

SELLERS DORSEY DIGEST

Issue 68 | January 27, 2022

NAVIGATION

Federal Updates

The Health Resources and Services Administration announced \$103 million in awards to improve the retention of health care workers and help address critical staffing needs.

State Updates

On January 21, Georgia filed a lawsuit against CMS for revoking the work and premium requirements the state proposed in its 1115 waiver.

Private Sector Updates

On January 19, CVS Health announced a partnership with Uber Health to provide individuals in underserved communities with free transportation to medical care, work, or school.

Sellers Dorsey Updates

Sellers Dorsey is thrilled to welcome Jimmy Hatcher, former CFO of Emory Healthcare in Georgia, to our talented team of Medicaid experts.

Summary of Key Updates

The Medicaid and CHIP Payment and Access Commission (MACPAC) held its January meeting to discuss priorities such as Medicaid eligibility redeterminations at the end of the COVID-19 public health emergency (PHE), Money Follows the Person residence criteria, and engagement with marginalized Medicaid beneficiary communities on new policies ([Fierce Healthcare](#), January 21; [Inside Health Policy](#), January 21; [MACPAC](#), January 21).

In response to the Supreme Court's ruling [upholding the CMS COVID-19 vaccine mandate](#) for health care workers, CMS released updated guidance on its mandate for Medicare- and Medicaid-funded facilities in the remaining 25 states that initially challenged the CMS rule ([Inside Health Policy](#), January 20; [CMS](#), January 20).

From January 20 to January 26, CMS approved four Section 1915(c) Appendix K waivers and 12 SPAs, four of which are COVID-19 disaster relief SPAs.

On January 18, CMS held a stakeholder meeting to outline its various priorities for the future. Our colleagues attended the meeting and provided a [summary](#) that includes key focus areas discussed during the meeting that are relevant to health care professionals and stakeholders, including Sellers Dorsey clients. Should you have any questions, please contact your Sellers Dorsey account representative, or contact us at info@sellersdorsey.com.

If you are a client and have questions, we advise you to consult with your Sellers Dorsey account or project contact.

If you are not currently working with Sellers Dorsey, please email info@sellersdorsey.com.

Subscribe to this newsletter here: www.sellersdorsey.com/about/newsletter.

Federal Updates

News

- On January 20 and 21, commissioners of MACPAC met for their January meeting. The following are key highlights:
 - Several state officials and advocates briefed MACPAC commissioners on their preparations for the end of the PHE. States would like more time and predictability from the Biden administration to redetermine Medicaid coverage before the end of the PHE, currently set for April. Last year, CMS announced states will have 12 months instead of six months from the end of the PHE to finish eligibility redeterminations. State officials say they are trying to get their systems ready to redetermine eligibility for everyone on Medicaid in the coming months ([MACPAC](#), January 20; [Fierce Healthcare](#), January 21).
 - Medicaid beneficiary advocates urged MACPAC commissioners to prioritize engagement with marginalized Medicaid beneficiary populations throughout the policymaking process. The advocates argued that structured, hierarchical efforts to engage beneficiaries have failed to create opportunities for meaningful exchanges with disabled people, members of the LGBTQIA+ community, and other marginalized populations. The advocates claimed that well-publicized informal forums, targeted engagement efforts with marginalized beneficiary groups, and the creation of policies that insulate Medicaid beneficiaries from shifting political environments would help to build Medicaid programs that better meet beneficiaries' needs and increase member retention rates ([MACPAC](#), January 20; [Inside Health Policy](#), January 21).
 - MACPAC commissioners also discussed Money Follows the Person (MFP) issues. Congress has directed MACPAC to identify home- and community-based services (HCBS) and associated services available to MFP and sites that are compliant with the HCBS setting rule, as well as recommend policies to align criteria for qualified residence with the criteria in the HCBS setting rule. The HCBS setting rule establishes a threshold for all residential and non-residential settings that receive HCBS payment, and settings are defined as eligible based on the nature and quality of the individuals' experiences rather than just physical location. The rule is broader than MFP qualified residence criteria, which says MFP beneficiaries must reside in either a home owned or leased by the beneficiary or beneficiary's family member, an apartment with an individual lease, or a community-based setting with no more than four unrelated residents. MACPAC conducted a stakeholder survey (including federal and state officials, beneficiary advocates, provider organizations), and found there were mixed opinions on the advantages and disadvantages of the existing MFP qualifying residence criteria and implications of change. MACPAC commissioners argue there is not sufficient evidence at this time to support aligning MFP residence criteria with the HCBS settings rule ([MACPAC](#), January 21).
- On January 20, the Health Resources and Services Administration (HRSA) announced \$103 million in awards to improve health care employee retention and help address critical staffing needs by reducing burnout and promoting mental health and wellness amongst health care workers. The grants include:
 - \$28.6 million for the [Promoting Resilience and Mental Health Among Health Professional Workforce](#) grant program for 10 grantees to establish, improve, or expand programs and practices to promote mental health;
 - \$68.2 million for the [Health and Public Safety Workforce Resiliency Training Program](#) for 34 grantees who will support training development with health professionals; and,
 - \$6 million for the [Health and Public Safety Workforce Resiliency Technical Assistance Center Program](#) for George Washington University to provide training and technical assistance to the awardees ([Department of Health and Human Services](#), January 20).

