State Actions to Support Medicaid LTSS During COVID-19

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The Long-Term Care Discussion Group Webinar
Medicaid continues to finance the majority of long-term services and supports (LTSS), 2018.

NOTE: Total LTSS expenditures include spending on residential care facilities, nursing homes, home health services, and home and community-based waiver services. Expenditures also include spending on ambulance providers and some post-acute care. This chart does not include Medicare spending on post-acute care ($83.3 billion in 2018). All home and community-based waiver services are attributed to Medicaid.

States have made steady progress shifting the balance of Medicaid LTSS spending from institutions to the community.

Annual Medicaid LTSS Spending, in billions:

<table>
<thead>
<tr>
<th>Year</th>
<th>Home and Community-Based LTSS</th>
<th>Institutional LTSS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>$57 (18%)</td>
<td>$76 (82%)</td>
</tr>
<tr>
<td>2000</td>
<td>$107 (37%)</td>
<td>$76 (63%)</td>
</tr>
<tr>
<td>2005</td>
<td>$139 (48%)</td>
<td>$76 (52%)</td>
</tr>
<tr>
<td>2010</td>
<td>$142 (49%)</td>
<td>$76 (51%)</td>
</tr>
<tr>
<td>2012</td>
<td>$146 (51%)</td>
<td>$76 (49%)</td>
</tr>
<tr>
<td>2013</td>
<td>$152 (53%)</td>
<td>$76 (47%)</td>
</tr>
<tr>
<td>2014</td>
<td>$159 (54%)</td>
<td>$76 (49%)</td>
</tr>
<tr>
<td>2015</td>
<td>$159 (54%)</td>
<td>$76 (46%)</td>
</tr>
<tr>
<td>2016</td>
<td>$167 (57%)</td>
<td>$76 (43%)</td>
</tr>
</tbody>
</table>

COVID-19 has disproportionately impacted people who use LTSS.

Who needs LTSS?
People who use LTSS may have:
- ✓ Cognitive disabilities
- ✓ Physical disabilities
- ✓ Disabling chronic conditions
- ✓ Aging-related disabilities

Why are they at risk?
- ✓ Old age and chronic illness
- ✓ Residence in congregate settings such as nursing homes or group homes

Why does LTSS matter?
- ✓ Seniors and people with disabilities rely on Medicaid LTSS for daily self-care and independent living needs
- ✓ Crucial for coverage and access to care to continued uninterrupted during the pandemic

As of September 17, 2020, deaths in long-term care facilities comprise over 40% of all COVID-19 deaths.

States have adopted policies to support Medicaid LTSS using a variety of emergency authorities.

<table>
<thead>
<tr>
<th>Authority</th>
<th>Description</th>
<th>Expiration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disaster-Relief SPA</td>
<td>Temporary changes to eligibility, enrollment, premiums, cost-sharing, benefits, payment.</td>
<td>End of PHE or earlier</td>
</tr>
<tr>
<td>Traditional SPA</td>
<td>Change state plan provisions, such as eligibility, services, payment.</td>
<td>When subsequently amended or terminated</td>
</tr>
<tr>
<td>HCBS Waiver Appendix K</td>
<td>Temporary changes to provisions such as eligibility, services, payment, provider qualifications, service planning, incident reporting, settings to respond to emergency.</td>
<td>1/26/21, or earlier</td>
</tr>
<tr>
<td>Section 1115 Waiver</td>
<td>Waive regular program rules to protect health, safety, and welfare of individuals and providers affected by COVID-19.</td>
<td>60 days after PHE ends or earlier</td>
</tr>
<tr>
<td>Section 1135 Waiver</td>
<td>Waive regular program rules to ensure sufficient health care services available to meet enrollee needs and reimburse providers.</td>
<td>End of PHE, per CMS guidance</td>
</tr>
</tbody>
</table>

NOTE: PHE = public health emergency
Retainer payments during the pandemic are limited to three 30-day episodes.

- Allow provider to continue to bill for care plan services that circumstances prevent an individual from receiving, such as:
  - Acute spell of illness or other medically necessary absence from HCBS setting
  - COVID-19 self-quarantine or temporary program closure

- Available for personal assistance services under 2000 *Olmstead* guidance:
  - Lesser of 30 consecutive days or number of days for which state authorizes nursing facility bed hold
  - No limit on number of episodes

- Up to 30 days available in Section 1915 (c) waiver or Section 1915 (i) or (k) SPA

- Up to three 30-day episodes during disasters through Appendix K or Section 1115, with guardrails:
  - Limit to reasonable amount, e.g. percent of current rate
  - Ensure recoupment if duplicate payments
  - Provider attest to not laying off staff and maintaining wages

Nearly all states have streamlined enrollment processes, while about half have expanded eligibility criteria, as of 8/21/20.
Most states have increased service utilization limits, relaxed prior authorization, and expanded telehealth, as of 8/21/20.

