

# State Compliance with Electronic Asset Verification Requirements

States are required by federal law to implement asset verification programs for the purpose of determining financial eligibility for individuals applying for Medicaid on the basis of age, blindness, or disability. For individuals in these categories, financial eligibility is determined based on both income and resources (MACPAC 2017). States are responsible for verifying that applicants do not exceed resource limits and, in the case of long-term services and supports (LTSS), have not improperly transferred their assets within the 60-month look-back period as part of the Medicaid application process. States must periodically re-verify beneficiary resources, including assets, when redetermining eligibility.

All states were required to implement electronic asset verification systems (AVS) by 2013; however, by 2018, over a dozen states had still not complied with this requirement. In response, Congress acted to reduce the federal medical assistance percentage (FMAP) for states that have not complied with certain federal requirements by January 2021; this provision was part of a larger bill known as the Medicaid Extenders Act of 2019 (P.L. 116-3).

Slow adoption of AVS was the result of a number of challenges. However, compliance has accelerated since 2018 due, in part, to the FMAP penalty and increased state engagement and oversight efforts by the Centers for Medicare & Medicaid Services (CMS). As of October 2020, four states have not implemented AVS (CMS 2020). Five additional states remain partially out of compliance; these states have implemented AVS but are not yet using it for all applicants whose assets they are required to verify (CMS 2020).

This brief provides background information on financial eligibility for the Medicaid populations subject to asset verification and the evolution of federal requirements for asset verification. It also provides an overview of how AVS operates as part of the eligibility determination process and outlines federal authorities to enforce AVS requirements. It goes on to discuss findings from a MACPAC study examining state readiness to meet requirements, efforts by CMS to monitor compliance, and the implications of using AVS. This study involved a review of publicly available information and interviews with officials from eight states at various stages of AVS implementation. We also interviewed officials at CMS and other stakeholders including representatives from AVS vendors and LTSS providers.<sup>1</sup>

## Background

States are required to verify income and resources, including assets, for individuals applying for Medicaid on the basis of being age 65 or older, having blindness, or having a disability. The methods states use to verify assets, and federal requirements for doing so, have evolved over time. Federal AVS requirements are



designed to make such checks more timely and accurate than those done manually, reduce state administrative burden, and improve the accuracy of eligibility determinations.

## Medicaid eligibility for aged, blind, and disabled individuals

There are a number of Medicaid eligibility pathways for individuals age 65 and older and individuals with blindness or a disability, sometimes referred to as aged, blind, disabled (ABD) eligibility pathways. Nearly all individuals applying for Medicaid through these pathways must be age 65 or older or meet the definition of disability or blindness used by the Supplemental Security Income (SSI) program. They must also meet financial eligibility criteria, which include income and asset limits (MACPAC 2017a).

Financial eligibility for these groups is determined using the financial methodologies used for SSI. In general, individuals who are eligible for SSI are also eligible for Medicaid.<sup>2</sup> Income limits are tied to the SSI federal benefit rate and applicable state supplement (SSA 2020a).<sup>3</sup> Countable assets, including cash or other liquid assets (such as bank accounts) or any real or personal property that an individual (or spouse) owns and could convert to cash to support themselves, cannot exceed \$2,000 for an individual or \$3,000 for a couple (SSA 2020b).<sup>4</sup> States may choose to offer Medicaid eligibility to individuals who meet the SSI definition of disability but have countable income or assets above SSI levels (and applicable state supplements) through other optional eligibility pathways.<sup>5</sup>

## Evolution of asset verification requirements

For over a decade, Congress, the U.S. Government Accountability Office (GAO), and others have raised concerns about the adequacy of state asset verification processes. For example, a 2005 GAO study found that states generally relied on applicant-reported information to identify transfers of assets, varied in the amount of documentation required, differed in the extent to which they verified reported information, and were less likely to verify information on assets than on income (GAO 2005).