If you are a client and have questions, we advise you to consult with your Sellers Dorsey account or project contact.

If you are not currently working with Sellers Dorsey, please email info@sellersdorsey.com.

Subscribe to this newsletter here: www.sellersdorsey.com/newsletter.

- The Office of the National Coordinator for Health Information Technology (ONC) issued a [Request for Information](#) (RFI) regarding the electronic prior authorization standards, implementation specifications, and certification criteria that could be implemented within the ONC Health IT Certification Program. By releasing an RFI to the public, the ONC seeks to inform potential future rulemaking to bridge the gap between administrative and clinical data so clinicians can focus on patient care, and patients can have positive experiences with health care systems. Currently, HHS encourages providers to submit prior authorizations electronically, but according to a 2020 [CAQH survey](#), only 21% of health plans received and accepted digital inquiries. The ONC is accepting submissions until March 25 ([Modern Healthcare](#), January 21; [HHS](#), January 21).

COVID-19

- In response to the Supreme Court's ruling [upholding the CMS COVID-19 vaccine mandate](#) for health care workers, CMS released updated guidance on its mandate for Medicare- and Medicaid-funded facilities in the remaining 25 states that initially challenged the CMS rule. In Texas, health care workers must receive their first dose of the COVID-19 vaccine by February 22 and be fully vaccinated by March 21. In the remaining 24 states, the deadline to be fully vaccinated is March 15. Impacted health care workers in the 25 states not involved in the lawsuit must be fully vaccinated by the original deadline of February 28. CMS' vaccine mandate went into effect nationally when the U.S. District Court for the Northern District of Texas granted the state's request to throw out the case on January 19. Texas called the lawsuit moot after the Supreme Court ruled the vaccine requirement can begin in 24 states despite ongoing court battles ([Inside Health Policy](#), January 20; [CMS](#), January 20).
- On January 22, Pfizer's CEO recommended an annual COVID-19 vaccine over boosters every four to five months. While Pfizer's current COVID-19 vaccine is effective at helping prevent severe disease and death from the Omicron variant, it has shown to be less successful at inhibiting transmission. As a result, Pfizer plans to create a vaccine that protects from Omicron and other variants by March ([Axios](#), January 22; [Reuters](#), January 22).
- A federal judge in Texas has blocked the Biden administration's executive order to mandate COVID-19 vaccination for federal workers. The judge determined that the order "amounts to a presidential mandate that all federal employees consent to vaccination against COVID-19 or lose their jobs." This ruling comes after a series of other court challenges against the Biden administration's efforts on vaccine mandates across different sectors ([CNBC](#), January 21).
- The Food and Drug Administration (FDA) updated its emergency use authorization for two monoclonal antibodies treatment for COVID-19 by significantly limiting their use to only patients infected with COVID-19 variants other than Omicron. The two treatments, made by Regeneron and Eli Lilly, are not shown to be effective against the Omicron variant. GlaxoSmithKline and Vir's sotrovimab is the only antibody cocktail shown to be effective against the Omicron variant. According to recent CDC data, Omicron makes up more than 99% of cases in the U.S. as of mid-January ([Modern Healthcare](#), January 24; [Politico](#), January 24).

