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**MISSISSIPPI'S FLAWED MEDICAID WAIVER PROPOSAL
Waiver Provides No Benefit to Most People the State Is Planning to
Cut Off of Medicaid and Could Lead to Additional Medicaid Cuts Later**

by Leighton Ku

On September 15, Mississippi plans to stop providing Medicaid health coverage to tens of thousands of low-income retirees and people who are permanently disabled, a group known as Poverty-Level Aged and Disabled (or PLAD) beneficiaries. This policy, proposed by Governor Haley Barbour and approved by the Mississippi legislature, affects 65,000 people with PLAD coverage. The legislation also requires the state to seek permission from the federal government (in the form of a waiver of federal rules) to provide limited Medicaid coverage to some of the people who will lose coverage as a result of the eligibility rollback.

In defending the rollback, Governor Barbour has stated that the state's waiver, which the U.S. Department of Health and Human Services is now considering, would enable the state to continue providing coverage to the most vulnerable people who would be affected. However, the waiver is a highly inadequate substitute for the coverage that PLAD beneficiaries now receive. Further, it could create serious risks for tens of thousands of other poor seniors and people with disabilities who will remain on Medicaid.

- About three-quarters (72 percent) of PLAD beneficiaries — some 47,000 seniors and people with disabilities — would *not* be covered by the waiver and so would lose their Medicaid coverage entirely. While most of these individuals would be eligible for health coverage under Medicare, the loss of Medicaid services would create serious, and in some cases potentially life-threatening, gaps in their health care coverage.
- Those who would be covered by the waiver would receive only restricted services that in many cases are likely to be inadequate to meet their extensive health care needs. Moreover, the state has limited to 17,000 the number of people who could be covered by the waiver.
- In return for approving the waiver, the federal government is likely to impose a cap on federal Medicaid funding for *all* seniors and people with disabilities served by the state's Medicaid program, not just those covered by the waiver. (Currently, in contrast, the federal government provides more than \$3 in federal matching funds for every dollar Mississippi spends, without limitations.) Imposition of a funding cap could eventually force the state to make cuts in long-term care and medical services for other senior citizens and people with disabilities who are on Medicaid, including Medicaid beneficiaries who receive

aid from the Supplemental Security Income (SSI) program or reside in nursing homes.

The sounder course of action would be for the governor and legislature to drop the misguided waiver proposal and restore PLAD coverage. The Mississippi House of Representatives has shown its support for such action by twice voting overwhelmingly to restore PLAD eligibility.

Background

In May, the governor signed a bill (HB 1434) that terminates Medicaid eligibility for about 65,000 senior citizens and people with disabilities with incomes between about 75 percent and 135 percent of the poverty line.¹ This is the biggest cut in Medicaid eligibility for senior citizens or people with disabilities ever made by any state. Across Mississippi, many Medicaid beneficiaries, family members, health-care providers, and others have expressed deep concerns about the cutoff. Many of those affected live on fixed incomes of only \$500-\$700 per month and need medications that may cost \$300-\$1,200 per month, as well as other medical care.

Moreover, since Mississippi has the highest federal Medicaid matching rate in the nation — it earns more than \$3 in federal matching funds for every dollar the state spends on Medicaid — eliminating Medicaid coverage for tens of thousands of Mississippians will cost the state tens of millions of dollars in matching federal funds.

Most of the 65,000 people affected by the cutoff are “dual eligibles” — that is, they are covered by both Medicaid and Medicare. If they lose Medicaid, they will remain covered by Medicare. Medicare coverage is inferior in several respects, however, to what these individuals are now receiving through Medicaid, with the result that the loss of Medicaid will leave significant gaps in their ability to pay for health care.

For example, while these individuals will be eligible for a temporary Medicare drug discount card and a \$600 annual subsidy for the purchase of medications (both created by last year’s federal Medicare drug law), those benefits will provide much less protection from high drug costs than their current Medicaid coverage. Data from the state’s own waiver application indicates that the PLAD beneficiaries who will lose Medicaid and not be covered by the waiver are expected to have average medication costs exceeding \$3,000 between July 1, 2004 and December 31, 2005; their Medicare drug subsidies will cover less than half of those costs.

In addition, people who lose Medicaid coverage will not be covered for services like eyeglasses, transportation (to help people get to clinics), or case management services, which

¹ For a general analysis of the impact of the Medicaid cutback, see Mississippi Health Advocacy Program, “Mississippi’s New Law to End Medicaid Coverage for 65,000 Low-income Seniors and People with Disabilities; There Is Still Time to Avoid the Cutbacks,” June 2004, available at www.mhap.org. Since that report was written, Mississippi has delayed implementation of the cutback to September 15 and submitted a waiver request to the federal government.

