MHA COVID-19 UPDATE

FEDERAL AND STATE REGULATORY ACTIONS

This document is intended to keep our members up to date on recent developments and important highlights of action by MHA related to the COVID crisis as well as regulatory actions taken by federal and state officials and agencies. We will make every effort to update this document as quickly as possible.

MHA Letters to Federal and State Officials

- April 2, 2020 – MHA wrote a letter to the Governor requesting that all state efforts be undertaken to address the urgent need for PPE to protect health care workers. Click here to view the letter.

- April 1, 2020 – MHA wrote a letter to the Medicaid Executive Director requesting the following: that Medicaid and its managed care organizations advance 4th quarter SFY 2020 payments to hospitals; that Medicaid not make any significant changes to the SFY 2021 supplemental payment model; that Medicaid direct its managed care organizations to extend timely filing requirements for medical claims; that Medicaid suspend state plan amendments and administrative requirements regarding payments for hospital based clinics to receive full reimbursement even if such clinics are located in alternative settings; and, that Medicaid and its managed care organizations expedite the enrollment and credentialing requirements for all providers. Click here to view the letter.

- March 20, 2020 – MHA wrote to the Mississippi Congressional delegation asking for their help in ensuring that Mississippi receives its needed share of federal resources such as COVID test kits, medical supplies, ventilators and PPE. In addition, we asked our
delegation to support the agenda of the American Hospital Association for additional federal financial benefits for hospitals as well as relief from certain federal regulatory restrictions. Click here to view the letter.

- March 19, 2020 – MHA wrote a letter to the Governor asking that his office instruct the Public Employees Retirement System (“PERS”) Board to suspend its regulations regarding re-employment of PERS retirees who are former health care workers of PERS participating hospitals. Click here to view the letter.

- March 19, 2020 – MHA wrote to CMS Region IV (Atlanta Regional Office) to request waivers related to both the Medicare and Medicaid programs. These waivers were requested in addition to several blanket waivers already provided by CMS. Click here to view the letter.

- March 16, 2020 – MHA wrote to the Governor to state the preparedness status of Mississippi hospitals as well as request that he provide for additional testing kits and supplies. MHA also made it known that financial support would be needed as would relaxing regulatory and licensure provisions. Click here to view the letter.

Mississippi Executive Orders

- **Reemployment of PERS retirees** – April 15, 2020 - Executive Order 1472 – PERS retiree whose effective date of retirement and who has incurred a bona fide separation from service before April 15th may (1) work for a period of time in the fiscal year not to exceed ½ of the normal working days or ½ of the normal working hours for the position during which the retiree will receive no more than ½ of the salary in effect for the position; OR (2) work for an amount of time in the fiscal year sufficient to earn up to a maximum of 25% of the retiree’s average compensation used for calculating retirement benefits. The Order last until June 30th or as amended. Click here to view the Executive Order.

- **Immunity** - April 10, 2020 – Executive Order 1471 – Extends certain immunities to healthcare facilities and health care professionals, authorizes the MSDH to amend or waive regulations regarding credentialing and privileges and extends authority for additional actions to be taken by the Board of Nursing and Board of Medical Licensure. Click here to view the Executive Order.

- **Elective Surgery** - April 10, 2020 – Executive Order 1470 – From 5:00 pm on April 10th until 8:00 am on April 27th, all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of,
a patient who without immediate performance of the surgery or procedure would be a risk for serious adverse medical consequences or death, as determined by the patient’s physician are postponed. Click here to view the Executive Order.

FEDERAL ACTIONS

Medicare

- CMS has issued new guidance on long term care facility transfers. Please click here to view the guidance.

- CMS has issued new guidance and flexibilities for RHC and FQHCs for the duration of the COVID public health emergency. These flexibilities involve the delivery of telehealth services, accelerated payments, allowances for billing of nursing services in home health shortage areas and consent to treat being obtained by someone working under the supervision of the practitioner. Please click here to read more about these flexibilities.

- CMS continues to issue new guidance and blanket waivers applicable to Mississippi as well as other states. Mississippi has not received any waivers which are unique to Mississippi. Please click here for a copy of the document describing the list of applicable waivers.

- CMS has issued new guidance in the form of an FAQ for billing questions for Medicare providers. Please click here for a copy of the guidance.

- For CMS’s general guidance on Coverage and Payment Related to COVID-19 click here.

- For an updated list of more CMS waivers and guidance please click here.

EMTALA Waivers

- CMS has issued guidance regarding EMTALA provisions and enforcement. Click here for the latest updates from CMS.

HIPAA Waivers

- OCR will not impose penalties for violations of HIPAA privacy, breach and notification rules against the health care provider covered entity or its business associate when the provider has acted in good faith participation of COVID testing sites which include mobile, drive through or walk up sites that provide
only specimen collection or testing services to the public. It applies to a provider covered entity only to the extent that it participates in a community-based testing site. Potential HIPAA penalties still play in other settings and to other non-community-based testing site settings. In addition, OCR continues to provide guidance and updates on HIPAA enforcement during the COVID crisis. Click here to access the latest information from HHS.

