

# SELLERS DORSEY DIGEST

Issue 37 | June 10, 2021

## NAVIGATION

### Federal Updates

Consumers, insurers, hospitals, state Medicaid officials, and physician groups are pushing lawmakers to preserve the provisional telehealth policy changes instated during the COVID-19 public health emergency.

### State Updates

Medicaid enrollment in Montana has hit a record high with approximately 99,000 beneficiaries enrolled in the state's Medicaid expansion program in April 2021.

### Private Sector Updates

CenterWell, the Humana subsidiary, is expanding its value-based care model to include original Medicare participants.

### Sellers Dorsey Updates

Sellers Dorsey members are excited to attend America's Essential Hospitals' VITAL2021 Conference from June 22-25.

## Summary of Key Updates

On June 3, CMS Administrator Chiquita Brooks-LaSure sent a letter to Georgia Governor Brian Kemp requesting the state to provide an updated actuarial and economic analysis for Part II, Georgia Access Model, of its Section 1332 waiver that shifts its use of the Federally-Facilitated Exchange to the private sector for open enrollment and outreach functions ([Georgia Health News](#), June 4; [The Washington Post](#), June 4; [Modern Healthcare](#), June 4; [Fierce Healthcare](#), June 4; [Associated Press](#), June 4).

Senate Parliamentarian Elizabeth MacDonough has effectively ruled only one more automatic budget reconciliation is permissible this year. This could result in legislative gridlock as Democrats have previously relied on the automatic budget reconciliation process to advance several bills for President Biden's legislative agenda. Senate Democrats will need to combine anything they hope to pass under reconciliation into a single budget package ([The Hill](#), June 2).

The Ohio Senate has added a provision to its proposed biennial budget that forces the state to discard its award of six Medicaid managed care contracts and redo the selection process. The provision requires the Department of Medicaid to conduct another selection process in the next fiscal year ([Statehouse News Bureau](#), June 7; [Yahoo](#), June 5).

From June 2 to June 8, CMS approved one 1915(c) Appendix K waiver and 24 SPAs, six of which are COVID-19 disaster relief SPAs.

Sellers Dorsey helps clients realize opportunities to enhance lives by delivering high-quality, accessible care to all. We accomplish our goals with the support of the right talent and subject matter expertise. Our team of experts includes several former Medicaid directors from across the U.S. who all have the skills to bring impactful results for clients and the passion for serving vulnerable populations. [Learn more about these leaders.](#)

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## Federal Updates

### News

- The Center of Medicare and Medicaid Innovation (CMMI) released a universal guide to screening Medicare and Medicaid beneficiaries for social determinants of health (SDoH) as part of the agency's focus on beneficiaries' care relationships. CMMI is in the process of reviewing states' demonstrations and in the near-term, intends to make recommendations on moving to mandatory models and other strategic investments ([Inside Health Policy](#), June 7).
- On June 4, CMS issued a Notice of Funding Opportunity (NOFO) entitled "Cooperative Agreement to Support Navigators in Federally-Facilitated Exchanges" that will provide grant-based funding to eligible entities and individuals interested in serving as Exchange Navigators in states with Federally-Facilitated Exchanges established under the Affordable Care Act (ACA). The NOFO has an estimated \$80 million allotted for a 12-month period. Grant applications are due by 3PM ET on July 6, 2021 ([Grants.gov](#), June 4; [CMS](#), June 4).
- The U.S. economy added 559,000 jobs in May, reducing the unemployment rate to 5.8%, according to a [June 4 statement from the Department of Labor](#). The report notes the labor participation rate also declined slightly. The economy is still down more than 7.5 million jobs compared to the beginning of the pandemic ([The Washington Post](#), June 4).
- CMS Administrator Chiquita Brooks-LaSure made recent comments that signal expanded coverage is a top priority for the Biden administration. This includes state-based Medicaid expansion in states only covering traditional populations, growing the exchanges, supporting a Congressional effort to otherwise close the Medicaid gap, and ensuring stability of the Medicare trust fund. Any growth to public insurance will likely have a positive effect to overall uninsured rates if the trend continues to follow the findings in the [ASPE issue brief](#) which notes "all 50 states and the District of Columbia have experienced substantial reductions in the uninsured rates since 2013, the last year before the full implementation of the ACA."
  - The general public has been more reliant on the exchanges and other public health coverage as millions have lost their jobs and employer backed insurance during the COVID-19 pandemic. As a result, more than 1 million individuals have signed up for ACA insurance since President Biden reopened enrollment in January 2021 ([Modern Healthcare](#), June 3).
- In remarks at a June Health Affairs conference, CMMI Director Liz Fowler indicated CMMI is undergoing an internal review of its existing models and demonstrations and is looking at ways it can work with more private payers. Director Fowler stated that CMMI intends to continue its move toward more mandatory models, a trend that began during the previous administration. Director Fowler further indicated CMMI will increasingly focus on the quality and cost of care, as well as beneficiary access to coordinated care ([Inside Health Policy](#), June 3).

