Counter-Recession.pdf>.

¹⁹ Badger and Parlapiano, “States Made It Harder to Get Jobless Benefits. Now That’s Hard to Undo.”

²⁰ To make this right effective, prevailing plaintiffs should automatically qualify for an award of attorneys’ fees and costs. Otherwise, low-income people who rely on benefit programs for

survival will often be unable to afford counsel needed to vindicate their rights.

²¹ See General Services Administration, “About 18F” (Undated), <https://18f.gsa.gov/about/#history-and-funding>.

²² Alex Soble and Mike Gintz, “Rapid Implementation of Policy as Code,” *18FBlog*, May 12, 2020, <https://18f.gsa.gov/2020/05/12/rapid-implementation-of-policy-as-code/>.

²³ For more information on this initiative, see 18F, GSA, *Eligibility APIs Initiative: Helping States Turn Federal Eligibility Policy into Action*, September 26, 2019, <https://github.com/18F/eligibility-rules-service/blob/master/README.md#project-description>.

²⁴ Jennifer Wagner, “States Can Make Applications More Accessible during COVID-19 Crisis,” *Off the Charts* (Washington, DC: Center on Budget and Policy Priorities, May 7, 2020), <https://www.cbpp.org/blog/states-can-make-applications-more-accessible-during-covid-19-crisis>.

²⁵ See GSA, *Why login.gov* (Undated), <https://login.gov/partners/why-login.gov/>.

²⁶ Rein, “As the Backlogged IRS Struggles to Open Mail and Answer the Phone, Taxpayers Face Long Delays.”

²⁷ CMS, *COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children’s Health Insurance Program (CHIP) Agencies*, (Baltimore, MD: Centers for Medicare & Medicaid Services, Updated May 5, 2020), <https://www.medicare.gov/state-resource-center/downloads/covid-19-faqs.pdf>.

²⁸ “Coronavirus Aid, Relief, and Economic Security Act,” Section 2106, *Public Law No: 116-136*, March 27, 2020.

²⁹ USDA Food and Nutrition Service, *SUBJECT: Revised Guidance for Use of Vendor/Private Staff in Call Centers: 2020 Update*, (Washington, DC: USDA, February 6, 2020).

³⁰ National Association of State Chief Administrators, Accenture, and NEOGOV, *Job One: Reimagine Today’s State Government Workforce* (National Association of State Chief Administrators, Accenture, NEOGOV, March 2019), <https://collaborate.nasca.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=3cbd8f19-fd2e-c0c6-3575-f64cc9cdf35f&forceDialog=0>.

³¹ See, e.g., Congressional Budget Office, *An Update to the Economic Outlook: 2020 to 2030* (Washington, DC: Congressional Budget Office, July 2020), https://www.cbo.gov/publication/56465#_idTextAnchor002; U.S. Federal Reserve Board, *Economic projections of Federal Reserve Board members and Federal Reserve Bank presidents, under their individual assumptions of projected appropriate monetary policy* (Washington, DC: Federal Reserve Board, September

16, 2020), <https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20200916.pdf>; International Monetary Fund, *IMF Executive Board Concludes 2020 Article IV Consultation with the United States*, (Washington, DC: International Monetary Fund, August 10, 2020), <https://www.imf.org/en/News/Articles/2020/08/10/pr20279-united-states-imf-executive-board-concludes-2020-article-iv-consultation>.

³² CMS, *Medicaid Eligibility and Enrollment Toolkit Version 1.1* (Baltimore, MD: Centers for Medicare and Medicaid Services, August 1, 2018), <https://www.medicare.gov/medicaid/data-and-systems/downloads/meet/meet-toolkit.zip>.

³³ Statement of Eugene Scalia, June 9, 2020.

³⁴ See note 64 in Government Accountability Office, *Federal Low-Income Programs: Eligibility and Benefits Differ for Selected Programs Due to Complex and Varied Rules*, GAO-17-558, June 2017, <https://www.gao.gov/assets/690/685551.pdf>.