To address these issues, Congress enacted Title VII of the Supplemental Appropriations Act of 2008 (P.L. 110-252), which established Section 1940 of the Social Security Act (the Act). This section requires states to have specific mechanisms in place to verify assets for purposes of determining or redetermining Medicaid eligibility for aged, blind, and disabled individuals, including obtaining information directly from financial institutions. All states were required to implement these provisions by the end of fiscal year (FY) 2013.<sup>6</sup> Such mechanisms are required to be electronic.<sup>7</sup> States must document all of their eligibility processes, including their processes for asset verification, in a state plan amendment (SPA), which is subject to CMS review and approval.

Few states met the statutory deadline. In 2012, GAO noted that states were increasingly using third-party information to verify applicant assets, but no state had fully implemented an operational AVS (GAO 2012). As of February 2016, 30 states had an approved SPA to establish an AVS but just 4 had fully implemented their systems and were using them for eligibility determinations (NAMD 2016).

In response to concerns raised by GAO and the House Energy and Commerce and Senate Finance Committees, CMS enhanced its oversight efforts.<sup>8</sup> For example, it sent letters to some states that were out of compliance, required SPAs to include firm milestones and implementation time frames, and increased

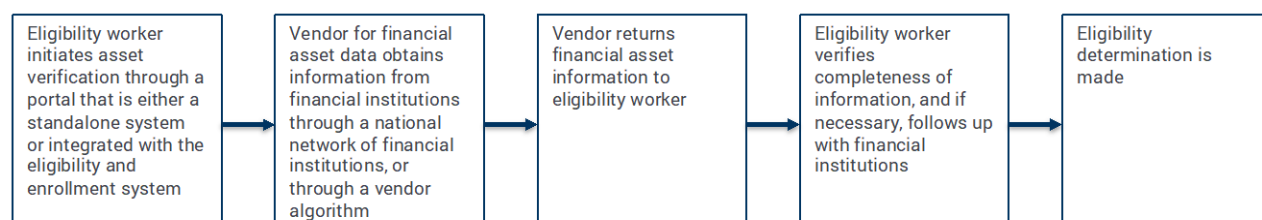


tracking of state progress through regular monthly group and individual calls with state Medicaid officials (NAMC 2016, CMS 2020). Even so, by late 2018, several states still did not have an approved SPA and a larger number did not have a fully operational AVS.<sup>9</sup> Compliance has since improved; today, most states have fully implemented AVS and are using it to conduct eligibility determinations (see below).

## Overview of electronic asset verification

Using AVS to perform an asset check for a Medicaid applicant involves several steps. States generally contract with vendors to establish and operate portals between state eligibility systems and banks or other third-party systems with electronic access to financial information. State eligibility workers can submit a request through the state's AVS portal, which then queries financial institutions for information on accounts in the applicant's name. Information on applicant assets is then returned to states to be considered as part of the eligibility determination process. Typically, requests are sent to large, national banks, banks within a set distance of the applicant's address, and specific banks identified by the applicant (Figure 1). Some states also perform property checks through their AVS, though this is not a federal requirement.

**FIGURE 1.** Example of AVS Process (Simplified)



**Note.** AVS is electronic asset verification system.

**Source.** Ramos et al. 2020.

## Enforcement authorities

The Social Security Act contains two primary authorities that allow the Secretary of the U.S. Department of Health and Human Services (the Secretary) to reduce or withhold federal Medicaid funds for states that do not comply with AVS requirements. Section 1903(i)(24), enacted in 2008 along with the original asset verification requirements at Section 1940, specifies that for states that fail to implement an asset verification program as required, federal financial participation (FFP) will be unavailable for medical assistance expenditures for the populations subject to asset verification (i.e., the state's population of enrollees eligible on the basis of age, blindness, or disability).<sup>10</sup> This provides the Secretary with the authority to withhold federal funds to states found non-compliant with federal requirements.