Medicare does not cover. Many of them will also be subject to Medicare's high cost-sharing requirements (such as an \$876 hospital deductible or a \$100 deductible for physician services), making it much harder for them to afford medical services.²

HB 1434 requires the state to apply for a federal waiver to maintain some services for a minority of the PLAD beneficiaries being cut off of Medicaid. The state submitted its waiver request on June 23.³ The waiver covers two groups:

1. *Those being cut off Medicaid who do not have Medicare coverage.* The waiver would provide limited benefits to these people after their current Medicaid coverage expires on September 15, 2004. The state estimates there are about 5,000 people in this category, and its waiver would limit enrollment to 5,000. If the actual number of people in this category exceeds 5,000, some of them would not be covered.

The state's waiver request does not specify an expiration date for coverage for this group, but proposes that the waiver last for five years. It is not clear what would happen after the end of the five-year period.

2. *Those who do have Medicare coverage but have certain specific diseases,* including cancer patients receiving chemotherapy or radiation, patients with end-stage renal (kidney) disease who are on dialysis, organ-transplant patients receiving anti-rejection drugs, and patients with certain mental illnesses who receive anti-psychotic medications.

The waiver would provide limited benefits to these people from September 15, 2004 through January 1, 2006, at which point the waiver would expire. The state estimates there are 12,000 to 13,000 people in these categories; the waiver would limit enrollment for such individuals to 12,000.

Almost 50,000 People Will Be Denied Medicaid Coverage

The waiver would not protect the great majority of the 65,000 PLAD beneficiaries about to lose Medicaid. Some 47,000 aged and disabled people are excluded from the waiver, even though all of them have low incomes and many have serious medical problems that will become more severe and debilitating without continued medication and appropriate medical care. A few examples:

² Under federal requirements, people whose incomes are below the federal poverty line (about 36,000 of the 65,000 PLAD beneficiaries) will continue to receive assistance in paying deductibles, copayments, and premiums imposed by Medicare. Those with incomes between 100 percent and 135 percent of the poverty line, however, will receive help only in paying Medicare premiums, and would receive no help in paying Medicare deductibles or copayments.

³ Letter from Warren Jones, Executive Director of the Division of Medicaid, to Dennis Smith, Director of the Center for Medicaid and State Operations, Centers for Medicare and Medicaid Services, June 23, 2004, and attached application materials. Available at www.cms.hhs.gov/medicaid/1115/mshm.asp.

- Diabetics will not be covered for insulin or other oral anti-diabetes medications. Without these medications, diabetes could progress and cause serious consequences, including blindness, coma, or even death.
- People with bipolar disorder (manic-depressives) will not be covered for mood-stabilizing medications. Without medications, these patients could become suicidal during a depressive phase or violent during a manic phase. Without other therapeutic services such as case management, these individuals may be unable to function effectively.
- Persons with HIV or AIDS will not be covered for life-saving anti-retroviral therapies. Without these medications, some individuals could die. Even temporary gaps in the availability of such medications may have serious consequences, as individuals might develop drug resistance that would make the drugs less effective in the future. (That could threaten public health as well, by promoting the development and spread of drug-resistant strains of HIV.) The federal AIDS Drug Assistance Program (ADAP) was designed to provide drug coverage for persons ineligible for Medicaid, but longstanding funding shortages mean that ADAP cannot take up the slack for those who lose Medicaid coverage.
- Those with multiple chronic conditions, such as diabetes, hypertension, and atherosclerosis, will not be covered for their medications. Their diseases will progress and could result in heart attacks or strokes. A recent study found that senior citizens who had to limit the use of prescribed medications because of cost problems suffered more heart attacks, strokes, and angina attacks and had poorer overall health than those who did not limit their medication use due to cost.⁴
- Frail senior citizens now receiving home health services will have much more difficulty continuing to receive care at home, which could create pressure for them to enter nursing homes.

The waiver application itself describes the serious problems that elderly and disabled people will face if they lose Medicaid coverage. It states: “Unfortunately, in Mississippi Medicaid beneficiaries who lose Medicaid coverage have few alternatives for finding affordable care.” The loss of Medicaid will have serious repercussions for tens of thousands of low-income Mississippians.

