Responding to COVID-19: State Strategies for Medicaid and Commercial Health Insurance Oversight

March 18, 2020, 1:00 PM ET

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About State Health and Value Strategies

State Health and Value Strategies (SHVS) assists states in their efforts to transform health and health care by providing targeted technical assistance to state officials and agencies. The program is a grantee of the Robert Wood Johnson Foundation, led by staff at Princeton University’s Woodrow Wilson School of Public and International Affairs. The program connects states with experts and peers to undertake health care transformation initiatives. By engaging state officials, the program provides lessons learned, highlights successful strategies, and brings together states with experts in the field. Learn more at www.shvs.org.

Questions? Email Heather Howard at heatherh@Princeton.edu.

Support for this meeting was provided by the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.
Housekeeping Details

All participant lines are muted. If at any time you would like to submit a question, please use the Q&A box at the bottom right of your screen.

After the webinar, the slides and a recording will be available at www.shvs.org.
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- Based at Georgetown University’s McCourt School of Public Policy.
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Webinar Objective

Explore the strategies available to state Medicaid and insurance agencies to respond to COVID-19 and the opportunities for state regulators to reduce gaps in coverage and lower barriers to accessing care.

Discuss the steps states have taken so far, as well as strategies and opportunities for states to consider as they ramp up their response to COVID-19.
Agenda

- Background
- State Medicaid and the Children's Health Insurance Program (CHIP) Strategies to Respond to COVID-19
- Commercial Health Plan Strategies to Respond to COVID-19
- Questions
BACKGROUND
As concerns regarding widespread COVID-19 infection in the United States increase, state Medicaid and CHIP agencies are evaluating how to leverage their public health insurance programs to respond by:

- “Dusting off” disaster preparedness toolkits and inventory checklists that were originally prepared to respond to hurricanes, floods, and wildfires

and...

- Tailoring those strategies to address the impacts that COVID-19 will likely have on Medicaid/CHIP enrollees, providers, and state agency workforce

<table>
<thead>
<tr>
<th>Total Confirmed Cases</th>
<th>Total Deaths</th>
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<tbody>
<tr>
<td>4,226</td>
<td>75</td>
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</tbody>
</table>

*Per the Centers for Disease Control and Prevention (CDC)*
COVID-19 Regulatory Level-Setting: Coverage Rules Vary by Market Segment

The United States health insurance system is highly stratified with different coverage rules and different mixes of federal and state regulation.

<table>
<thead>
<tr>
<th>Coverage Type</th>
<th>Regulator</th>
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<tbody>
<tr>
<td>Medicare</td>
<td>Centers for Medicare &amp; Medicaid Services (CMS)</td>
</tr>
<tr>
<td>Medicaid</td>
<td>CMS and states</td>
</tr>
<tr>
<td>Employer: Self-Insured</td>
<td>Department of Labor and Employee Retirement Income Security Act (ERISA) of 1974 provisions</td>
</tr>
<tr>
<td>Employer: Fully Insured</td>
<td>States</td>
</tr>
<tr>
<td>Individual Market</td>
<td>States and Affordable Care Act (ACA) provisions</td>
</tr>
<tr>
<td>Uninsured</td>
<td>Federal requirement of emergency room care</td>
</tr>
</tbody>
</table>

*Employer coverage is calculated based on a national estimate of self-insured and fully insured plans.*
Emergency Powers Are Rapidly Expanding

With federal and state emergency action expanding daily, the authority of federal and state agencies to waive rules and issue emergency guidance is also expanding.

### Federal Emergency Powers

- The Families First Coronavirus Response Act ensures free access to testing and includes emergency supplemental appropriations to agencies on the front-lines, among other items
- President Trump’s emergency declaration on March 13 provided Health and Human Services (HHS) Secretary Alex Azar to grant 1135 waiver authority
- The Senate plans to negotiate on a third stimulus package that could inject $1 trillion into the economy

### State Emergency Powers

- California issued an All Plan Letter directing all full-service commercial plans and Medi-Cal plans to provide free screening and testing for COVID-19, including hospital, urgent care visits, and provider office visits
- Washington state ordered insured plans, including short-term, limited duration plans, to cover free COVID-19 testing

*State emergency powers often allow governors to be more specific than broader federal emergency orders that leave detailed directives to the states*
Emergency Powers Are Rapidly Expanding (Cont’d)

As of March 18, 51 governors (including DC) had issued emergency orders/declarations and 50 state agencies (including DC) issued emergency guidance, thereby broadening the ability of states to prevent, contain, and treat COVID-19.