The Medicaid Extenders Act of 2019 (P.L. 116-3) established Section 1940(k) of the Act, including a more targeted tool for enforcement. This provision requires the Secretary to reduce the FMAP for states that are not compliant with AVS requirements as of January 2021. For the purposes of Section 1940(k), non-



compliant states are defined as states that do not have both an approved SPA and an ongoing, operational AVS. Beginning in the calendar quarter that starts on January 1, 2021, the federal matching rate for non-compliant states will be reduced by 0.12 percentage points, increasing to 0.25 percentage points for calendar quarters in 2023, 0.35 percentage points for calendar quarters in 2024, and 0.5 percentage points for calendar quarters in 2025 and each year thereafter.

## Status of State Asset Verification System Implementation

States are required to have an operational AVS capable of verifying financial information, and CMS considers this to be the standard for compliance.<sup>11</sup> As of October 2020, 41 states and Washington, D.C., are fully compliant with federal requirements. CMS officials are actively working to bring the remaining states into compliance.<sup>12</sup>

### Implementation status

Of the nine states that are currently out of compliance, four states have not yet implemented AVS. Five additional states are partially compliant; these states have implemented AVS for applicants in some parts of the state, for some but not all required populations, or in processing new applications but not renewals (or vice versa) (CMS 2020).

The four states that have not implemented AVS are either working with a vendor to build a system or working to contract with a vendor; each expects to be fully implemented by December 2020. The five partially compliant states that are not yet using AVS for all impacted populations statewide are expected to have done so no later than 12 months after receiving the approval from CMS of a corrective action plan (see below).

At least some of these states experienced challenges or delays in implementing AVS. For example, one state experienced major challenges related to procurement and contracting, another experienced substantial functional issues with its eligibility system, and a third had difficulty securing funding from its legislature.<sup>13</sup>

### CMS plans for enforcement

It is important to note that because all states submitted relevant SPAs and received approval, no state meets the specific definition of non-compliance for the purposes of reducing state FMAPs under the terms of Section 1940(k).<sup>14</sup> Therefore, CMS cannot use Section 1940(k) authority to impose penalties, even for states that lack an operational AVS as of January 2021. For this reason, CMS plans to use authority under Section 1903(i)(24) for any AVS-related penalties. As noted above, this authority allows CMS to disallow FFP for medical assistance expenditures for Medicaid beneficiaries included in the asset verification requirement.

CMS issued letters of noncompliance to states in 2020. These letters began the process for disallowance of FFP and required states, in accordance with section 1903(i)(24) of the Act, to submit corrective actions plans demonstrating how the state will comply with Section 1940 within 12 months. Failure to comply



within 12 months of approval of a corrective action plan will result in the non-compliance penalty outlined at section 1903(i)(24).<sup>15</sup>

Although CMS will not apply FMAP penalties under Section 1940(k), officials noted that the enactment of those penalties with a concrete deadline of January 1, 2021 caused the agency to take a more active oversight role and to send states the letters of noncompliance to accelerate implementation.

## Program Implementation

The AVS implementation process involves several steps. States can implement AVS as a standalone portal, or integrate it into their eligibility system; this choice has implications for system cost and capability, and the timeline for implementation. States must contract with a vendor to set up a portal to initiate asset verification requests or integrate asset verification into their eligibility system. (As of 2020, there are only two vendors contracting with states to set up AVS portals.) States work with the vendor to test and implement the system. They then incorporate the AVS step into the eligibility determination process and train eligibility workers. Interviewees reported generally smooth implementation processes under both approaches, but noted a number of ongoing operational challenges (discussed below).

### Factors affecting timing of AVS implementation

As noted above, state adoption of AVS following the creation of Section 1940 of the Act was slow. Only a small number of states were fully or partially using AVS by the end of FY 2013 (CMS 2020, PCG-Acuity 2020, GAO 2014). Compliance has since accelerated, with most states (including five of the states in our study) implementing between late 2017 and 2019. Interviewees generally cited increased CMS focus on enforcement, along with the enactment of new FMAP penalties, as the primary motivators for implementation.

Interviewees described several factors that influenced state decision making regarding the timing of AVS implementation, including the difficulty of balancing AVS with other priorities and initiatives, concerns about costs, and administrative and procurement-related barriers.

