



October 21, 2022

The Honorable Jessica Rosenworcel
Chair
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Chair Rosenworcel,

The Enrollment Coalition writes to request a meeting with you or a member of your staff regarding the request filed by the U.S. Department of Health and Human Services (HHS) seeking clarification that certain automated calls and text messages or prerecorded voice calls relating to enrollment in state Medicaid and other governmental health coverage programs are permissible under the Telephone Consumer Protection Act (TCPA).¹

On May 3, 2022, the FCC issued a Public Notice seeking comments on the request filed by HHS, and public comments were due on May 17, 2022. Reply comments were due a week later, on May 24, 2022. However, as of October 21, 2022, the FCC has not publicly responded to the request from HHS, nor publicly addressed the numerous of supportive comments received from stakeholders. Timely communication from the FCC clarifying this outreach is permissible under the TCPA is a priority for states, health care organizations, and consumer advocates, particularly given the eventual termination of the COVID-19 Public Health Emergency which will set in motion millions of Medicaid redeterminations and changes in enrollment status. The Assistant Secretary for Planning and Evaluation within HHS has estimated this will result in 8.2 million people no longer being eligible for Medicaid and another 6.8 million people will lose coverage due to administrative churn, despite still being eligible.²

As states plan for the unwinding of the COVID-19 Public Health Emergency's statutorily mandated continuous coverage requirements, effective communication to enrollees, including through calls and texts, will be critical. The reality is that millions of Americans could face the loss of their health insurance coverage if they are not fully informed about the renewal and redetermination process, along with their coverage options. We appreciate the FCC's role in protecting consumers and note that calls and text messages are some of the most effective ways health plans can remind consumers to update their mailing address, contact their state

¹ HHS letter to FCC, <https://www.fcc.gov/ecfs/document/10429695829926/1>.

² ASPE Office of Health Policy, Unwinding the Medicaid Continuous Enrollment Provision: Projected Enrollment Effects and Policy Approaches, <https://aspe.hhs.gov/sites/default/files/documents/60f0ac74ee06eb578d30b0f39ac94323/aspe-end-mcaid-continuous-coverage.pdf>.

Medicaid agency, or take other steps to prevent the unnecessary loss of coverage for which a consumer would otherwise be eligible.

As discussed in our public comment letter,³ the Enrollment Coalition supports HHS's interpretation that texts and automated calls from health plans are allowable under TCPA because prior express consent is obtained on enrollment forms with a signature from the applicant, and this permission is extended from states to health plans with state approval of messaging so that health plans can obtain needed information to help validate enrollee eligibility. Timely clarification from the FCC that these activities are permissible under the TCPA would significantly advance efforts to prevent unnecessary coverage losses.

Thank you for your attention to this critical matter and we look forward to discussing this with you further. For more information about the Enrollment Coalition and our members, please visit our website at www.enrollmentcoalition.org or contact Laura Pence at Laura.Pence@LeavittPartners.com.

Sincerely,

The Enrollment Coalition

³ Enrollment Coalition letter RE: CG Docket No. 02-278, FCC Consumer and Governmental Affairs Bureau Seeks Comment on Request Relating to Enrollment in Medicaid and Other Governmental Health Coverage Programs, https://www.enrollmentcoalition.org/files/ugd/460f85_2e4cf3740cdc4783b60d17a395e3b142.pdf.