Common Regulatory Initiatives

- Make testing free
- Reduce barriers to treatment
- Expand telehealth
- Enhance network capacity
- Address drug refills/shortages
- Provide consumer information
STATE MEDICAID AND CHIP STRATEGIES TO RESPOND TO COVID-19
### Responding to COVID-19: State Medicaid and CHIP Strategies

<table>
<thead>
<tr>
<th>Action</th>
<th>Description</th>
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<tbody>
<tr>
<td>Eliminate Cost Sharing for Testing and Care</td>
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<tr>
<td>Address Issues Related to Opioid Use Disorder (OUD) Treatment</td>
<td></td>
</tr>
<tr>
<td>Increase Access to Home and Community-Based Services (HCBS)</td>
<td></td>
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<tr>
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<td>Expand Telehealth</td>
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<tr>
<td>Communicate, Communicate, Communicate</td>
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</tr>
</tbody>
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### Address Issues Related to Opioid Use Disorder (OUD) Treatment

- Increase Access to Home and Community-Based Services (HCBS)
- Cover the Uninsured
- Communicate, Communicate, Communicate
- Suspend or Increase Prescription Refill Limits
- Expand Telehealth
- Suspend Prior Authorization Requirements
- Address Issues Related to Opioid Use Disorder (OUD) Treatment
- Eliminate Cost Sharing for Testing and Care

### Eliminate Cost Sharing for Testing and Care

- Increase Access to Home and Community-Based Services (HCBS)
- Cover the Uninsured
- Communicate, Communicate, Communicate
- Suspend or Increase Prescription Refill Limits
- Expand Telehealth
- Suspend Prior Authorization Requirements
- Address Issues Related to Opioid Use Disorder (OUD) Treatment
- Eliminate Cost Sharing for Testing and Care

### Suspend Prior Authorization Requirements

- Increase Access to Home and Community-Based Services (HCBS)
- Cover the Uninsured
- Communicate, Communicate, Communicate
- Suspend or Increase Prescription Refill Limits
- Expand Telehealth
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- Address Issues Related to Opioid Use Disorder (OUD) Treatment
- Eliminate Cost Sharing for Testing and Care

### Suspend or Increase Prescription Refill Limits

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- Cover the Uninsured
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- Address Issues Related to Opioid Use Disorder (OUD) Treatment
- Eliminate Cost Sharing for Testing and Care
Eliminate Cost Sharing for Testing and Care

**Eliminate Co-Payments for Medicaid Enrollees Seeking COVID-19 Testing, Treatment, and Care**

- The recently enacted Families First Coronavirus Response Act prohibits cost sharing for COVID-19 testing in Medicaid. States may wish to waive cost sharing policies more broadly to ensure access to other critical health care services
- **New Jersey and New York** already announced they will eliminate COVID-related co-payments
- **Required State Action:** Implement/operationalize the temporary suspension of co-payments; work with CMS to secure any necessary State Plan Amendment (SPA) authority

**Eliminate or Suspend Medicaid Premiums Authorized Under 1115 Waivers**

- This strategy will help ensure continuity of coverage for enrollees
- **Required State Action:** Implement/operationalize the temporary suspension of premiums; work with CMS to secure any necessary approvals

**Suspend CHIP Premiums, Enrollment Fees, and Co-Payments**

- This strategy will help ensure continuity of coverage for enrollees
- **Required State Action:** Implement/operationalize the temporary suspension of premiums, enrollment fees, and co-payments; work with CMS to secure any necessary SPA authority

*States may submit a SPA and implement changes prior to CMS approval so long as the SPA is submitted within the quarter in which the change was implemented; in addition, CMS has indicated that it is willing to retroactively approve Medicaid SPAs beyond the quarter in which they were submitted so that items submitted after March 31, 2020 may be effective as of the public health and/or national emergency.*
## Suspend Prior Authorization Requirements

States can temporarily suspend prior authorization requirements in fee-for-service (FFS) and Medicaid managed care (MMC), as well as extend existing prior authorizations for services in MMC to ensure access.