Waivers

- Section 1915(c) Appendix K
 - [Colorado](#)
 - Temporarily allows Supported Living Program service providers operating under the HCBS-Brain Injury waiver to utilize a residence not licensed or certified by the Colorado Department of Public Health Environment to provide services to no more than two waiver members.

If you are a client and have questions, we advise you to consult with your Sellers Dorsey account or project contact.

If you are not currently working with Sellers Dorsey, please email info@sellersdorsey.com.

Subscribe to this newsletter here: www.sellersdorsey.com/newsletter.

- Idaho
 - Provides a one-time lump-sum payment to providers operating under the Developmental Disabilities waiver based on historical expenditures from July 1, 2018 to March 31, 2021, using American Rescue Plan (ARP) funds as outlined and appropriated in House Bill 382 (2021).
- Idaho
 - Provides a one-time lump-sum payment to providers operating under the Aged and Disabled waiver based on historical expenditures from July 1, 2018 to March 31, 2021, using ARP funds as outlined and appropriated in House Bill 382 (2021).
- South Carolina
 - Temporarily raises payment rates for multiple HCBS waiver services, raises the individual cost limit for the Community Supports waiver, increases service limits for waiver case management for the Head and Spinal Cord Injury and Community Supports waivers, and adds the group option for employment services for the Head and Spinal Cord Injury waiver.

SPAs

- Administrative SPAs
 - New Mexico ([NM-21-0012](#), effective December 31, 2021): Implements updates to third party liability to comply with changes required in the Bipartisan Budget Act of 2018 and the Medicaid Services Investment and Accountability Act of 2019.
 - Ohio ([OH-21-0034](#), effective December 1, 2021): Clarifies that a provider must wait 100 days after billing a non-responsive child enforcement-related third party to be eligible for Medicaid reimbursement.
 - Oregon ([OR-21-0023](#), effective December 27, 2021): Incorporates language based on provisions for Medicaid non-emergency medical transportation services added to Section 1902(a)(87), Title XIX of the Social Security Act, as part of the Consolidated Appropriations Act 2021.
- COVID-19 SPAs
 - Kansas ([KS-21-0021](#), effective November 1, 2020): Establishes coverage of prescribed drugs that are not covered outpatient drugs, including when the drug is authorized for import into the United States by the FDA, when the state determines coverage is medically necessary due to a recognized critical drug shortage. This time-limited COVID-19 SPA terminates at the end of the PHE.
 - Kentucky ([KY-21-0007](#), effective January 1, 2021): Extends the \$29 increase in case mix nursing facility per diem rates that was approved in SPA KY-21-0003. This time-limited COVID-19 SPA terminates at the end of the PHE.
 - Maine ([ME-21-0020](#), effective April 1, 2021): Implements a Direct Service Workers recruitment and retention bonus provision under 9817 ARP of 2021. This time-limited COVID-19 SPA terminates at the end of the PHE.
 - Michigan ([MI-21-0016](#), effective October 1, 2021): Provides a temporary supplemental payment to specified providers for in-person care, including personal care services, supportive employment services, behavioral health treatment behavior technician services, and services provided by registered nurses, licensed practical nurses, competency-evaluated nursing assistants, and respiratory therapists employed by Medicaid-certified nursing facilities. This time-limited COVID-19 SPA terminates at the end of the PHE.

If you are a client and have questions, we advise you to consult with your Sellers Dorsey account or project contact.

If you are not currently working with Sellers Dorsey, please email info@sellersdorsey.com.

Subscribe to this newsletter here: www.sellersdorsey.com/newsletter.

- Payment SPAs
 - Colorado ([CO-21-0033-A](#), effective October 1, 2021): Revises the methods and standards for establishing payment rates for hospice services.
 - Iowa ([IA-21-0019](#), effective October 1, 2021): Implements a budget-neutral inpatient hospital rebase and DRG weight recalibration.
 - New York ([NY-19-0034](#), effective April 1, 2021): Updates the reimbursement methodology for Consumer Directed Personal Assistance Program.
- Service SPAs
 - Arizona ([AZ-21-0003](#), effective October 1, 2020 – September 30, 2025): Attests to medication-assisted treatment as a mandatory benefit in the Medicaid state plan pursuant to 1905(a)(29) of the Social Security Act and Section 1006(b) of the SUPPORT Act. This SPA also confirms related counseling and behavioral health therapies.
 - Illinois ([IL-21-0016](#), effective December 1, 2021): Reinstates adult chiropractic services as a Medicaid benefit.