³⁵ For example, a common local agency may be determining eligibility for SNAP and Medicaid at the same time. Caseworkers are legally required to consider information from the federal data services hub in determining eligibility for Medicaid but to ignore it in determining SNAP eligibility — for the same family or individual. See USDA Food and Nutrition Service, “Supplemental Nutrition Assistance Program (SNAP) and Data Sharing Under the Affordable Care Act (ACA),” October 25, 2013, <https://fns-prod.azureedge.net/sites/default/files/snap/SNAP%20and%20Data%20Sharing%20Under%20ACA.pdf>.

³⁶ For an example of a nuanced approach to privacy protection, the ELE statute includes an opt-out process for data matching to identify people who receive other benefits but not Medicaid, followed by an opt-in process for beginning health coverage. For other illustrations of privacy and data security standards that are applied when determining eligibility for health coverage, see, for example, CMS, “Security of the Marketplace Data Services Hub,” Sep 11, 2013, <https://www.cms.gov/newsroom/fact-sheets/security-marketplace-data-services-hub>; CMS, “Medicaid Information Technology Architecture Framework,” (Undated), <https://www.medicare.gov/medicaid/data-systems/medicaid-information-technology-architecture/medicaid-information-technology-architecture-framework/index.html>; CMS, Computer Matching Agreement between Department of Health and Human Services Centers For Medicare & Medicaid Services and State-Based Administering Entities for Determining Eligibility for Enrollment in Applicable State Health Subsidy Programs under the Patient Protection and Affordable Care Act, Computer Matching Agreement No. 2016-11, The Department of Health and Human Services No. 1601, Effective Date — April 2, 2016, <https://www.hhs.gov/sites/default/files/cma-1601.pdf>; CMS, Computer Matching

Agreement between Department of Health and Human Services, Centers for Medicare & Medicaid Services, and the Department of Homeland Security, United States Citizenship and Immigration Services for the Verification of United States Citizenship and Immigration Status Data for Eligibility Determinations, CMS Computer-Matching Agreement No. 2018-10, Department of Health and Human Services No. 1809, Effective Date: October 1, 2018, https://www.dhs.gov/sites/default/files/publications/cma_4_between_hhs_and_dhs_signed_09.27.18.pdf.

³⁷ Sheila Hoag, et al. *CHIPRA Mandated Evaluation of Express Lane Eligibility: Final Findings. Final Report* (Mathematica Policy Research, Urban Institute, Health Management Associates), December 2013, <https://www.mathematica.org/download-media?MediaItemId={7D7619A4-DD98-4529-8809-BD27FB8989A3}>.

³⁸ Social Security Act §1902(e)(14)(A) provides, in discussing the general requirement to use Modified Adjusted Gross Income to determine eligibility for Medicaid categories other than those for elders and people with disabilities, “The Secretary may waive such provisions of this title and title XXI as are necessary to ensure that States establish income and eligibility determination systems that protect beneficiaries.” CMS used this authority to let states provide time-limited Medicaid based on SNAP receipt, requiring a later determination of MAGI eligibility before renewing coverage at the end of the initial 12-month eligibility period. See Strategy #3 in CMS, “Facilitating Medicaid and CHIP Enrollment and Renewal in 2014,” SHO #13-003, ACA #26A, May 17, 2013, <https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/downloads/SHO-13-003.pdf>. A similar policy could apply to UI recipients today.

³⁹ Sorting out the UI recipient’s appropriate coverage category, given the UI program’s determination of citizenship or immigration status, could be part of the transition from interim to ongoing Medicaid coverage. People found to be citizens by UI are citizens for Medicaid purposes as well. Those found to be lawfully present immigrants can be sorted, based on the category of immigration status to which the UI recipient belongs. between (1) Medicaid and (2) exchange coverage, funded with premium tax credits. Both Medicaid and UI verify citizenship and immigration status by using Systematic Alien Verification for Entitlements (SAVE).

⁴⁰ Stan Dorn, Laura Wheaton, Paul Johnson, and Lisa Dubay, *Using SNAP Receipt to Establish, Verify, and Renew Medicaid Eligibility* (Washington, DC: Urban Institute, May 2013), <https://www.urban.org/sites/default/files/publication/23566/412808-Using-SNAP-Receipt-to-Establish-Verify-and-Renew-Medicaid.PDF>.