### Suspend Prior Authorization in FFS and MMC

**Example Services:**
- Early and extended prescription refills
- Home health services
- Home hemodialysis/peritoneal dialysis services
- Out-of-state/out-of-network services

**Required State Action:** State change to policy (in FFS) and administrative directive to plans (in MMC); and, only if SPA articulates conflicting prior authorization practices, 1135 waiver to eliminate need to change SPA

### Extend Existing Prior Authorization in MMC

**Example Services:**
- Home infusions
- Home oxygen therapy
- Medications related to asthma and smoking cessation therapy
- Telehealth

**Required State Action:** Administrative directive to plans (in MMC)

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**California** recently released an All Plan Letter reinforcing plans’ obligations under existing state authority to cover all medically necessary treatment, including for COVID-19, without prior authorization.
Suspend or Increase Prescription Refill Limits

To ensure access to prescriptions, states can temporarily suspend or increase (e.g., 90-day supply) limits on prescription refills to ensure consumers have an adequate supply of their medications.

- In the event of widespread social distancing measures, refilling prescriptions would be more challenging.

- Because Section 1927 of the Social Security Act does not limit how much of a drug can be dispensed, a payment for a covered outpatient drug that is otherwise eligible for the Federal Medical Assistance Percentages (FMAP) would likely remain eligible for FMAP, even if dispensed in a larger-than-usual quantity.

  **Required State Action:** Amend the Medicaid State Plan, as necessary, to make modifications to current pre-fill limits.

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**New York** issued policy guidance for COVID-19-related services, in which it (1) reiterated that Medicaid covers a 90–day supply for most prescriptions; and (2) recommended that practitioners and pharmacists consider 90–day supplies of long–term maintenance medications for individuals in quarantine.
Instructing all opioid treatment, mental health, and substance use disorder (SUD) providers to review and update their plan for public health disasters to reflect the current pandemic:

- Call and contact individual patients to advise them of the protocol during COVID-19
- Contact any mental health or SUD providers who rely on the clinic for methadone and ensure they have sufficient supply
- Alert local emergency departments if the clinic is closing to advise them they may see an increase in patients seeking methadone, and provide information on how to contact the clinic for name and dosage information
- Provide scripts to staff on what to tell clients during the pandemic
- Apply for exceptions to the guest dosing and filing exceptions from SAMHSA
- If applicable, communicate with opioid treatment providers in locations that remain open to advise them that they may be receiving guest methadone patients and how to confirm doses if needed

States are grappling with crafting prescription refill policy that addresses unique challenges with regard to OUD treatment. Emerging strategies include:

SAMHSA expanded its guidance to allow states to:

1. Request blanket exceptions for all stable patients in an opioid treatment program (OTP) to receive 28 days of take home doses of the patient’s medication for OUD
2. Request up to 14 days of take home medication for less stable patients
Address Issues Related to OUD Treatment (Cont’d)

States are grappling with crafting prescription refill policy that addresses unique challenges with regard to OUD treatment. Emerging strategies include:

- Engage and establish regular communication with the state opioid treatment authority
- Ask the state opioid treatment authority about any existing disaster plans and communication with methadone clinics
- Require or advise providers/pharmacies to prescribe/distribute Narcan with large opioid script refills
- Review if and how the state tracks patients who are authorized to receive methadone
  - If applicable, use the state’s centralized database to help providers determine who should get methadone
- Review current practices with the state’s opioid treatment authority or directly with clinics via conference/video call

Pennsylvania’s Department of Drug and Alcohol Programs issued a notice that (1) urged drug and alcohol treatment providers to review and update continuity plans in preparation for additional COVID-19 cases; and (2) asked that Opioid Treatment Programs and Narcotic Treatment Programs consider expanding guest dosing and filing exceptions
1135 Waiver Authority: Expand Access to Critical Services and Providers

On March 13, President Trump declared a national emergency in response to the COVID-19 crisis, and Secretary Azar issued a Section 1135 declaration invoking the authority broadly for Medicare, Medicaid, and CHIP.

