MISSISSIPPI CENTER FOR
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Policy Brief

Making Medicaid Work in A Pandemic World

Medicaid is a joint state-federal health insurance program partially funded by each state and the federal government. The program, in fact, provides little opportunity for states to adapt to diverse healthcare challenges, such as changing demographics and rising healthcare costs. During the initial COVID-19 outbreak, however, the federal Centers for Medicaid and Medicare Services (CMS) offered states some flexibility via three different types of waivers. In turn, the Mississippi Division of Medicaid took advantage of these opportunities, pivoting quickly to get existing Medicaid resources to the elderly and the disabled. This brief will examine the three different types of waivers – 1115 waivers, 1915 waivers and 1135 waivers – that are available to increase access during pandemic outbreaks like that brought on by COVID-19.

Use 1115 Waivers to Expand the Supply of Healthcare

An 1115 waiver allows states to waive certain statutory requirements related to their Medicaid programs. Typically, 1115 waivers have been used to expand Medicaid services or enrollment to new populations, but the Trump administration has rightfully urged states to consider reforms aimed at channeling care to the most vulnerable of the uninsured.

Effective March 1, 2020, CMS created a fast track process that allowed states to "focus agency operations on addressing the COVID-19 pandemic" by using "established" waivers with "proven program outcomes." The waivers expire no later than 60 days after the initial coronavirus health emergency ends.

One of the available waivers would extend home-based services to individuals who would otherwise require care in an institutional setting. The target populations are the elderly and the disabled who have functional and chronic illnesses or disabilities. This waiver interacts with the 1915 waiver discussed below.

A second 1115 waiver enables states to "accept self-attestation of applicant resources." In effect, this waiver suspends verification tools (such as those created by the HOPE Act) that ensure Medicaid resources are being used by those who actually need them. At the same time, the waiver blunts the arguments of those who might claim we need to expand Medicaid during the current crisis. In any event, CMS also seems to be fast tracking Healthy Adult Opportunity waivers meant to encourage Medicaid expansion to able-bodied, childless adults.

In what follows, we wish to suggest 4 additional 1115 waivers the Mississippi Division of Medicaid should adopt as we recover from the current COVID outbreak and prepare for additional outbreaks. These waivers will help increase access for patients in urgent care situations as well as provide additional options to existing Medicaid beneficiaries.

→ **Increase cost sharing for unnecessary emergency room visits and missed appointments**

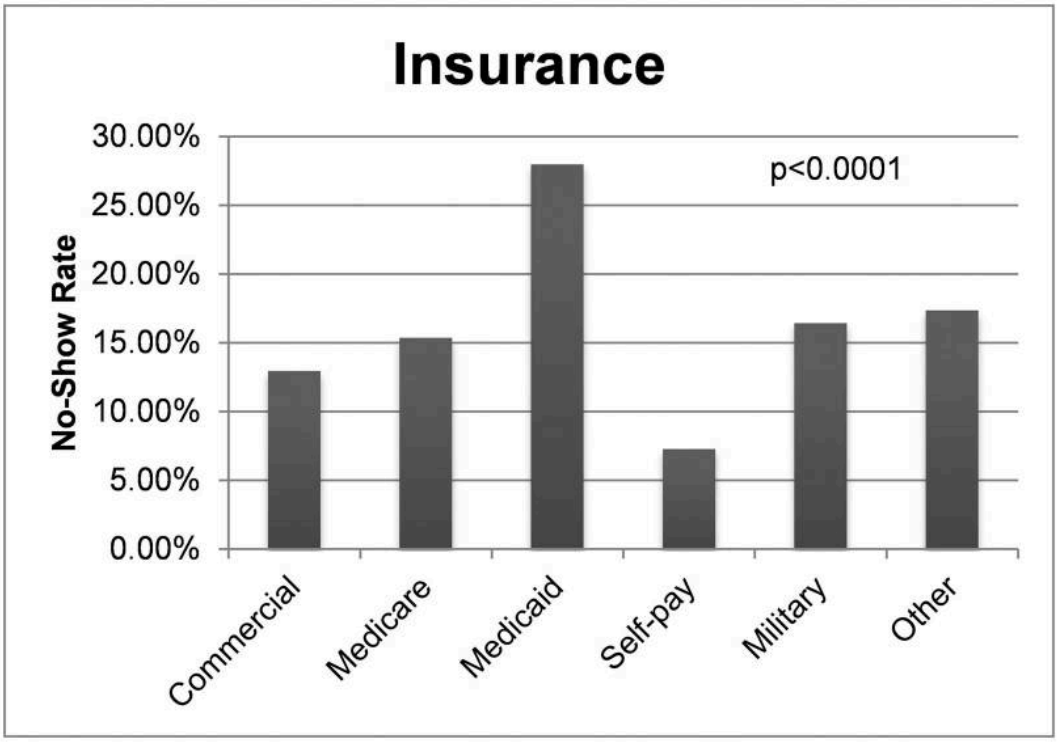
Hospitals and other medical providers are already strained to the breaking point by COVID-19. In recognition of this, the Trump administration is allowing some flexibility regarding EMTALA requirements. (The Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals that accept Medicare funding to screen and treat or stabilize any individual seeking emergency care, regardless of ability to pay.)