### Federal Regulation

- On May 10, the Department of Treasury issued an interim final rule with comment period (IFC) and several guidance documents related to coronavirus state and local fiscal recovery funds for state and local governments authorized under the American Rescue Plan (ARP) Act. The ARP appropriates \$350 billion in Recovery Funds, and the Department of Treasury indicated it distributed 30% of the available funds to eligible states and localities on May 20. The IFC provides considerable discretion to states and localities to determine how to spend Recovery Funds within four main objectives: (1) to respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; (2) to respond to workers performing essential work during the COVID-19 public health emergency (PHE) by

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providing premium pay to eligible workers; (3) for the provision of government services to the extent of the reduction in revenue due to the COVID-19 PHE relative to revenues collected in the most recent full fiscal year prior to the emergency; and (4) to make necessary investments in water, sewer, or broadband infrastructure. The IFC provides additional detail regarding allowable uses for the funds and solicits public input on the uses it has outlined. Funds may be used to cover costs that are incurred between March 3, 2021, and December 31, 2024. Comments on the interim final rule must be received by July 16, 2021 ([Department of Treasury](#), May 10; [Federal Register](#), May 17; [Manatt](#), May 26).

## Federal Legislation

- Senate Parliamentarian Elizabeth MacDonough has effectively ruled only one more automatic budget reconciliation is permissible this year. This could result in legislative gridlock as Democrats have previously relied on the automatic budget reconciliation process to advance several bills for President Biden's legislative agenda. Senate Democrats will need to combine anything they hope to pass under reconciliation into a single budget package ([The Hill](#), June 2).
- Consumers, insurers, hospitals, state Medicaid officials, and physician groups are pushing lawmakers to preserve the provisional telehealth policy changes instated during the COVID-19 PHE. Public health practitioners claim COVID-19 telehealth policies have yielded improved communication with patients, fewer missed appointments, and improved medication adherence. In addition, patients who have recently adopted telehealth services are highly motivated to continue using them after the PHE ends due to convenience and improved access to care. Medicare, state Medicaid programs, and commercial insurers accelerated COVID-19 telehealth utilization by matching reimbursement rates for telehealth and in-person visits, and providers are concerned that payers will push for lower telehealth reimbursement rates once the PHE ends. Despite the popularity of loosened telehealth restrictions, as well as numerous bills to uphold the provisional policies in Congress and statehouses, the Biden administration has not indicated whether it intends to make COVID-19 telehealth policies permanent ([USA Today](#), June 4).

## Federal Litigation

- A three-judge panel in the Washington, D.C. federal appeals circuit ruled the eviction moratorium instituted by the Centers for Disease Control and Prevention (CDC) can continue while the Biden administration appeals a lower-court ruling that overturned the ban last month. The ruling provides temporary relief for advocates promoting tenants' rights and health care spaces as individuals continue to risk evictions under the economic fallout of the COVID-19 pandemic ([Bloomberg](#), June 2).

## Studies and Reports

- The National Association of Medicaid Directors (NAMD) issued a report in June from its Medicaid Forward: Children's Health Executive Working Group. The report addresses how Medicaid and CHIP can respond to the physical and behavioral health needs of children and youth resulting from the social isolation and other traumatic impacts of the pandemic. Noting that Medicaid and CHIP covers 37 million children, the report argues Medicaid and CHIP are uniquely positioned to address the impact of the pandemic on children and describes multiple strategies for states to address children, families, and systems of care to support children's well-being ([NAMD](#), June 3).

## COVID-19

- The Biden administration announced that 25 million doses of its total 80 million global shipment of COVID-19 vaccine doses will go to COVAX, a World Health Organization (WHO) initiative that will provide COVID-19 doses to low and middle-income countries. Of the 25 million doses, 19 million will be allocated to the most at-risk countries (6 million for Latin America, 7 million for Asia, and 6 million for Africa). The

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remaining 6 million doses will directly be shared with Canada and Mexico and assist countries that have requested immediate U.S. assistance ([Inside Health Policy](#), June 3).