<table>
<thead>
<tr>
<th>Action</th>
<th>Number of States Taking Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ease premiums/cost sharing</td>
<td>20</td>
</tr>
<tr>
<td>Add LTSS benefit</td>
<td>27</td>
</tr>
<tr>
<td>Expand utilization limits</td>
<td>43</td>
</tr>
<tr>
<td>Relax prior authorization</td>
<td>41</td>
</tr>
<tr>
<td>Expand settings</td>
<td>49</td>
</tr>
<tr>
<td>Provide HCBS in acute settings</td>
<td>35</td>
</tr>
<tr>
<td>Modify care planning process</td>
<td>50</td>
</tr>
<tr>
<td>Expand telehealth</td>
<td>47</td>
</tr>
</tbody>
</table>

NOTES: LTSS = long-term services and supports. HCBS = home and community-based services.
SOURCE: KFF analysis of approved Appendix Ks and the Appendix K Template; approved SPAs and the Medicaid Disaster Relief SPA Template; approved COVID-19 Public Health Emergency Section 1115(a) demonstrations; approved Section 1135 waivers; and Medicaid actions to address COVID-19 posted on publicly available state websites.
Nearly all states have increased provider payment for at least 1 LTSS and modified provider qualifications, as of 8/21/20.

Number of States Taking Action:

- Increase institutional payment: 26
- Increase HCBS payment: 35
- Offer retainer payments: 38
- Offer interim payments: 2
- Modify provider qualifications: 50
- Require COVID-19 reporting for HCBS: 9
- Modify HCBS incident reporting: 29

NOTES: LTSS = long-term services and supports. HCBS = home and community-based services.
SOURCE: KFF analysis of approved Appendix KS and the Appendix K Template; approved SPAs and the Medicaid Disaster Relief SPA Template; approved COVID-19 Public Health Emergency Section 1115(a) demonstrations; approved Section 1135 waivers; and Medicaid actions to address COVID-19 posted on publicly available state websites.
CMS issued a March 2020 State Medicaid Director Letter inviting Section 1115 state demonstrations to respond to COVID-19.

- **Demonstration Purpose:**
  - “to furnish medical assistance in a manner intended to protect, to the greatest extent possible, the health, safety, and welfare of individuals and providers who may be affected by COVID-19”

- **Examples of Demonstration Template Provisions:**
  - Authorize retainer payments for personal care and habilitative state plan services providers
  - Allow self-attestation of income, assets, and level of care in LTSS eligibility determinations.
  - CMS may consider approving other provisions.

- **Application Process and Oversight:**
  - State and federal public comment periods and budget neutrality requirement do not apply.
  - States must complete a final monitoring and evaluation report one year after demonstration ends.

- **Duration:**
  - Can be retroactive to March 1, 2020 and will expire no later than 60 days after the public health emergency ends.

Seven states have an approved Section 1115 waiver to address COVID-19, as of September 15, 2020.

SOURCE: KFF, Medicaid Emergency Authority Tracker: Approved Section 1115 Waivers to Address COVID-19 (Sept. 15, 2020)
CMS approved the first emergency COVID-19 Section 1115 waiver in Washington in April 2020.

• **Approved:**
  – Retainer payments for personal care and habilitative state plan service providers
  – Allow self-attestation of income, assets, and level of care for LTSS eligibility
  – Vary amount/duration/scope and triage access to LTSS based on highest need
  – Provide LTSS even if care plan not updated timely or delivered in alternative setting

• **Still Under Review:**
  – Medicaid expenditure authority to create a Disaster Relief Fund to cover COVID-19 treatment costs for uninsured individuals, housing, nutrition supports and other COVID related expenditures
  – Retainer payments to home and community-based service providers beyond the 30-day limit
  – Allow transportation brokers to directly provide non-emergency medical transportation

• **Denied:**
  – New temporary eligibility group that would use Medicaid funds to provide additional subsidies for individuals enrolled in Marketplace Qualified Health Plans with income at or below 200% FPL

Looking Ahead

• **Will states retain any LTSS policy changes after the public health emergency (PHE) ends?**
  – Will the PHE be extended beyond 10/23/20?
  – How will states transition once emergency authorities expire?

• **Will states be able sustain policy changes without additional federal fiscal relief?**
  – 6.2 percentage point FMAP increase expires at the end of the quarter when PHE ends
  – Current FMAP increase is unlikely to fully offset state revenue declines and address budget shortfalls
  – Economic impact of pandemic likely to persist beyond PHE period

• **How will the pandemic’s impact in long-term care settings continue to be addressed?**
  – Policy recommendations for nursing homes and other institutional settings
  – Impact of COVID-19 in congregate community-based settings

• **How will the election affect Medicaid LTSS policies?**
  – Biden plan to increase access to HCBS
  – Trump proposals to cap federal financing and invalidate ACA, including HCBS options
Filling the need for trusted information on national health issues.
Thank you.