



# National Indian Health Board NATIONAL TRIBAL COVID-19 RESPONSE

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## Section 1135 Medicaid Waiver Authority – Mississippi

### Background

When the President of the United States declares a disaster or emergency under the Stafford Act or National Emergencies Act and the Department of Health and Human Services (HHS) Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the HHS Secretary is authorized to use Section 1135 of the Social Security Act to modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements in order to allow states to respond to the emergency.

On March 23, 2020, the Centers for Medicare & Medicaid Services (CMS) approved Mississippi's Section 1135 waiver, accessible [here](#). This one-pager is meant to be a general guide and is not an exhaustive description of the waiver.

### What does Mississippi's Section 1135 waiver look like?

This waiver makes several changes to Mississippi's Medicaid program, as outlined below:

### **Provider Enrollment**

CMS authorized Mississippi to expedite the enrollment of out of state providers who are not currently enrolled in the state's Medicaid program. Mississippi may continue to use existing procedures to enroll out of state providers who are already in the state's Medicaid program (with one small exception, CMS is waiving the limit on claims within a 180 day period).

CMS has also authorized providers not currently enrolled in Medicare or another state's Medicaid agency to temporarily enroll in Mississippi's programs. To make this possible, Mississippi will be allowed to waive application fee requirements, criminal background checks, site visits, and state licensure requirements. However, the program provider must maintain an out of state license. To these temporarily authorized providers, Mississippi must cease payment within six months of the emergency declaration being lifted, unless the providers submit an application for full participation in the program and are approved.

CMS has also authorized the state's request to temporarily cease revalidation of providers who are located in Mississippi or otherwise impacted by the emergency.

### **Pre-Approval Requirements**

Mississippi is also authorized to temporarily waive or modify pre-approval requirements for Medicaid procedures through its fee for service program. This applies to services provided on or after March 1, 2020, through the termination of the emergency.



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## **Pre-Admission Screening and Annual Resident Review**

Level 1 and 2 assessments can be waived for 30 days and all new admissions may be treated like exempt hospital discharges. While CMS is not setting a time frame for the completion of Resident Reviews, reviews should be completed on new admissions having a mental illness or intellectual disability diagnosis as soon as resources are available.

## **Allowing services in alternative settings**

Pursuant to the waiver, Mississippi may allow services to be provided in unlicensed settings, such as a temporary shelter, when a provider's facility is not available. The state has to make a reasonable assessment that the facility meets minimum standards to ensure the health, safety, and comfort of beneficiaries and staff. The placing facility is responsible for determining reimbursements for the temporary setting.

## **State fair hearing requests and appeal deadlines**

Mississippi is approved to modify the timeline under which managed care enrollees can request an appeal of a denial of services. Enrollees may request a state fair hearing immediately, bypassing the requirement to exhaust all appeals with their managed care organization. Further, Mississippi is authorized to waive the 120 day deadline for enrollees to file an appeal with the state, provided the 120 day deadline would have occurred between March 1, 2020 and the end of the public health emergency. Managed care recipients in that situation will receive an additional 120 days to file their appeal for a state fair hearing.

Mississippi also has the flexibility to allow recipients to have up to 120 days to request a state fair hearing for eligibility or fee for service issues.

## **How does this affect Tribes?**

If a state seeks a Section 1135 waiver, Tribes are impacted by its provisions. Mississippi has one federally recognized Tribe, the Mississippi Band of Choctaw Indians.



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## Medicaid Disaster State Plan Amendment – Mississippi

### Background

The Medicaid State Plan is the foundational document for a state's Medicaid program; it sets the rules for eligibility, benefits, and payments. Before a state can participate in the Medicaid program, it must file a state plan with the Centers for Medicare & Medicaid Services (CMS). There are certain requirements that a state plan must adhere to and if a state wishes to deviate from these statutory requirements, they must seek a waiver (such as a Section 1115 or Section 1915 waiver) of the usual Medicaid rules. When a state wants to amend their State Plan, they have to file what is called a "State Plan Amendment" (SPA).

On May 7, 2020, Mississippi was approved for an Emergency State Plan Amendment in order to respond to COVID-19. You can find it [here](#).

On June 30, 2020, Mississippi was approved for a 2<sup>nd</sup> Emergency SPA. You can find it [here](#).

On September 15, 2020, Mississippi was approved for a 3<sup>rd</sup> Emergency SPA. You can find it [here](#).

All approvals are for the duration of the public health emergency unless otherwise stated.

### Premiums and Cost Shares

Mississippi is amending their State Plan in order to waive all cost sharing for all beneficiaries, regardless of the ultimate diagnosis, for testing services and treatments for COVID-19, including vaccines, specialized equipment, and therapies.

### Telehealth

Mississippi is amending their State Plan to allow for the beneficiary's residence to be an originating site without prior approval for Medicaid, the usage of originating and distant health sites that were not previously approved, the allowing of telephonic audio (without accompanying video). Recipients will also be allowed to use personal landlines and cellular devices to receive medical care.

The state is also authorized to provide payment of telehealth services that are not otherwise paid under the Medicaid state plan. The state will pay their emergency telehealth fee for [service rate](#). Rural health clinics and federally qualified health centers will be reimbursed as a distant site provider. However when originating sites are a beneficiary's residence or other location that is not a Mississippi Medicaid provider then no originating site fee will be paid.

Providers acting in the role of a telehealth distant and originating site provider will be reimbursed either the originating or distant site fee for service rate, but not both.



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Community Mental Health Center Interim Payments

Mississippi is amending their State Plan in order to make interim payments based on FFS utilization to the fourteen (14) CMHCs enrolled as providers with the Division. These payments, the formula for which is provided in the SPA, is meant to compensate for a decline in utilization due to the COVID-19 pandemic.

Questions?

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