- **Other eligibility system upgrades.** In the early years of the AVS requirement, many states were in the process of implementing new eligibility systems or otherwise upgrading system capacity. These included upgrades to handle new requirements set forth in the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended), including those related to streamlining eligibility and use of modified adjusted gross income (MAGI). These activities left states with limited staff capacity to implement AVS. Moreover, many states wanted to complete these other transitions before incorporating AVS, given the time, expense, and complexity associated with integrating electronic asset verification capacity into their eligibility systems (see below).
- **Uncertainty about effectiveness.** Because states generally lack authority to compel financial institutions to share the information needed to verify assets, there has been uncertainty as to whether AVS systems can produce complete information on applicant assets.
- **Budgeting and procurement issues.** Some states and CMS cited the relatively high upfront costs and expenses of implementing AVS as a barrier. For example, several interviewees pointed to the limited



vendor market for AVS, noting that lack of competition makes it difficult for states to negotiate or reduce costs. There are only two vendors that set up AVS portals, both of which charge states for initial set-up as well as ongoing costs on a per-inquiry basis. In addition, some state legislatures were slow to appropriate funds for AVS. Some states also experienced procurement challenges.

- **Alignment with state policy priorities.** In some cases, AVS implementation may have been delayed out of concern that it would create an additional hurdle for applicants. Other states adopted AVS as part of broader program integrity efforts, including state initiatives to require electronic asset verification for all public assistance programs with asset limits, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Medicaid.
- **CMS oversight and enforcement.** CMS initially placed less emphasis on enforcing these requirements, recognizing the difficulties experienced by states and its own oversight priorities. CMS increased oversight efforts in late 2015 and 2016 in response to greater congressional interest, by following up with states more closely, requesting updates on their implementation progress, and imposing deadlines to file SPAs (NAMD 2016, Hatch and Upton 2015). CMS again increased its attention to state progress as Congress imposed the FMAP penalty under Section 1940(k) of the Act, and the January 2021 deadline for compliance (CMS 2020).

## Approaches to implementation

States have taken different approaches to setting up their AVS based on factors such as existing infrastructure and program goals. Standalone AVS portals are less costly and can be implemented more quickly than integrated systems, but allow for less customization, cannot be used for other purposes (e.g., to verify eligibility for other programs with resource limits) and may not reduce administrative burden in the long run (e.g., they require eligibility workers to access a separate web portal to initiate an asset check).

In general, states choosing standalone portals appear to be doing so on a temporary basis, particularly if they have an ongoing or planned procurement for an upgraded integrated eligibility system and do not wish to invest in integrating AVS into a legacy system. States that wish to minimize costs and do not plan to use AVS for other purposes can also choose this option as a more permanent approach. For example, 12 states have entered into a multi-state purchasing arrangement with Public Consulting Group (PCG) facilitated by the New England States Consortium Systems Organization: this product can be implemented quickly at a relatively low cost, but can only perform financial asset checks.<sup>16</sup>

While integrating AVS into the state eligibility platform is more expensive and requires more time than using a standalone portal, an integrated system allows eligibility workers to access information more seamlessly when performing an eligibility determination. It can also provide opportunities to integrate additional data sources to improve the accuracy of the asset check (such as income and property data). In addition, the integration of multiple data sources may ease the burden on the applicant by reducing the documentation they need to provide. Finally, implementing an integrated system allows states to customize and use the system for additional purposes, such as for asset checks for other programs with resource limits (e.g., SNAP, TANF). In some cases, systems can flag whether an asset check has been performed for an applicant for another program, reducing duplication of effort. Even where AVS is only



being used for Medicaid applicants, any unreported assets that are identified can be reported to other programs.