## Waivers

- Section 1115
  - On May 26, Arizona submitted an application to CMS to amend its existing 1115 waiver to add a new demonstration called “Housing and Health Opportunities (H2O).” Arizona proposes for this amendment to run concurrent to its proposed waiver renewal beginning in October 2021. The new demonstration will complement an existing state-funded program that provided rent subsidies to individuals experiencing homelessness. The demonstration proposes to complement these services with additional outreach strategies to connect individuals with care planning; resources to attain and maintain housing stability; and wraparound services and supports to ensure housing stability. CMS will accept comments on the amendment application through July 7 ([CMS](#), June 7).
- 1915(c) Appendix K
  - [Washington](#)
    - Extends timeframes for submission of CMS 372 reports and evidentiary packages.
    - Allows states to suspend performance measure data collection as needed.

## SPAs

- Traditional SPAs
  - Alabama ([AL-21-0002](#), effective March 1, 2021): Updates the Alabama Coordinated Health Network (ACHN) Quality Bonus Payment date from July 2021 to October 2021 to allow enough run time for historical claims data. .
  - Alabama ([AL-21-0004](#), effective May 1, 2021): Authorizes case management services to be billed for High Intensity Care Coordination for each eligible recipient in the family each month, according to each recipient’s unique needs.
  - Colorado ([CO-20-0021](#), effective July 1, 2020): Authorizes a change to the Department’s payment methodology for targeted case management services for persons with a developmental disability to a per member per month (PMPM) structure.
  - Louisiana ([LA-21-0001](#), effective February 2, 2021): Revises the Louisiana Department of Health, Bureau of Health Services Financing provisions governing the temporary rates for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) for a period of four years. The temporary rates are all-inclusive, covering staffing, supplies, administrative, and provider fees.
  - Maryland ([MD-21-0001](#), effective January 1, 2021 through June 30, 2021): Increases nursing facility provider payment rates by four percent.
  - Maryland ([MD-21-0002](#), effective January 1, 2021): Provides a four percent increase for targeted case management services for individuals on the state’s Developmental Disabilities Administration waiting list and individuals transitioning to the community.
  - Maryland ([MD-21-0007](#), effective February 1, 2021): Establishes payment rates and fee schedules for enteral and parenteral supplies and equipment from 80% of the January 2020 Medicare rates to 85% of the July 2013 Medicare rates.
  - Minnesota ([MN-21-0002](#), effective January 20, 2021): Updates the Resource Based Relative Value Scale conversion factors for physician services.

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- Missouri ([MO-20-0019](#), effective October 1, 2020): Increases the fee schedule rate for Ground Ambulance services.
- New York ([NY-21-0011](#), effective January 21, 2021): Updates the New York State Department of Health's Ambulatory Patient Group (APG) methodology for outpatient hospitals.
- New York ([NY-21-0003](#), effective February 1, 2021): Establishes and authorizes payment for individualized rehabilitative and preventative services delivered to children residing in a structured and supportive living environment.
- Ohio ([OH-21-0009](#), effective January 17, 2021): Establishes coverage, limitations, and payment schedules for services provided by pharmacists in federally qualified health centers (FQHC) and rural health clinic settings.
- Pennsylvania ([PA-21-0009](#), effective February 28, 2021): Continues Pennsylvania's authority to make supplemental payments to qualifying nursing facilities providing ventilator and tracheostomy care.
- South Carolina ([SC-21-0005](#), effective January 1, 2021): Grants an exception to the 42 CFR & 455.508 (b) requirement that the Medicaid Recovery Audit Contractor (RAC) program must hire a minimum of 1.0 FTE Contractor Medical Director. The state will now require the RAC to hire a minimum of 0.1 FTE qualified Medical Director.
- South Carolina ([SC-21-0009](#), effective April 20, 2021): Updates the name of the designee to submit SPAs for the state of South Carolina.
- Texas ([TX-21-0021](#), effective January 1, 2021): Updates the fee schedule for clinical diagnostic laboratory services.
- Virginia ([VA-21-0008](#), effective October 1, 2020 through September 30, 2025): Adds medication-assisted treatment (MAT) provided in opioid treatment programs and office-based opioid treatment settings as a mandatory benefit to comply with Section 1006(b) of the SUPPORT Act.
- Virginia ([VA-21-0011](#), effective March 1, 2021): Provides for the solicitation of advice from Tribes and Indian Health Programs prior to submitting any plan amendments, waiver requests, and proposals for demonstration projects that are likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations.
- COVID-19 Disaster Relief SPAs
  - American Samoa ([AS-21-0002](#), effective March 1, 2020 through end of COVID-19 PHE): Temporarily allows individuals absent from the territory to be considered residents; provides rate increases for FQHC medical encounters rendered at government quarantine locations; creates a payment methodology for local non-government dialysis centers in American Samoa during the PHE period; revises the payment methodology for off-island dialysis; and revises payment methodology for transportation and related accommodations associated with return from off-island medical care.
  - California ([CA-21-0027](#), effective February 23, 2021 through end of COVID-19 PHE): Temporarily updates Medicaid eligibility provisions to disregard any payments received from a Golden State Stimulus or a Golden State Grant as income or resources for 12 months after receipt.
  - Massachusetts ([MA-20-0026](#), effective March 1, 2020 through end of COVID-19 PHE): Temporarily updates the fee schedule rates for eligible providers for the provision of specific listed clinical laboratory services, including COVID-19 specimen collection and testing.
  - Pennsylvania ([PA-20-0018](#), see effective dates below): Temporarily adds licensed pharmacists, pharmacy interns, and pharmacy technicians to the list of practitioners eligible to administer COVID-19 vaccines consistent with their scope of practice, effective October 1, 2020 and