Those Covered by the Waiver Will Get Less Help, and Only Temporarily

The PLAD beneficiaries who would be included in the waiver will receive fewer benefits than are now available under Medicaid. As a result, they could become sicker and ultimately

⁴ M. Heisler, et al. “The Health Effects of Restricting Prescription Medication Use Because of Cost,” *Medical Care*, 42(7):626-34, July 2004.

require more expensive services, such as hospitalization. Services that the waiver specifically does *not* cover include:

- Long-term services and supports, including nursing home care, home health care, intermediate care facilities for the mentally retarded, and hospice care. These services provide basic services on a daily basis to people too frail to take care of themselves. Unless seniors and people with disabilities can qualify under another Medicaid eligibility category,⁵ they will be unable to get long-term care services. Loss of these services would threaten their quality of life and may also disrupt their families' lives.
- Therapies. The waiver application is not specific as to which therapies will be excluded. Some therapies that might be lost include rehabilitation or special therapies that enable people with disabilities to function more effectively at home or in the community and, in some cases, to work.
- Eyeglasses. If people cannot see, they cannot read the labels on their prescriptions, read their doctor's orders, drive a car, etc.
- Dental care. The state's Medicaid program now covers very basic dental care, such as extractions. Without extractions, dental problems may be very painful and can progress to major infections.
- Podiatric services. These can be critical to people such as diabetics, who can experience crippling foot problems because of poor circulation.
- Chiropractic care. In a number of circumstances, chiropractic care is considered a cost-effective alternative to other forms of back treatment, as determined by federal health agencies.

These services (aside from long-term care) are relatively inexpensive and may help prevent more costly care from being needed subsequently. There is no compelling reason for the state to exclude these services from those who need them.

In addition, as noted above, the state's waiver proposal would limit coverage under the waiver to 5,000 non-Medicare-eligible persons and 12,000 persons with chronic diseases. These limits are close to — and probably below — the current numbers of people who meet these criteria; if more people developed these problems, they would be barred from receiving essential medical treatment even if they were eligible for and in need of care. The state has not explained how it will decide who will be served if the number of applicants exceeds the relevant enrollment

⁵ Mississippi has an alternative Medicaid eligibility category for low-income people who are in nursing homes; it also provides home health services to some people whose incomes are too high for them to qualify for the federal Supplemental Security Income program. Some of those denied long-term care under the waiver will still qualify for Medicaid under those policies. The home health service waiver programs, however, have enrollment caps and may not be able to admit additional people; waiting lists already exist in parts of the state.

limit, but regardless of how it does so, some eligible people with very serious illnesses will not receive care.

Finally, for the 12,000 people with chronic diseases who are enrolled in Medicare, the waiver program would expire on January 1, 2006, at which point they would lose Medicaid coverage altogether. While these individuals would then receive the Medicare drug benefit (which is scheduled to begin that month), they would lose other benefits that Medicaid covers but Medicare does not, such as transportation services to help people with disabilities get to clinics and case management services that help people coordinate their medical, mental health, and other health service needs.

Waiver Could Lead to Cutbacks for Other Seniors and People with Disabilities

The federal government will not grant the type of waiver Mississippi has requested (called a Section 1115 waiver) unless it has determined that the waiver will not cost the federal government more than it would spend in the absence of the waiver. This “budget-neutrality” requirement means that any additional federal funds used to pay for services covered by the waiver must be offset by reductions in other Medicaid expenditures.

Moreover, Mississippi’s waiver request must begin by assuming that Medicaid coverage has already disappeared for the state’s 65,000 PLAD beneficiaries. As a result, while in reality the waiver would mark only a partial restoration of a much larger cut in benefits, the waiver application must treat the waiver as an expansion of coverage for the 17,000 people to whom it applies, since otherwise they would not receive any Medicaid benefits.

To ensure that the Mississippi waiver is budget neutral, the federal government will likely impose a cap on federal Medicaid expenditures for all elderly and disabled Medicaid beneficiaries in the state, *including people who are not in the PLAD category* (such as poor people who receive SSI benefits and those who are nursing home residents). That is what happened a couple of years ago when several other states applied for waivers to expand coverage to a subgroup of elderly Medicaid beneficiaries: as a condition of the waivers, the federal government imposed a cap on federal spending for *all* elderly Medicaid beneficiaries in the state.⁶