- HHS established on March 13, 2020 “blanket waivers” that apply automatically to the Medicare program, but not to Medicaid
- Section 1135 relates to “conditions of participation” (not payment); CMS can also modify deadlines and timelines
- A CMS 1135 Application Template is forthcoming
- Each state must request a state-specific Section 1135 waiver with respect to its Medicaid program.
Each state must request a state-specific Section 1135 waiver with respect to its Medicaid program.

- States are waiving Medicaid requirements related to prior authorization, long-term services and supports (LTSS)/the Preadmission Screening and Resident Review (PASRR) screening, fair hearings, provider enrollment, and alternate settings, among others.
- Temporarily allowing non-emergency ambulance suppliers and non-enrolled non-emergency medical transportation (NEMT) providers to provide services.
- Section 1135 can temporarily lift the federal rule limiting Medicare/Medicaid reimbursement to services furnished by a provider with in-state licensure; an 1135 cannot, however, modify any state laws that may restrict in-state practice by providers holding an out-of-state license.
Expand Telehealth

To support remote diagnosis and treatment of Medicaid and CHIP enrollees and reduce the risk of exposure to providers, states can take the following actions:

- Review current telehealth policies and permit coverage for telehealth
- Expand eligible technologies to include services delivered via video, telephone, and email
- Establish a patients’ home as the originating site
- Ensure provider payment parity
- Ensure eligible provider types include mid-level and other non-physician providers
- Remove requirements for “telepresenters” or other providers to be physically present
- Remove prior authorization, initial in-person evaluation (or established patient relationship), and referral requirements

**Required State Action:** Change in administrative policy – no SPA needed unless state has separate reimbursement rate for telehealth services; separate reimbursement page is required under that circumstance

In **Missouri**, any licensed health care provider can deliver telehealth services, and the state requires that reimbursement to providers delivering the service at the “distant site” be equal to the current fee schedule amount for the service provided.
Increase Access to HCBS

To ensure enrollees are able to maintain care safely in their homes, states should review the 1915(c) waiver options detailed in Appendix K, including but not limited to:

- Adding services to address the emergency situation (e.g., heightened case management, emergency medical supplies)
- Expanding settings where services may be provided (e.g., hotels, shelters, schools, churches)
- Modifying targeting criteria and timeframes/processes for level of care evaluations (within regulatory requirements)
- Instituting or expanding opportunities for self-direction and permitting payment for services rendered by family caregivers or legally responsible individuals
- Modifying provider qualifications (e.g., expand the provider pool, temporarily suspend licensure and certification requirements)

**North Carolina** used Appendix K in response to a hurricane to permit waiver of a beneficiaries’ relatives residing in and out of the home to provide services prior to background checks and training.

**Required State Action:** Submit 1915(c) Waiver Appendix K (CMS template forthcoming)
States that have not expanded Medicaid, in particular, may have new imperatives to consider expansion in light of the COVID-19 crisis.

<table>
<thead>
<tr>
<th>Actor</th>
<th>Recommended Strategy</th>
<th>Required State Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medicaid Expansion States</td>
<td>Expand coverage above 138% of the federal poverty level (FPL)</td>
<td>Submit revised Eligibility SPA</td>
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<tr>
<td></td>
<td><em>State would receive regular FMAP</em></td>
<td></td>
</tr>
<tr>
<td>Non-Expansion States</td>
<td>Expand coverage to less than 138% FPL</td>
<td>Submit Eligibility SPA and</td>
</tr>
<tr>
<td></td>
<td><em>State would receive regular FMAP</em></td>
<td>Alternative Benefit Plan (ABP) SPA</td>
</tr>
<tr>
<td></td>
<td>Implement ACA expansion up to 138% FPL</td>
<td>Submit Eligibility, FMAP, and</td>
</tr>
<tr>
<td></td>
<td><em>State would receive enhanced FMAP</em></td>
<td>ABP SPA</td>
</tr>
</tbody>
</table>

All states can consider suspending renewal processing to minimize churn and ensure continuity of coverage.