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establishes the fee for service payment rate equivalent to the Medicare rate for administration of COVID-19 vaccines effective December 1, 2020 with both authorities terminating at the end of the COVID-19 PHE.

- Puerto Rico ([PR-21-0001](#), effective December 10, 2020 through end of COVID-19 PHE): Temporarily creates a benefit to cover the administration of the COVID-19 vaccine without any applicable existing limitations. Authorizes pharmacies, pharmacists, pharmacy interns, and pharmacy technicians to administer the vaccine under the preventive services benefit. The SPA also updates the reimbursement methodology for vaccine administration.
- Wisconsin ([WI-21-0001](#), effective December 11, 2020 through January 31, 2021): Temporarily increases the COVID-19 vaccine administration payment rates to align with Medicare rates and allows other licensed practitioners, such as pharmacists, pharmacy technicians, and pharmacy interns, to administer the vaccine. Uses HHS COVID-19 PREP Act Declaration rather than state law to authorize pharmacies as qualified providers of the COVID-19 vaccination.

## State Updates

- Blue Cross Blue Shield of North Dakota has been awarded the sole Medicaid contract in the state. The three-year contract begins January 1, 2022, with two possible 12-month extensions after the three-year period. The contract provisions require the insurer to provide newly mandated home and community-based behavioral health care services and more standard Medicaid services including diagnostic testing, preventative medicine, EMT, and more ([Health Payer Specialist](#), June 8).
- On June 7, Missouri Attorney General Eric Schmitt filed the state's response to a lawsuit filed May 20 that ordered voter-approved Medicaid expansion to be enacted. In his response, AG Schmitt said Missouri lawmakers are not obligated to fund Medicaid expansion and the courts cannot force the state to pay the medical bills of individuals eligible under an initiative that amended the state constitution. Since an initiative cannot appropriate existing revenues, lawmakers believe they are within their power to refuse spending on the expansion. Although the case is set for argument on June 18, a ruling from Circuit Judge Jon Beetem is expected before the start of the fiscal year on July 1, 2021 ([The Kansas City Star](#), June 8).
- The number of states extending and considering extending Medicaid postpartum coverage beyond 60 days has grown since the ARP streamlined a way for states to extend coverage to a year without having to request CMS approval. States such as California, Maryland, Tennessee, Washington, and West Virginia are expected to use state plan amendments to extend coverage, which will not go into effect until April 1, 2022. On June 3, Indiana withdrew its 1115 waiver request from CMS with plans to pursue an extension through the ARP pathway. Many more states are currently considering legislation to extend Medicaid postpartum coverage ([Inside Health Policy](#), June 7).
- Nevada Governor Steve Sisolak (D) has indicated he would sign a recently passed bill to establish a state-based public insurance option. Nevada would be the second state to implement its own public option after Washington's "Cascade Select." Cascade Select allows private payers to offer plans designed with government input on the state's exchange. Nevada's program would start offering policies in 2026 with premiums that are at least five percent less than benchmark plans on the state exchange in the first year and at least 15% less over the first four years. The bill incentivizes participation by requiring all Medicaid managed care plans to submit bids for the public option and for all Medicaid enrolled providers to participate in at least one public option network ([CNN](#), June 7).
- The Ohio Senate has added a provision to its proposed biennial budget that forces the state to discard its award of six Medicaid managed care contracts and redo the selection process. This move comes from Senate frustration at being unable to receive answers from Governor Mike DeWine's (R) administration about the scoring process that was used and resulted in a lawsuit filed by Paramount Advantage (which

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scored second lowest among applicants and was the only applicant not awarded a contract). The provision requires the Department of Medicaid to conduct another selection process in the next fiscal year beginning July 1, 2021 ([Statehouse News Bureau](#), June 7; [Yahoo](#), June 5).

