The National Conference of State Legislatures is the country’s most trusted bipartisan organization serving legislators and staff. We promote policy innovation, create opportunities for lawmakers to share knowledge and ensure state legislatures have a strong, cohesive voice in the federal system. We do this because we believe in the importance of the legislative institution and know when states are strong, our nation is strong.
COVID-19 WEBPAGE

Information on state policies and responses related to continuity of government, education, fiscal, elections, criminal justice and more.

Go to ncsl.org
## COVID-19 AND THE U.S. HEALTH SYSTEM WEBINARS

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Federal COVID-19 Medicaid Updates
National Trends in Medicaid COVID-19 Authorities
Colorado Medicaid Response to COVID-19
FEDERAL COVID-19 MEDICAID UPDATES

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TOPICS COVERED

- Medicaid provisions in Families First Coronavirus Response Act (FFCRA)
- Medicaid provisions in Coronavirus Aid, Relief, and Economic Security (CARES) Act
- Other federal activity on Medicaid
CONGRESSIONAL LEGISLATION
FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)
H.R. 6201

- Signed into law on March 18, 2020
- Addressed access to COVID-19 care for state Medicaid programs by allowing states to be eligible for a 6.2 percent increase in their federal medical assistance percentages (FMAP)
- Increase applies to regular FMAP and not for expanded Medicaid rates under ACA
- No cost-sharing for Medicaid and Children’s Health Insurance Plan (CHIP) enrollees
- State option to cover testing for uninsured with 100% FMAP to cover costs
- Increased Medicaid funding to territories for all medical services for next two fiscal years
CARES ACT (H.R. 748)

- Signed into law on March 27, 2020
- Extensions for a few Medicaid programs, including, Money Follows the Person with funding until Nov. 30, 2020, and continued protection against spousal impoverishment
- Also delayed, by 30 days, a requirement from second package that a state maintain premiums to receive the 6.2 percentage point increase in Federal Medical Assistance Percentage (FMAP) funding
- Delays scheduled reduction to Disproportionate Share Hospitals (DSH) payments until Dec. 1, 2020
Guidance provided for Medicare and Medicaid beneficiaries for Program of All-Inclusive Care for the Elderly (PACE) organizations includes accepted policies and standard procedures with respect to infection control.

The Centers for Medicare & Medicaid Services (CMS) has been allowed to waive certain requirements in Medicare, Medicaid and CHIP under section 1135 emergency authority, since then has been accepting and approving section 1135 Medicaid waiver requests.

CMS informational bulletin to states that identify opportunities for telehealth delivery to help increase access to Medicaid services and federal reimbursement for services and treatment for substance use disorders (SUD) including in school-based health centers.
OTHER RELATED FEDERAL ACTION

- CMS created a toolkit for state Medicaid and CHIP programs consisting of four checklists concerning federal waivers and implementable flexibilities in their program.

- Issued temporary regulatory waivers and new rules to allow hospitals and health care systems to deliver services at other community-based locations to make room for COVID-19 patients needing acute care in their main facilities.
RESOURCES

RESOURCES

THANK YOU!

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NATIONAL TRENDS IN COVID-19 MEDICAID AUTHORITIES

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Trends in Medicaid COVID-19 Authorities

April 21, 2020

Jack Rollins
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National Association of Medicaid Directors

➢ Created in 2011 to support state and territorial Medicaid Directors
➢ Bipartisan and nonprofit
➢ Core functions:
  o Facilitating peer-to-peer learning;
  o Elevating Directors’ perspectives in the federal policy process; and
  o Collecting and sharing data about the Directors and their programs.
➢ Led by a Board of 14 Medicaid Directors
Types of Emergency Authorities

➢ 1135 waivers
  o Contingent on national emergency declaration
  o Blanket applicability in Medicare
  o States must apply for Medicaid

➢ Disaster relief State Plan Amendments (SPAs)
  o Combines with CMS’s 1135 authority to implement a wide variety of changes

➢ Home and Community-Based Services (HCBS) waivers - 1915(c) Appendix K
  o Modifies state HCBS waiver programs in emergencies

➢ 1115 waivers
  o Not a unique disaster authority, but CMS has developed a specific construct for COVID-19
Acknowledging CMS’s Partnership

➢ Since the onset of the pandemic, CMS has ramped up their approval processes and support for states
➢ Significant investment in the state-federal partnership supporting rapid changes on the ground
➢ CMS’s stance overall is to let states be nimble and sort out authorities and paperwork on the back end
➢ NAMD applauds this partnership
  ○ While there’s more work to be done, we want to recognize the tremendous efforts of CMS staff in a difficult time
  ○ We hope these approaches result in durable changes to CMS’s Medicaid operations with states in a post-COVID world
1135 Waivers: What We’re Seeing

- 1135 waivers give CMS broad authority to waive provider requirements – but not payment
- CMS developed a Medicaid 1135 checklist to streamline specific flexibilities
- Populated checklist with flexibilities CMS has clear authority to waive
  - Prior authorization
  - Provider enrollment requirements
  - Public notice and comment
  - Fair hearing timelines
  - Supervision and oversight for certain practitioners
- State requests often broader than what is on the checklist; requiring further negotiation with CMS
Disaster State Plan Amendments (SPA): What We’re Seeing

➢ CMS’s disaster SPA template gives states a wide array of flexibilities to implement
  o Expand optional population coverage, including the FFCRA’s uninsured testing option
  o Modification of telehealth policies and payment structures
  o Expand presumptive eligibility
  o Modify enrollment policies and redetermination periods
  o Pharmacy prior authorization, length of prescription fills