Likewise, Mississippi Medicaid should discourage unnecessary emergency room visits by using an 1115 waiver to require a higher copay.[1] At least one state, Arizona, has a limited waiver to charge a copay for non-emergent ER visits. Mississippi should do the same.

Clearly, hospital emergency rooms must be able to fully focus on medical emergencies, both COVID and non-COVID related. Charging a copay for non-emergent visits will preserve scarce resources for those who need them. This is especially the case as we are seeing hospitals hit capacity limits in hot spot areas. This policy will also reduce the exposure of Medicaid patients to the coronavirus.

Likewise, Medicaid patients who miss medical appointments should be charged a copay. Studies show that Medicaid patient no-show rates are almost twice as high than it is for other patients and, in one study, five times higher than for uninsured patients.

[1]The federal copay maximum for non-emergency use of an emergency room is $8.00 for those who earn up to 150 percent of the federal poverty level (FPL). A waiver is not necessary to charge a higher copay to those earning more than 150 percent FPL, unless the cost exceeds 5 percent of household income.



CMS has yet to allow states to charge a copay for Medicaid beneficiaries who fail to cancel an appointment.[2] During the COVID-19 outbreak, however, such a waiver makes good sense. Moreover, we need to set in motion policies that will encourage an efficient use of resources in a post-COVID healthcare landscape. Such policies will enable providers to give targeted care to patients who actually need to see a doctor.

→ **Innovate Medicaid transportation services**

One reason some Medicaid patients miss appointments is because of inefficiencies related to Medicaid transportation providers. Thanks to a 2017 rule change from the Trump administration, healthcare providers may now provide free or low-cost transportation services to patients. The administration is also looking at an additional rule change that would provide more flexibility in this area.

Mississippi already offers generous transportation services for Medicaid insurance beneficiaries, with no copay required. The state is currently using a broker to supply transportation. It is unclear what cost savings is being derived from this arrangement. In any case, states need to be incentivized to work with rideshare services like Veyo, Uber Health and Lyft. An 1115 waiver could be crafted that allows the state to divert savings from non-emergency transportation to high-need areas, such as home and community based services waiting lists. Administrative changes might also make this possible. The thing to keep in mind is

[2]CMS does allow providers to charge Medicare beneficiaries for no shows. Attempting to collect no-show fees from Medicaid beneficiaries might prove difficult, unless Mississippi Medicaid administered the fee directly, utilizing appropriate penalties.

that the state needs to be able to pocket the savings that comes from using innovative ridesharing services.

In light of the COVID-19 crisis, it is also important to reduce instances of missed appointments, which would help protect providers from financial losses.

It's time for Medicaid to start to use existing transportation technology more effectively. As we have discovered during the coronavirus outbreak, healthcare resources are not infinite.

→ **Encourage more use of telemedicine**

Telemedicine is a technology a patient can use to access a healthcare provider even when the provider is not physically present. This can be done through a variety of electronic services that enable providers to remotely offer care to their patients without the overhead costs associated with the traditional medical office model. In response to the current coronavirus outbreak, the Mississippi Division of Medicaid expanded telemedicine availability. Not only do these changes need to be made permanent, they need to be expanded upon.

The COVID-19 outbreak has exploded the myth of infinite supply in healthcare. Supply is not limited. It never has been, which is one reason healthcare in the United States is so expensive. But the supply of quality healthcare can be increased by cutting red tape. For instance, multiple rules and regulations have been hindering the supply of telemedicine in Mississippi.

Even before the coronavirus outbreak, Mississippi Medicaid was expanding access to telemed. More can be done. In particular, Governor Tate Reeves should pursue reforms that allow healthcare providers licensed in other states to offer telehealth services to Medicaid beneficiaries in Mississippi.