- According to a [recent analysis from Guidehouse](#), the Detroit, Miami, Phoenix, and Tampa markets are ripe for the adoption of value-based payer-provider arrangements. The report recommends payers and providers in these markets implement provider-backed health plans or a direct payer-doctor employment model to maximize their competitive edge. The report advises payers and providers across all markets to invest in value-based payer-provider relationships to lower costs, improve health quality and outcomes, and capitalize on the sustained growth of Medicaid managed care and Medicare Advantage ([Fierce Healthcare](#), June 4).
- On June 3, CMS Administrator Chiquita Brooks-LaSure sent a letter to Georgia Governor Brian Kemp (R) requesting the state to provide an updated actuarial and economic analysis for Part II, Georgia Access Model, of its Section 1332 waiver that shifts its use of the Federally-Facilitated Exchange to the private sector for open enrollment and outreach functions. The Section 1332 waiver sets up a reinsurance program that aims to use federal pass-through funding to lower premiums and shifts outreach and enrollment to the private sector starting in 2023. Brooks-LaSure expressed concerns that the waiver, specifically the privatization part, contradicts parts of President Biden's executive orders to advance health equity and strengthen the ACA. Similarly, providers, patient advocates, and independent experts worry Georgia's privatization of its marketplace would cause many residents to become uninsured and that the lack of a public exchange would cause confusion and create conflicts of interest among brokers. While Georgia now has until July 3, 2021 to submit a response to CMS, state officials say the state is continuing to work towards a July 1 launch of the waiver plan ([Georgia Health News](#), June 4; [The Washington Post](#), June 4; [Modern Healthcare](#), June 4; [Fierce Healthcare](#), June 4; [Associated Press](#), June 4).
- Nebraska state officials decided to withdraw their 1115 waiver application that would have created work requirements for Nebraska's Medicaid expansion population to get coverage for dental, vision, and over-the-counter medication benefits. The state announced these benefits will be available to all Medicaid beneficiaries without any additional requirements starting October 1, 2021. The decision comes after the Biden administration sent a letter to the state notifying of its intention revoke the work requirement component of the waiver. Nebraska residents approved Medicaid expansion in the state through a ballot initiative in 2018 ([Lincoln Journal Star](#), June 2; [Inside Health Policy](#), June 3).
- Medicaid enrollment in Montana has hit a record high with approximately 99,000 beneficiaries enrolled in the state's Medicaid expansion program in April 2021. The state stopped disenrolling non-eligible people from Medicaid during the COVID-19 PHE and will resume the process once the state's PHE ends ([Associated Press](#), June 3).
- According to a [study](#) published by the Commonwealth Fund, Medicaid expansion in Alabama would create 28,500 jobs in the state. The report notes most of these jobs would be in health care (14,200) but cites the expansion would also create jobs in other sectors, including construction (2,100), retail (3,200), finance and insurance (800), and other industries (9,000). This report comes after months of efforts by advocacy groups in Alabama to persuade Governor Kay Ivey (R) to expand Medicaid after state legislators failed to act during a special session that ended in May. Governor Ivey has not opposed Medicaid expansion but has said the state needs to find sources of revenue to fund the program ([AL.com](#), June 2).

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## Private Sector Updates

- CenterWell, the Humana subsidiary, is expanding its value-based care model to include original Medicare participants. CenterWell is participating in CMS' Direct Contracting Model, which encourages a transition from fee-for-service to value-based care to reduce costs in original Medicare. Under the model, CenterWell will share the patient care costs with CMS ([Becker's Hospital Review](#), June 4).

## Sellers Dorsey Updates

- Sellers Dorsey members are excited to attend America's Essential Hospitals' [VITAL2021 Conference](#) from June 22-25. We look forward to hearing insights about population health, health equity, patient experience, and more.
- Sellers Dorsey helps clients realize opportunities to enhance lives by delivering high-quality, accessible care to all. We accomplish our goals by hiring the right talent and subject matter expertise. Our team of experts includes several former Medicaid directors from across the U.S. who all have the skills to bring impactful results for clients and the passion for serving vulnerable populations. [Learn more about these leaders.](#)



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