**Required State Action:** Update administrative policies consistent with federal requirements.
Communicate, Communicate, Communicate

As states seek to share rapidly evolving information with enrollees and providers, they can partner with their MMC plans as part of their communication strategy.

Looking to New York and Washington State...

- Develop COVID-19 scripts and share local department of health information with all call centers
- Monitor call center volume and add call center seats, as needed
- Identify COVID-19 call center “specialists”
- Establish on-going communication channels with providers and MMC plans

**Required State Action:** State operational changes
COMMERCIAL HEALTH PLAN STRATEGIES TO RESPOND TO COVID-19
Financial Barriers Could Inhibit Consumers from Seeking COVID-19 Testing, Care

- Cost-sharing has been shown to cause consumers to delay, forego necessary care
- 29% of the United States population considered “underinsured”
- Deductibles in private plans have been on steady rise
  - Average over $1,850 for self-only employer coverage (↑100% in last ten years)
  - Average over $6,500 for self-only bronze-level individual market coverage
  - Deductibles alone account for 4.7% of median income, on average
- Coverage even worse in non-ACA compliant plans (i.e., short-term, fixed indemnity, sharing ministries, Farm Bureau):
  - Pre-existing condition denials/exclusions
  - Caps on benefits
  - No coverage of preventive services
  - Surprise balance billing
States are Stepping Up: Reducing Financial Barriers to Accessing Care

- State departments of insurance (DOIs) are requiring insurers to expand coverage in multiple ways, including:
  - Waiving cost-sharing for COVID-19 testing and associated services
  - Waiving cost-sharing for a vaccine, if developed
  - Allowing early Rx refills
  - Telehealth services
  - Non-formulary drugs
  - Surprise balance billing

- Only MA, NM (so far) are requiring insurers to waive cost-sharing for COVID-19 treatment
  - NM: requiring waiver of cost-sharing for influenza and pneumonia, too

- Other: Ensuring network capacity, improving enrollee communication, limiting prior authorization/utilization review, data calls to assess compliance
Considerations for States: Reducing Financial Barriers to Accessing Care

- Legal authority
  - Emergency declaration needed?
  - Legislative action?
  - “Require” vs. “Expect” vs. “Ask” or “Encourage”
- Limited scope: fully insured individual/group plans
- Solvency issues
- What about non-ACA compliant products?
  - WA has extended COVID-19 requirements to short-term plans
  - NM is requiring enhanced disclosures for issuers of excepted benefit products
States Stepping Up for the Uninsured: COVID-19 Special Enrollment Periods

- Option for state-based Marketplaces only
  - Several states have declared temporary COVID-19 SEP
  - Also, marketing opportunities?

Considerations for SEPs:
- Scope: Who is eligible?
- Duration: For what length of time?
- Adverse selection: Impact on premiums, issuers?
Questions

The slides and a recording of the webinar will be available at www.shvs.org after the webinar
Thank You

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Sources

COVID-19 State Medicaid and CHIP Level-Setting (Slide 10)

COVID-19 Regulatory Level-Setting: Coverage Rules Vary by Market Segment (Slide 11)

Emergency Powers Are Rapidly Expanding (Slide 12)

Emergency Powers Are Rapidly Expanding (Cont’d) (Slide 13)

Eliminate Cost Sharing for Testing and Care (Slide 16)
Sources

**Suspend Prior Authorization Requirements (Slide 17)**

**Suspend or Increase Prescription Refill Limits (Slide 18)**

**Address Issues Related to OUD Treatment (Slides 19 and 20)**

**1135 Waiver Authority: Expand Access to Critical Services and Providers (Slides 21 and 22)**

**Expand Telehealth (Slide 23)**

**Insure Access to HCBS (Slide 24)**
Sources

Communicate, Communicate, Communicate (Slide 26)

States are Stepping Up: Reducing Financial Barriers to Accessing Care (Slide 29)

Considerations for States: Reducing Financial Barriers to Accessing Care (Slide 30)

States Stepping Up for the Uninsured: COVID-19 Special Enrollment Periods (Slide 31)