⁴¹ Dottie Rosenbaum et al. *USDA, States Must Act Swiftly to Deliver Food Assistance Allowed by Families First Act* (Washington, DC: Center on Budget and Policy Priorities, Updated April 7, 2020),

<https://www.cbpp.org/research/food-assistance/usda-states-must-act-swiftly-to-deliver-food-assistance-allowed-by-families>.

⁴² United States Secret Service, “Massive Fraud against State Unemployment Insurance Programs,” May 14, 2020, <https://www.documentcloud.org/documents/6891584-GIOC-Alert-20-027-I-State-Unemployment-Fraud-002.html>.

⁴³ Tony Romm, “Unemployed Workers Face New Delays and Paused Payments as States Race to Stamp Out Massive Nationwide Scam,” *The Washington Post*, June 12, 2020, <https://www.washingtonpost.com/business/2020/06/12/unemployment-benefits-fraud-delays/>.

⁴⁴ U.S. Census Bureau, “September 2 — September 14,” September 23, 2020, <https://www.census.gov/data/tables/2020/demo/hhp/hhp14.html>.

⁴⁵ These survey respondents reported that they either lost employment for reasons related to the pandemic, were sick or caring for someone sick with COVID-19, or were unemployed because they feared contracting COVID-19 at work or spreading it to coworkers and customers.

⁴⁶ Statement of Scott B. Sanders, Executive Director, National Association of State Workforce Agencies, before The Committee on Finance, United States Senate, “Unemployment Insurance During Covid-19: The Cares Act and the Role of Unemployment Insurance during the Pandemic,” June 9, 2020, <https://www.finance.senate.gov/imo/media/doc/09JUN2020SANDERSSTMNT.pdf>.

⁴⁷ The same program integrity requirements that govern Medicaid could apply to consumers’ claims for supplemental APTCs, potentially augmented by data matching with the UI agency to see whether a consumer stopped receiving UI because they took a new job. Someone receiving enhanced, mid-year APTCs would accompany their federal income tax return with documentation of the exchange’s determination of mid-year income, exempting supplemental APTC payments from annual reconciliation. This approach would let APTC beneficiaries receive additional help mid-year without requiring the IRS to make determinations about household circumstances at a point in time during the year.

⁴⁸ See 42 CFR § 435.1200(c)(3); 42 CFR § 431.10(c)(2).



This publication was written by:

Stan Dorn, Director of the National Center for Coverage Innovation and Senior Fellow, Families USA

The following Families USA staff contributed to this publication (in alphabetical order):

Kimberly Alleyne, Senior Director of Communications

Justin Charles, Digital Media Associate

Katie Corrigan, Chief of Staff

Nichole Edralin, Senior Manager of Design and Publications

Cheryl Fish-Parcham, Director of Access Initiatives

Eliot Fishman, Senior Director of Health Policy

Lisa Holland, Senior Communications Manager

Lisa Hunter, Senior Director of Strategic Partnerships

Frederick Isasi, Executive Director

Hannah Markus, Strategic Partnerships Coordinator

Adina Marx, Communications Associate

The following professional contributed to this publication:

Ingrid VanTuinen, Editor

To download a PDF of this report, visit

[FamiliesUSA.org/Eligibility-Determination-during-COVID-19](https://www.familiesusa.org/Eligibility-Determination-during-COVID-19)

Publication ID: COV2020-149

Acknowledgements

The National Center for Coverage Innovation at Families USA is grateful to the Center for Accountability, Modernization and Innovation for its financial support, which made this project possible. NCCI also thanks Michele Evermore, Senior Policy Analyst at the National Employment Law Project, for her comments on an earlier draft of this report. The author is solely responsible for the opinions expressed in this report. Families USA has final independent authority over the contents of all its projects, including this one, and exercises its authority in service of Families USA's vision of a nation where the best health and health care are equally accessible and affordable to all.





1225 New York Avenue NW, Suite 800 | Washington, DC 20005 | 202-628-3030 | info@familiesusa.org
FamiliesUSA.org | [facebook / FamiliesUSA](https://www.facebook.com/FamiliesUSA) | [twitter / @FamiliesUSA](https://twitter.com/FamiliesUSA)