State Updates

- On January 21, Georgia filed suit against CMS for revoking the work and premium requirements the state proposed in its 1115 waiver. The waiver required beneficiaries with incomes up to 95% of the Federal Poverty Level (FPL) to work a minimum of 80 hours per month, and beneficiaries with incomes above 50% of the FPL to make monthly premium payments of at least \$7 to maintain eligibility. Georgia's court filing contends that the work and premium requirements were essential to the state's decision to launch its expanded Medicaid program and that the state already negotiated and agreed upon the provisions of the waiver with CMS under the Trump administration ([Inside Health Policy](#), January 24).

Private Sector Updates

Providers

- In a January 20 [letter](#) to Congressional leaders, the American Hospital Association (AHA) called for the immediate release of the \$8 billion balance remaining in Phase 4 of the Provider Relief Fund (PRF). In response, HRSA, the agency charged with distributing the PRF, announced on January 25 that \$2 billion in remaining PRF payments will be sent out to 7,600 providers this week. HRSA claimed the \$6 billion balance remaining in the PRF is already earmarked for grants and provider reimbursement for the treatment of uninsured patients, but HRSA did not declare when these funds will be released. AHA's letter also called for Congress to authorize an additional \$25 billion in PRF spending due to hospital staffing shortages and the latest surge in COVID-19 cases, as well as the extension of Medicare sequester relief, amended repayment terms for Medicare accelerated and advance payments, and safeguards for 340B hospital eligibility ([Inside Health Policy](#), January 21; [Modern Healthcare](#), January 25).
- More states are now using lawsuits or legislation to limit hospitals' anticompetitive contracting policies while federal agencies are revamping their regulations. There are at least 10 proposed bills and lawsuits that aim to limit all-or-nothing, anti-steering, or exclusionary provisions in provider contracts. Less than 12 states currently have laws in place, and only three states have completely banned non-compete provisions in provider contracts ([Modern Healthcare](#), January 24).

Insurers and Vendors

- On January 19, CVS Health [announced](#) a partnership with Uber Health to provide individuals in underserved communities with free transportation to medical care, work, or school. The service will

If you are a client and have questions, we advise you to consult with your Sellers Dorsey account or project contact.

If you are not currently working with Sellers Dorsey, please email info@sellersdorsey.com.

Subscribe to this newsletter here: www.sellersdorsey.com/newsletter.

launch in Atlanta, GA, Columbus, OH, and Hartford, CT, and will expand to additional markets throughout 2022. The collaboration is part of the CVS Health Zones initiative, a program aimed at addressing social determinants of health in underserved communities currently operating in five U.S. markets ([Fierce Healthcare](#), January 20).

Sellers Dorsey Updates

- On January 18, CMS held a stakeholder meeting to outline its various priorities for the future. Our colleagues attended the meeting and provided a [summary](#) that includes key focus areas discussed during the meeting that are relevant to health care professionals and stakeholders, including Sellers Dorsey clients. Should you have any questions, please contact your Sellers Dorsey account representative, or contact us at info@sellersdorsey.com.
- Sellers Dorsey is thrilled to welcome Jimmy Hatcher, former CFO of Emory Healthcare in Georgia, to our talented team of Medicaid experts. Jimmy has come to the firm as a strategic advisor and will provide guidance to help ensure access to high-quality health care for Medicaid program participants. [Learn more about Jimmy and our work here.](#)



Follow Sellers Dorsey to stay up to date.



FOLLOW US on social media to stay up to date.

If you are a client and have questions, we advise you to consult with your Sellers Dorsey account or project contact.

If you are not currently working with Sellers Dorsey, please email info@sellersdorsey.com.

Subscribe to this newsletter here: www.sellersdorsey.com/newsletter.