➢ Most common modifications across states are telehealth-related and implementing changes to meet conditions of the FFCRA’s enhanced FMAP
  o Primarily related to the continuous enrollment requirement
Appendix K: Maintaining HCBS Infrastructure

➤ Appendix K is unique to Medicaid Home and Community-Based Services (HCBS) delivered in a 1915(c) waiver
  o Pre-existing emergency authority, but most states are filing these now to respond to COVID-19

➤ Allows modification of waiver programs for up to one year
  o Modify income and targeting criteria for eligibility
  o Add services or increase service limits
  o Expand eligible sites for services
  o Expand who can be a paid caregiver, including family members; relax caregiver licensure requirements
  o Increase provider payments
  o Retainer payments: pay habilitative service providers for services they can’t currently provide to specific individuals
Focusing on Retainer Payments

➢ A key priority for Medicaid is keeping providers solvent and operational during and after the pandemic.
➢ The Appendix K retainer payment option is helpful, but limited to a narrow set of providers.
➢ NAMD has requested CMS expand this structure to any provider type the state identifies as needing assistance.
   o Examples: Federally Qualified Health Centers (FQHCs), home health agencies, behavioral health providers, nonemergent medical transportation (NEMT) providers.
➢ CMS has reservations about duplicating existing federal dollars in the CARES Act.
➢ NAMD also asked Congress for statutory authority to make retainer payments to any provider.
1115 Templates: Negotiations Ongoing

- CMS’s COVID 1115 template is narrowly tailored
- Allows states delivering HCBS outside of a 1915(c) waiver to implement Appendix K modifications
  - Applicable to states using an existing 1115 waiver or state plan authority (such as Community First Choice) to deliver HCBS
  - Intent is to provide same set of HCBS flexibilities to states regardless of authority used to deliver them
- 1115 template also allows states to accept individual self-attestation of income to speed eligibility determinations
- So far, none of these 1115s have been approved. Anticipate approvals soon
- State interest in 1115 waivers for COVID extends well beyond what CMS has outlined in this template
Wrapping Up

- Wide array of authorities and flexibilities available to states
- Templates for each supporting quick processing by CMS
- Continued need to explore authority pathways for state strategies that don’t fall neatly into what’s been developed to date
- Some work remains on how states can replicate Medicare flexibilities and how Medicare blanket waivers intersect with Medicaid policies at the provider level
COLORADO MEDICAID RESPONSE TO COVID-19

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Colorado Medicaid Response to COVID-19

...and other assorted information...

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Colorado Department of Health Care Policy and Financing

April 21, 2020
Topics

- Colorado Medicaid’s Emergency Actions related to COVID-19
- Short Term Effects on Medicaid Spending
- Strategies to Reduce Medicaid Expenditure During Economic Downturns
Emergency Actions

Temporary Program Flexibilities:

• Expanded use of Telemedicine
• Expand settings where services may be provided
• Rate increases and retainer payments to some providers
• Suspend certain prior authorization requirements and extend pre-existing prior authorizations
• Permit payment for services provided by family caregivers (HCBS)
Emergency Actions

Temporary Administrative Flexibilities

- Extending the time to act on changes in circumstances that affect eligibility
- Allow self-attestation for eligibility application requirements
- Waiving timelines for functional assessments
- Modifying licensure or other requirements where certain services are provided
- Ease provider enrollment processes
- Suspend nurse aide supervision requirements
- Suspend site visits and audits
Short Term Effects on Medicaid Spending

- **Caseload effects:** Still very uncertain
- **Federal Law:** Cannot disenroll anyone from Medicaid for the duration of the emergency
- **Surge in unemployment applications:** May not immediately translate into Medicaid applications
- **New enrollees:** Expected to have lower-than-average costs at first
Short Term Effects on Medicaid Spending

• In the current fiscal year, we expect Medicaid spending to **decline**

• Most routine and non-emergent services are experiencing significant declines as people forgo care

• Examples include: Transportation; HCBS; Non-COVID Hospital services; Home Health.
Short Term Effects on Medicaid Spending

- New federal funds: 6.2 percentage point bump in the federal matching rate
- CO: From 50% federal funds to 56.2%
- Terms and Conditions apply!
- CO: New funding does not provide the ability to spend new money in Medicaid. It goes directly to General Fund relief.
Short Term Effects on Medicaid Spending

- Considerable data challenges
- There’s a lag between when services are provided, billed, and paid
- Our data won’t tell us what’s going on until well after it happens
- Gathering anecdotal information to help forecast

Short Term Effects on Medicaid Spending
How do we reduce Medicaid Spending?
Six general levers impact our costs.

1. Eligibility
2. Benefits
3. Provider Payments
4. Beneficiary Responsibilities
5. Delivery System
6. Program Integrity
Difficult Choices to Reduce Medicaid Spending

Eligibility: Must cut higher income populations first.

*Colorado*: Higher income populations are children and parents. Funded with cash funds, so no General Fund relief for removing hundreds of thousands of people.

Benefits: “Optional” benefits in Medicaid can include critical services like prescription drugs, home and community based services, and dental services.

Note: Neither eligibility nor benefits can be reduced until the end of the emergency period!
Difficult Choices to Reduce Medicaid Spending

Provider Payments: Probably the easiest way to get savings; it comes right out of our providers’ reimbursement at a tough time.

Beneficiary Responsibilities:
• Copays: Federal maximums. Mostly affects reimbursement to providers.
• Premiums: Standard authorities prohibit premiums for people under 150% FPL; alternate authorities come with difficult choices (such as spending caps)
Who let this Executive Branch guy talk to a bunch of legislators?
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Questions and Answers

Please type your questions into the chat box in the lower left-hand corner of your screen.
COVID-19 WEBPAGE

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