## Implementation timelines

States varied in their timeline to complete the implementation of their AVS. Many states experienced delays in securing necessary appropriations and procuring a vendor (see above). Once a contract was awarded, however, timelines varied based on whether states chose to implement a standalone or integrated system: states with standalone systems reported that it took from three to nine months from contract award to implementation, those with integrated systems reported that it took 6 to 11 months.<sup>17</sup>

## Implementation experiences

Six out of seven interviewed states reported relatively seamless implementations. These states described relatively minor challenges adapting to the new system and asset verification processes; some states also described more substantial operational challenges (see below). However, they were generally satisfied with the implementation processes itself. Several state officials noted that their vendors were experienced in setting up the systems and were able to do so quickly, especially for standalone systems. Several states used a pilot version or limited implementation to test their system before statewide implementation. However, one state reported a particularly difficult implementation process, commenting that the vendor had over promised with regard to the system's capabilities, and that AVS implementation had actually made the state's asset verification process more burdensome.

## Operational Challenges

To perform an asset check for a Medicaid applicant using AVS, eligibility workers must submit a request through the state's AVS portal; the request is then sent to a number of different financial institutions. Information from these financial institutions is gathered by an additional vendor, which, in 46 states, is Accuity.<sup>18,19</sup> Results of the asset check are then returned to the state and used to make an eligibility determination.

States reported that systems are generally functioning adequately but problems remain. The most substantial of these are issues with the completeness and timeliness of the data they receive from financial institutions. Other issues include problems adapting to the new workflow of processing asset checks and difficulty identifying the specific beneficiaries for whom an asset check is required.

## Issues related to financial institutions

States reported problems including the willingness of financial institutions to participate, the adequacy of the searches performed by vendors, and delays in receiving information. Some states described these issues as materially inhibiting the extent to which AVS fulfills its purpose as an efficient and accurate process for asset verification.



- **Financial institution participation.** Although Congress mandated that states implement AVS, there are no federal requirements for financial institutions to report information on applicants' assets. As a result, financial institutions can refuse to participate, leaving vendors and states with no way of acquiring this information. Interviewees reported that this primarily occurs with small and rural banks and credit unions. In some cases, resistance to participate has to do with the cost and effort involved, and in other cases, privacy concerns. Some states have tried without success to pass legislation requiring banks to provide information needed for asset verification.
- **Adequacy of searches.** Some state officials expressed concerns that the searches were not reaching all financial institutions at which applicants might have accounts (e.g., some searches were limited to banks within a 65-mile radius).
- **Delays in receiving information.** While interviewees noted that information is typically available almost instantly from larger banks through an automated process, smaller banks and credit unions may be slow in responding. Such institutions often process requests and provide information through manual entry, fax, or mail, which can take up to 30 days.

In some cases, these concerns have resulted in states using manual processes to verify assets, sidestepping the AVS process. Others reported moving forward with application processes without waiting for the system to return information, relying on information reported by the applicant.

## Need for further guidance

Interviewees raised a number of areas in which more federal guidance would be helpful. CMS reported that the agency is also working on additional guidance to supplement its regular calls and technical assistance. The agency's goals for this guidance would be to help states understand the point in the application and renewal processes at which states should be using AVS; provide instruction on issues that commonly come up in technical assistance calls with states, such as the length of time states should wait to receive information from the asset check before proceeding with the application process; and clarify state's obligations under the Fair Credit Reporting Act (FCRA, P.L. 91-508), which requires notifying consumers if information that is part of their credit record is used to disqualify them from benefits.<sup>20</sup> CMS has not indicated a timeline for releasing this guidance.

## Outcomes

Federal AVS requirements are intended to ensure that states make timely and accurate eligibility determinations, and ultimately achieve cost savings through improved program integrity and reduced administrative burden. However, the effects of AVS on these outcomes are not being measured and remain largely unknown. Overall, states expressed mixed opinions about the effects of AVS on the accuracy of eligibility decisions. Some states noted that their systems are a helpful tool for improving program integrity, and others described them as adequate but highly resource-intensive to implement. Most (but not all) states reported slightly reduced administrative burden once systems were operational. There appear to be few effects on applicants or providers.





## Return on investment

Neither states nor CMS are systematically tracking information to describe the efficiency or effectiveness of AVS compared to the previous asset verification process, or other data that could be used to assess return on investment. Vendors can provide certain information, including the number of accounts found, undisclosed accounts found, response rates and times for asset checks, and the number of cases in which the assets found exceeded Medicaid resource limits; however, such data cannot be used to determine whether the information would have been found through the previous process, or whether it led to more accurate eligibility determinations.