If the federal government imposes such a cap on Mississippi, the state will have to offset any additional federal costs associated with the waiver by reducing other Medicaid expenditures for senior citizens and people with disabilities. To accomplish this, the state will need to consider lowering payment rates to physicians, hospitals, or other health care providers, imposing new limits on Medicaid hospital, physician, or mental health services, or paying any additional costs entirely with state funds. The application indicates the waiver will require at

⁶ These earlier waivers expanded services for elderly Medicaid beneficiaries and the federal limits capped Medicaid expenditures for the elderly. Insofar as Mississippi’s waiver is for both seniors and those with disabilities, it seems likely that the federal budget cap would include both populations.

least \$340 million in additional federal funds over five years, so in order to demonstrate budget neutrality, the state must show it will save at least this much from other Medicaid expenditures.⁷

In its waiver application, the state argues that the partial Medicaid coverage proposed in the waiver would save money by keeping many of the people included in the waiver from becoming sicker and eventually qualifying for nursing home coverage under Medicaid. This would avoid the costs for nursing home care for these people. However, when several other states tried in recent years to use the same budget neutrality assumptions in applying for similar Section 1115 waivers, the federal government chose to enforce the budget neutrality requirement by imposing a cap on federal funding for all elderly Medicaid beneficiaries in these states.⁸

Moreover, a recent report from the U.S. Government Accountability Office (previously known as the General Accounting Office) found that evidence is lacking that providing additional Medicaid services to elderly people saves money over the long term by reducing the need for nursing home care.⁹

If the federal government imposes a cap on total federal funding to Medicaid services to elderly and disabled beneficiaries in Mississippi, and if the state's budget assumptions regarding the magnitude of "savings" the waiver will produce prove to be unrealistic — both of which are likely to occur — the state will be forced to institute substantial cutbacks in Medicaid for senior citizens and people with disabilities. In other words, the budget-neutrality requirement could lead to cuts in Medicaid services for tens of thousands of elderly and disabled Mississippians who were not directly affected by the elimination of PLAD coverage.

Other Concerns

It is not clear whether the waiver will be approved by September 15, the date when the state plans to eliminate Medicaid coverage for PLAD beneficiaries. Typically, waivers take months to negotiate. In addition, the final terms and conditions could differ significantly from those proposed in the state's waiver application.

If the waiver is approved, there could be some delays in implementing it, since modifying Medicaid benefits for the 17,000 people covered, notifying beneficiaries, and establishing other administrative procedures will take time. Such delays could cause people to go without coverage for a period of time.

⁷ The application says the services provided under the waiver would cost \$441 million, but it is not clear if that figure represents total (state plus federal) costs or federal costs alone. If it is both federal and state costs, then the federal share would be \$340 million, given Mississippi's current 77 percent federal matching rate.

⁸ Kaiser Commission on Medicaid and the Uninsured, "The Financing of Pharmacy Plus Waivers: Implications for Seniors on Medicaid of Global Funding Caps," May 2003.

⁹ U.S. Government Accountability Office, *Medicaid Waivers: HHS Approvals of Pharmacy Plus Demonstrations Continue to Raise Cost and Oversight Concerns*, GAO-04-480, June 2004.

Finally, there has been no public discussion or review of the terms of the waiver. Though the waiver is effectively a contract that would bind the state of Mississippi and affect state services and finances for several years, there has been no public discussion or oversight by the legislature or the attorney general. Only the governor's office (which includes the Division of Medicaid) and the federal Medicaid agency have been parties to the discussions.

Conclusion

Mississippi's planned cut in Medicaid eligibility for low-income retirees and people who are permanently disabled will lead to massive disruption of health care services and have serious adverse effects on beneficiaries, their families, and their health care providers. The state's proposed waiver will not adequately compensate for the damage this cutback will cause, since the waiver would do nothing for three-quarters of the people who lose coverage and would fail to provide adequate coverage for those whom it would cover.

In addition, the federal government's requirement that the waiver be budget neutral would create serious risks for all other elderly and disabled Medicaid beneficiaries in Mississippi. The federal government is likely to insist on capping the state's federal Medicaid funding for senior citizens and people with disabilities in future years. This could force the state to reduce expenditures for nursing homes, home health services, or other Medicaid services.

Rather than adopt the problematic waiver, the state — and its senior citizens and people with disabilities — would be better served by simply restoring coverage to PLAD beneficiaries. That would avoid the risks of the budget-neutrality requirements, ensure that Mississippi can continue to earn a generous \$3 to \$1 federal matching rate without a budget cap, and ensure that low-income people who are old or have disabilities continue to receive the medical services they need.