Title 23: Division of Medicaid

Part 100: General

Chapter 2: Agency Duties

Rule 2.1: Duties of the Division of Medicaid.

The duties of the Division of Medicaid Agency are set out by State and Federal legislation and the approved Mississippi State Plan include, but are not limited to:

A. Setting regulations and standards for the administration of the Medicaid programs, with approval from the Governor, and in accordance with the Administrative Procedures Law. [Refer to Miss. Admin. Code Part 100, Rule 9.3]

B. Providing Medicaid coverage to all qualified beneficiaries under the provisions of state law and within appropriated funds.

C. Establishing reasonable fees, charges and rates for medical services, drugs, equipment and supplies

D. Fair and impartial hearings.

E. Safeguards for preserving the confidentiality of records.

F. Detecting and investigating alleged violations, and processing fraudulent practices and abuses of the program.

G. Receiving and expending funds for the program.

H. Submitting a state plan for Medicaid in accordance with state and federal regulations.

I. Preparing and distribution of required reports to the state and federal government.

J. Defining and determining the scope, duration, and amount of Medicaid coverage.

K. Cooperating and contracting with other state agencies for the purpose of administrating the Medicaid program.

L. Bringing suit in its own name.

M. Recovering incorrect beneficiary or provider payments including recovery of beneficiary or provider state tax refunds of beneficiaries or providers.

N. Establishing and providing methods of administration for the operation of the Medicaid program.

O. Contracting with the federal government to provide Medicaid coverage for certain refugees.

P. Entering into an agreement with the federal health insurance marketplace as necessary to fulfill the requirements of federal healthcare laws relating to insurance affordability programs that include Medicaid, CHIP and subsidies for insurance coverage through a federal marketplace, effective January, 2014.

Source: 42 CFR § 435.1200; Miss. Code Ann. § 43-13-121 (Rev. 2012).

History: Revised eff. 09/01/2014.

Title 23: Division of Medicaid

Part 100: General

Chapter 9: Administrative Rules

Rule 9.1: Reserved

Rule 9.2: Reserved

Rule 9.3: Declaratory Opinions

A. This rule sets forth the Mississippi Division of Medicaid's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the Mississippi Division of Medicaid's procedures regarding the disposition of requests as required by Miss. Code Ann. § 25-43-2.103.

B. The Mississippi Division of Medicaid will issue declaratory opinions regarding the applicability to specified facts of:

   1. A statute administered or enforceable by the Mississippi Division of Medicaid;

   2. A rule promulgated by the Mississippi Division of Medicaid; or

   3. An order issued by the Mississippi Division of Medicaid.

C. A request must be limited to a single transaction or occurrence.

D. When a person with substantial interest, as required by Miss. Code Ann. § 25-43-2.103, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.

   1. Each request must be submitted on 8-1/2" x 11" white paper.

   2. The request may be in the form of a letter addressed to the Executive Director of the Mississippi Division of Medicaid or in the form of a pleading as if filed with a court.

   3. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).

   4. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

   5. Each request must clearly state that it is a request for a declaratory opinion.

E. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

F. Each request must contain the following:

1. A clear identification of the statute, rule, or order at issue;

2. The question for the declaratory opinion;

3. A clear and concise statement of all facts relevant to the question presented;

4. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and

5. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

G. The Mississippi Division of Medicaid may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to the following:

1. The matter is outside the primary jurisdiction of the Mississippi Division of Medicaid;

2. There is a lack of clarity concerning the question presented;

3. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;

4. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

5. The facts presented in the request are not sufficient to answer the question presented;

6. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

7. The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;

8. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;

9. The question presented by the request concerns the legal validity of a statute, rule, or order;

10. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;

11. No clear answer is determinable;

12. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;

13. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

14. The question is currently the subject of an Attorney General's opinion request;

15. The question has been answered by an Attorney General's opinion;

16. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;

17. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or

18. The question involves eligibility for a license, permit, certificate, or other approval by the Mississippi Division of Medicaid or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

H. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Mississippi Division of Medicaid shall, in writing:

1. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;

2. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or

3. Decline to issue a declaratory opinion, stating the reasons for its action.

4. The forty-five (45) day period shall begin on the first business day after which the request is received by the Mississippi Division of Medicaid.

I. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinion and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: Miss. Code Ann. §§ 25-43-2.103; 43-13-121.

History: New eff. 09/01/2014.

Rule 9.4: Oral Proceedings

A. This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the Mississippi Division of Medicaid pursuant to the Administrative Procedures Act, specifically Miss. Code Ann. § 25-43-3.104.

B. When a political subdivision, an agency, or ten (10) persons request an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

1. Each request must be submitted on 8-1/2" x 11" white paper.

2. The request may be in the form of a letter addressed to the Executive Director of the Mississippi Division of Medicaid or in the form of a pleading as if filed with a court.

3. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).

4. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

C. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to all persons requesting notification of proposed rule adoptions. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Executive Director of the Mississippi Division of Medicaid or designee who is familiar with the substance of the proposed rule shall preside at the oral proceeding on a proposed rule.

D. Public participation shall be permitted at oral proceedings, as follows:

1. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.

2. Persons wishing to make oral presentations at such a proceeding shall notify the Executive Director of the Mississippi Division of Medicaid at least three (3) business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the Mississippi Division of Medicaid prior to the proceeding.

3. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.

4. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

5. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may be submitted at the oral proceeding.

6. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

E. Physical and documentary submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Mississippi Division of Medicaid, part of the rulemaking record, and are subject to the Mississippi Division of Medicaid's public records request procedure. The Mississippi Division of Medicaid may record oral proceedings by stenographic or electronic means.

Source: Miss. Code Ann. §§ 25-43-2.103; 43-13-121.

History: New eff. 09/01/2014.

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~~A.~~ The duties of the Division of Medicaid Agency are set out by ~~enabling~~ State and Federal legislation and the approved Mississippi State Plan ~~to include~~include~~ing~~, but are not limited to:

A. ~~To s~~Setting regulations and standards for the administration of the Medicaid programs, with approval ~~of~~ from the Governor, and in accordance with the Administrative Procedures Law. [Refer to Miss. Admin. Code Part 100, Rule 9.3]

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~~2.~~ C. ~~To e~~Establishing reasonable fees, charges and rates for medical services, ~~and~~ drugs, equipment and supplies~~.~~

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~~4.~~ E. ~~To provide s~~Safeguards for preserving the confidentiality of records.

~~5.~~ F. ~~For d~~Detecting and investigating alleged violations, and processing fraudulent practices and abuses of the program.

~~6.~~ G.~~To r~~Receiving~~e~~ and expending funds for the program.

~~7.~~ H.~~To s~~Submitting a state plan for Medicaid in accordance with state and federal regulations.

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~~10.~~ K.~~To c~~Cooperating and contracting with other state agencies for the purpose of ~~conducting~~administrating the Medicaid program.

~~11.~~ L.~~To b~~Bringing suit in its own name.

~~12.~~ M.~~To r~~Recovering incorrect beneficiary or provider payments ~~incorrectly made to or by recipients or providers,~~ including recovery ~~from~~ of beneficiary or provider state tax refunds of ~~recipients~~beneficiaries or ~~and~~ providers.

~~13. N.To i~~Investigating~~e alleged and or suspected violations or abuses of the Medicaid program.~~

~~14.~~13. N~~O.To e~~Establishing and providing~~e~~ methods of administration for the operation of the Medicaid program.

~~15.~~14. O~~P. To c~~Contracting with the federal government to provide Medicaid coverage ~~to~~for certain refugees.

~~16.~~15. P~~Q.To e~~Entering into an agreement with the federal health insurance marketplace as necessary to fulfill the requirements of federal healthcare laws relating to insurance affordability programs that include Medicaid, CHIP and subsidies for insurance coverage through a federal marketplace, effective January, 2014.

Source: 42 CFR § 435.1200; Miss. Code Ann. § 43-13-121 (Rev. 2012). ~~and 42 CFR § 435.1200 (Rev. 2012)~~

History: Revised eff. 09/01/2014.

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History: New eff. 09/01/2014.

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History: New eff. 09/01/2014.