Some state officials speculated that AVS would pay for itself by identifying assets that would not otherwise have been found, resulting in denials of eligibility for applications that otherwise would have been approved. One state official reported that of 41,158 asset verification checks since system implementation, the system identified undisclosed assets for 12,000 applicants. However, it was not clear how many of those cases resulted in a finding of ineligibility. Another state official reported that of 2,000 asset verification requests performed in 2019, the system uncovered 13 undisclosed financial accounts; none of these resulted in a finding of ineligibility.

## Administrative burden

Most state officials commented that overall, AVS has reduced the burden on state Medicaid eligibility staff, particularly in states where the portals are integrated into the eligibility system. However, in other states, eligibility workers must still perform manual tasks (i.e., reviewing and processing data, following up with financial institutions, etc.). For example, one state official noted that for some requests, complete information is returned quickly, leading to simple eligibility determination; for other requests, little to no information is returned, requiring more follow-up work for staff.

## Effects on applicants and providers

The effects of AVS on applicants and providers appear to be limited. Several states, including the state that experienced a difficult implementation process, described a seamless transition from the applicant perspective. Some states commented that AVS had eased the burden on applicants and their families by reducing the amount of documentation required. However, one state reported that in some cases, AVS may actually slow down the application process, particularly when state staff have to follow-up with the applicant with questions over the information received from financial institutions. Only one interviewee reported an instance in which an application was denied based on an inaccurate property valuation.

State interviewees reported receiving few, if any complaints from advocacy groups or providers. The long-term care provider association we spoke with, Oregon Health Association, had also heard few issues from constituents. Other organizations, including the American Health Care Association and Justice in Aging, did not have information on these matters.



## Endnotes

<sup>1</sup> Interviews for seven of these states were conducted by telephone; the eighth state responded to written questions. Two additional states provided information on their implementation status via e-mail.

<sup>2</sup> Rather than conferring automatic Medicaid eligibility on all SSI recipients, states can use more restrictive criteria to determine Medicaid eligibility. These are referred to as 209b states.

<sup>3</sup> Countable income includes earned income, unearned income (e.g., Social Security benefits, interest income), in-kind income (e.g., food or shelter received for free or less than fair market value), and deemed income (e.g., part of the income of a spouse). Several types of income, including income tax refunds and the value of Supplemental Nutrition Assistance Program benefits, do not count for the purposes of SSI (SSA 2020a).

<sup>4</sup> Real property may include real estate other than one's primary residence (as long as equity for the primary residence does not exceed a certain value), and personal property may include retirement accounts, investments, vehicles (if the applicant owns more than one), and burial funds and life insurance policies worth more than \$1,500 (SSA 2020b).

<sup>5</sup> For more information on eligibility for Medicaid beneficiaries eligible on the basis of age, blindness, or disability, see "Federal requirements and state options: Eligibility" (MACPAC 2017b).

<sup>6</sup> The requirements of Section 1940 of the Act apply only to the 50 states and the District of Columbia, not to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the U.S. Virgin Islands.

<sup>7</sup> Section 1940(b)(2) of the Social Security Act defines an asset verification system as one that verifies individual assets in a manner consistent with the approach used by the Social Security Administration in its SSI asset verification. In September 2003, SSA moved away from a manual asset verification process and began developing a web-based asset verification system, which has since been implemented nationwide. To comply with the statutory requirement that Medicaid asset verification systems be consistent with the approach used by SSA in its SSI asset verification, states are required to conduct asset verification electronically.

<sup>8</sup> Another GAO report, published in 2014, examined methods used by Medicaid applicants to reduce their countable assets, adding to concerns about states' ability to verify assets and protect against fraud, waste, and abuse in making eligibility determinations (GAO 2014). In December 2015, the chairmen of the House Energy and Commerce and Senate Finance Committees sent a letter to the Acting Administrator of CMS requesting information on CMS oversight of state efforts to implement e-AVP systems (Hatch and Upton, 2015). CMS responded with details on various approaches the agency was using to support states in moving towards full implementation (CMS 2016).