Ambulance Waivers

- Ambulance transports may include any destination consistent with state and local EMS protocols and may be to alternate site locations. Click here to view the CMS guidance.

Physicians and Other Clinicians

- CMS has issued guidance on flexibilities for physicians and other clinicians. To access the March 30th publication, please click here.

MISSISSIPPI STATE AGENCY ACTIONS

Division of Medicaid Policy

- Medicaid has posted new guidance for coronavirus diagnostic test codes. It provides a copy of the codes and the rates. Please click here for a copy of the guidance.

- Medicaid has posted new information regarding telehealth policies, codes and rates. Please click here to access a copy of the policy and here for a copy of the FAQs.

Division of Medicaid Waivers

- Medicaid received the following CMS blanket waivers to its FFS, MCO and CHIP programs in a letter from CMS dated March 23, 2020: suspension of prior authorization requirements for the fee for service program to permit services approved or to be provided after March 1, 2020 to continue to be provided without a requirement for a new or renewed prior authorization; waive Level 1 and Level 2 PASRR assessments for 30 days and all new admissions can be treated like exempted hospital discharges, after 30 days, new admissions with mental illness or intellectual disability should receive a review as soon as resources become available; new preadmission Level 1 and Level 2 screens are no required for residents who are being transferred between nursing facilities;
additional time extensions for eligibility and fee for service appeals to request a fair hearing; expedite appeal process for MCO enrollees to proceed almost immediately to a fair hearing without having the MCO resolve the first level of appeal by permitting the state to modify the timeline for MCO appeals to one day and to resolve appeals to no less than one day; allow MCO enrollees an extension of time to file an appeal; rely upon provider enrollment and screening performed by other state Medicaid agencies and/or Medicare to allow Mississippi to temporarily enroll providers for the duration of the emergency and to reimburse out of state providers under certain conditions; Mississippi may also enroll providers not already enrolled in another state or with Medicare under certain conditions; Mississippi is also not required to revalidate providers; and, Mississippi is authorize to reimburse for certain services provided in alternative settings. Click [here](#) to view the waivers received by Medicaid from CMS.

**Mississippi State Department of Health**

- MSDH has issued several guidelines on a variety of topics ranging from guidance for healthcare professionals diagnosed with COVID-19 and recommended testing priorities for COVID-19 to guidance for assessment of health care workers with potential exposure to COVID-19 and guidance for testing by CLIA-approved labs. Click [here](#) for the MSDH webpage related to Coronavirus guidance.

**Mississippi Insurance Department**

- Telemedicine. MID issued Bulletin 2020-1 directing insurers to adopt procedures to encourage policyholders to use telemedicine services and to suspend certain limitations applicable to telemedicine services. Please click [here](#) to read Bulletin 2020-1.

- Policy Cancellations. MID has issued two Bulletins and a Q&A regarding a Moratorium on Policy Cancellations and Non renewals for Policyholders impacted by COVID 19. The moratorium allows for cancellation notices to be issued, but the policies may not be cancelled within a sixty (60) day period beginning March 24th. Please click [here](#) to read Bulletin 2020-3, [here](#) to read Bulletin 2020-4 and [here](#) to read the Q&A.

**Mississippi Board of Medical Licensure**

- The MSBML has issued several proclamations related to the practice of telemedicine and the licensure of out of state physicians. These proclamations
allow licensed in state Mississippi physicians to provide telemedicine services to patient with whom they have not had a preexisting relationship and allows out of state licensed physicians to provide telemedicine services to patients with whom they have had a preexisting relationship. Further, the Board has also waived its licensing requirement for out of state physicians whose specialty services are determined to be necessary by the Mississippi State Department of Health provided the physician has a valid license to practice and is currently not under the subject of any investigation of disciplinary proceeding. Click here for the MSBML proclamations and other updates from the MSBML.

**Mississippi Board of Nursing**

- The MBN has waived its requirements and will allow all APRNs with controlled substance prescriptive authority to use telehealth without requiring that the APRN personally examine the patient prior to the issuance of a prescription of order of medications, including controlled substances. Further, the MBN has authorized out of state APRNs to use telehealth when treating Mississippi patients with the necessity of obtaining a Mississippi license, provided the APRN holds an unrestricted license to practice in the state in which the APRN practices and is not currently the subject of an investigation or disciplinary proceeding. Click here for a copy of the MBN proclamation. Click here for the COVID-19 Temporary Permit. Click here for other updates from the MBN.

**Mississippi Board of Pharmacy**

- The MBP has authorized new regulations related to compounding hand sanitizer, the ordering of Schedule II controlled substances and has clarified its regulations concerning signature requirements. Click here for the MBP’s webpage describing its requirements related to COVID-19.

**For Additional Information or Questions Please Contact:**

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