A study published by the *American Journal of Emergency Medicine* found that telemedicine substantially lowered healthcare costs, diverting patients away from "more expensive care settings." In the current COVID world, such diversions can also lower potential exposure, reducing the need for even more expensive interventions. Mississippi Medicaid should do all it can to expand the use of telemedicine so as to provide relief for over-burdened hospitals and provide safe, high-quality care to patients.

→ **Incentivize high-quality alternative surgical options**

Mississippi has among the highest COVID-19 hospitalization rates in the country. With this in mind, it is vital that the state Medicaid program incentivize the utilization of ambulatory surgery centers (ASC) in order to reduce pressure on hospitals struggling to respond to the coronavirus pandemic. The use of ASC has great potential in further mobilizing all medical resources to respond to future outbreaks.

This move to incentivize ASC could be accomplished through an 1115 waiver (or, as applicable, administrative changes) that increases the current copay for hospital outpatient department

(HOPD) use. (The current copay for both ASC and HOPD is $3.00 per visit.)[3] Prior authorization requirements should also be reviewed so as to encourage the usage of ASCs over HOPDs.

Diverting patients from more expensive hospital settings would preserve hospital resources for high-risk patients. Additionally, prior-authorization requirements for HOPD would make sure that these settings are being utilized by the patients who need them most.

Ambulatory surgery centers have saved *billions of dollars* for both commercial insurance and Medicare insurance beneficiaries. In the state of Mississippi alone, Medicare saved $70.1 million from ASC use in 2017. It's time for Medicaid to follow private and Medicare insurance providers in obtaining similar efficiencies.

Use 1915 Waivers to Help the Elderly and the Disabled

A second type of federal waiver being used to provide assistance to high-risk populations during the coronavirus outbreak is a 1915(c) waiver. These waivers are issued under the authority of section 1915(c) of the Social Security Act. The so-called Appendix K addendum allows for the expansion and or modification of Medicaid-funded home and community based services (HCBS) during an emergency.

Mississippi has approximately 23,000 people enrolled in HCBS waivers. The purpose of the waivers is to provide home-based care that allows people to avoid being placed in an institutional setting, such as a hospital or nursing home. The primary beneficiaries are the elderly and the disabled.

Mississippi is using the 1915(c), Appendix K waiver to increase the availability of home-delivered meals and home-based services, among other things. The waiver will be in place until January 26, 2021.

Monitor the Use of 1135 Waivers

Mississippi was one of the first states to obtain an 1135 waiver in response to the coronavirus outbreak. The policy essentially waives various compliance requirements. The 1135 waiver for the state of Mississippi allows the following, among other things:

[3]Federal law prohibits any kind of cost sharing for emergency services, pregnancy-related services, preventive services for children and contraceptive services. Individuals who earn less than 100 percent of the federal poverty level (FPL) are subject to federal cost-sharing limitations, but states have some flexibility in increasing copays for those who earn more. The federal maximums for outpatient services are 10 percent of the state's cost for those earning between 100 percent and 150 percent of FPL and 20 percent of the cost for those earning more than 150 percent FPL.

Waives/modifies pre-authorization requirements for fee-for-service benefits covered by Medicaid. … The state is allowed to temporarily waive or modify requirements that certain fee-for-service benefits receive preapproval. Pre-existing authorizations are also extended. Some examples of fee-for-service medical services that ordinarily require preapproval include:

- Cardiac rehabilitation services
- Physical therapy
- Remote patient monitoring
- Expanded home health services

Allows Medicaid providers not located in Mississippi to enroll in Mississippi Medicaid as long as they are already enrolled in another state's CMS program. … This waiver is only in effect as long as the current public health emergency lasts. It facilitates reimbursement to out-of-state providers.

Allows reimbursement to unlicensed medical facilities in the state of Mississippi due to emergency evacuations, as long as the facility is not utilized for more than 30 days. … The state must ensure that the setting meets reasonable standards of care.

Conclusion

While the 1915 and 1135 waivers discussed here are of limited duration, Medicaid needs to be transformed to better respond to an evolving healthcare landscape. Coronavirus and other outbreaks are likely going to return. The most pressing need for the long-term is to flatten the healthcare cost curve that plagues both private and public insurance beneficiaries in the United States. Flattening this curve while still providing quality insurance coverage to vulnerable patients should be the primary mission of Mississippi Medicaid. Utilizing the 1115 waivers discussed above would enable the Division to obtain some flexibility (with federal permission) to accomplish this task.

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