<sup>9</sup> Using publicly available information alone, it is difficult to determine the point at which states implement and begin using AVS. Implementation steps include submission of the SPA, obtaining funding for the system, the procurement process to contract with a vendor, policy and system changes, workflow and process changes, and staff training. There is limited publicly available information available on state AVS implementation status beyond their submission of SPAs.

<sup>10</sup> Exceptions are made if a state demonstrates a good-faith effort to comply (as determined by the Secretary); submits a corrective action plan (that is approved by the Secretary) within 60 days of the determination that the state is non-compliant; and fulfills the terms of the corrective action plan within 12 months.

<sup>11</sup> Some states also conduct property checks using AVS, but this is not necessary for compliance with the federal requirements.

<sup>12</sup> MACPAC reviews of publicly available information supplemented by stakeholder interviews found that more states are compliant with AVS requirements than indicated by a review of publicly available information alone. An initial scan of



approved SPAs and documents related to procurement conducted in fall 2019 showed that all states had submitted a SPA by the end of 2018; however, the information gathered was insufficient to determine implementation status (i.e., whether states have an operational AVS) for at least 29 states. The existence and timing of an approved SPA, publicly available request for proposal (RFP) for vendors, or vendor contract award are not indicators of state implementation status. For example, several states received SPA approval and issued RFPs, but later delayed implementation due to budgetary or administrative issues. Others received SPA approval, entered into sole source procurements, and implemented AVS, but appeared not to have done so because no RFPs or contracts were publicly available.

<sup>13</sup> CMS acknowledges that the current COVID-19 pandemic also has presented potential challenges to states in meeting timelines outlined in their AVS corrective action plans, and is working with states to provide technical assistance as needed.

<sup>14</sup> As noted above, Section 1940(k) imposes an FMAP penalty on states that are not compliant with asset verification requirements. It defines a non-compliant state as a state that is one of the 50 states or the District of Columbia, does not have an approved SPA, and is not operating, on an ongoing basis, a compliant asset verification program. All states and the District of Columbia have approved SPAs.

<sup>15</sup> The specific steps for a compliance action under 1903(i)(24) are: (1) CMS provides the state written notice of a formal finding of noncompliance; (2) the state is afforded 10 days to ask CMS to reconsider its finding of noncompliance; unless the state makes such a request, CMS's finding of noncompliance becomes final at the expiration of those 10 days; (3) the state has 60 days, from the date the CMS finding becomes final, to submit and receive approval of a corrective action plan; (4) the state must fulfill the terms of such corrective action plan within 12 months of CMS's approval of the corrective action plan; (5) if the state does not fully implement a compliant asset verification system in accordance with its corrective action plan, CMS sends the state a letter informing the state that it will begin to disallow FFP until such time as the state fulfills its corrective action plan.

<sup>16</sup> States are not required to use AVS for property checks, although some states do. Those that do not may use manual processes or rely on applicant-reported information to check property.

<sup>17</sup> This excludes one state, which took longer to implement because it did a complete overhaul of its eligibility systems at the same time.

<sup>18</sup> Accuity is the organization that assigns bank routing numbers and was already the federal contractor providing asset verification information for Social Security. Accuity subcontracts with Early Warning, a consortium of large, nationwide banks, which provides financial information from its member institutions. States receive financial information from Accuity and Early Warning regardless of which vendor they use for their e-AVP portal, or the type of portal they have.

<sup>19</sup> Most states using e-AVP to conduct property checks contract with LexisNexis to gather property information.

<sup>20</sup> The Consumer Financial Protection Bureau has determined that AVS is subject to FCRA requirements. This requires that states comply with the requirements that apply to users of consumer reports found at 15 U.S. Code § 1681m, including the requirement to notify consumers when adverse actions are taken. CMS plans to issue guidance to states regarding compliance with FCRA requirements (CMS 2020).



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