

Presentation and Workshop on Legislative Oversight of State Medicaid Programs

Facilitators:

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Directions: Use the oversight plan framework to choose subtopics within a topic, then narrow and frame the inquiry into an open-ended, factual question. Once the question has been developed, discuss which avenue(s) of legislative oversight can be used to help answer the question. Then, decide if the inquiry is in response to a specific event in your state, or if the question is more focused on compliance or deterring malfeasance. Throughout the exercise, expect to see the beginnings of an effective Medicaid oversight plan after going through this process for several topics. See these topics as inspiration, not limitations on what needs closer examination in your state. Citizens in your state are looking to the legislature and relevant state agencies to conduct oversight and seek positive reform.

Topics:

- 1) Children
 - i) **Subtopics** on Medicaid and children might include implementation of the Children's Health Insurance Program (CHIP), the Affordable Care Act, and general Medicaid administration.¹
 - ii) **Factual question example:** How do potentially eligible parents access CHIP benefits for their children?
 - iii) **Scenario:** Parents have contacted their state representatives and reported that, although they are eligible, they have been denied CHIP benefits for their children. Why is this happening? Where is the breakdown in the system?
- 2) Expansion
 - i) **Subtopics** on Medicaid and expansion might include open enrollment data collection, access to providers, outreach tools, and a review of state expansion administration.
 - ii) **Factual question example:** How do newly eligible citizens become aware and then apply for Medicaid?
 - iii) **Scenario:** During the COVID pandemic, many hospitals noted a troubling trend – citizens that were newly eligible for Medicaid had not applied and reported that they were unaware that they qualified. How do we ensure that newly eligible citizens become aware and then apply for Medicaid?

¹ *About Us*, Georgetown University McCourt of Public Policy Center for Children and Families.
<https://ccf.georgetown.edu/about-us/>

3) Health Equity and Justice

- i) **Subtopics** on Medicaid within health equity and justice might include data collection, policies/operations to close gaps performance, workforce diversity, culturally competent care, language access, and accessibility.²
- ii) **Factual question example:** How are Medicaid healthcare providers ensuring culturally competent care?
- iii) **Scenario:** Research shows that African Americans face implicit bias from the medical community and are far less likely to be treated appropriately for pain than white Americans³ ([Association of American Medical Colleges](#)). How does this affect African Americans on Medicaid in your state, and what can be done to close this gap?

4) Safety Net Providers

- i) **Subtopics** on Medicaid with safety net providers might include pharmacy provider contracting, data collection, and performance with providing service for those uninsured, covered by Medicaid, or are otherwise vulnerable.⁴
- ii) **Factual question example:** What is my state's process for care for those uninsured but eligible for Medicaid?
- iii) **Scenario:** Medicaid supports community-based mental health services, but the wait list for an initial appointment can be as long as six months. Why does it take so long to be evaluated, and what can be done to improve service?

5) Trauma Informed Care

- i) **Subtopics** on Medicaid with trauma informed care might include reviewing approaches to delivering comprehensive care, avoiding re-traumatization, and surveyors determining when to cite based on CMS key elements of noncompliance.⁵
- ii) **Factual question example:** How do surveyors cite trauma informed care violations?
- iii) **Scenario:** Domestic violence survivors and their children are eligible for Medicaid under the Affordable Care Act. However, rural areas in your state lack sufficient domestic violence services, and those that exist do not have adequate translation services for patients who don't speak English as a first language. It has come to your attention that, because of this language gap, there is a population of domestic violence survivors and their children who are not enrolled in Medicaid and not receiving adequate medical and mental health services. What is the extent of this problem? How can you ensure that domestic violence survivors in rural areas receive adequate services? How will you increase access to translation services in rural areas of the state?

² April 2022. *CMS Framework for Health Equity 2022-2032*. CMS. Link: <https://www.cms.gov/files/document/cms-framework-health-equity-2022.pdf>

³ 1/6/2020. AAMC. How

⁴ *Information for Part D Sponsors on Contracting with Safety Net Pharmacy Providers*. CMS. Link: <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/downloads/InfoforPartDSponsorsonSafetyNetProviders.pdf>

⁵ *CMS Trauma-Informed Care*. 2022. Link: <https://qsep.cms.gov/data/352/TraumaInformedCare.pdf>

6) Opioid Use Disorder

- i) **Subtopics** on Medicaid with opioid use disorder might include financing for treatment, first-line standard of care, and behavioral health.⁶
- ii) **Factual question example:** How do Medicaid patients showing signs of opioid addiction receive first-line standard care?
- iii) **Scenario:** People with an opioid use disorder on Medicaid are typically put on an integrated care plan involving pharmaceutical, mental health services, and family support. However, constituents are contacting the office and detailing struggles with obtaining part of a relative's care and why gaps in opioid use treatment continue to persist. In what specific aspects are Medicaid patients being treated for an opioid use disorder struggling to receive access of care within their care plans?

7) Primary Care Deserts

- i) **Subtopics** on Medicaid with primary care deserts might include rural, tribal, geographically isolated communities, shortage of health care providers, telehealth access, behavioral health care access, and the Shared Savings Program.⁷
- ii) **Factual question example:** How are Medicaid providers providing mental health services in communities traditionally struggling as primary care deserts?
- iii) **Scenario:** Citizens with Medicaid across the county have reported struggles with securing routine doctor visits through telehealth. Legislative offices with districts in both rural and urban communities have reported constituent calls describing difficulties in finding a doctor, a lack of a secure internet connection for the appointment, and a fear of being charged additional fees. How might a state go further in getting the facts on digital access gaps and explain current efforts in addressing primary care deserts?

8) Long Term Servicing and Medicaid Funding

- i) **Subtopics** on Medicaid with long term servicing might include program economic sustainability, selection of services, and individuals with disabling conditions and chronic illnesses.⁸
- ii) **Factual question example:** How does my state determine program economic sustainability for long term servicing?
- iii) **Scenario:** With more citizens relying on Medicaid to pay for long term services, questions have arisen on balancing service quality and program sustainability. In fact, constituents have been calling legislative offices to share concerns on their Medicaid coverage whenever Congress approaches high profile budget negotiations. How popular are certain long-term services, and how can states gather facts on the financials involved?

⁶ 10/18/2022. Peterson, L. Murugesan, M. Nocon, R. Hoang, H. Bolton, J. Laiteerapong, N. Pollack, H. Marsh, J. *Health care use and spending for Medicaid patients diagnosed with opioid use disorder receiving primary care in Federally Qualified Health Centers and other primary care settings*. Link:

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0276066>

⁷ February 10th, 2023. Seshamani, M. Jackobs, D. MoodyOWilliams, J. Fleisher, L. *Addressing Rural Health Inequities in Medicare*. Link: <https://www.cms.gov/blog/addressing-rural-health-inequities-medicare>

⁸ Medicaid.gov. Link: <https://www.medicaid.gov/medicaid/long-term-services-supports/index.html>

9) Medicaid Unwinding

- i) **Subtopics** on Medicaid unwinding might include the restarting of CHIP and Medicaid eligibility renewals and terminations, timeline enforcement for returning to pre-COVID-19 Public Health Emergency eligibility and enrollment, and an examination of the people losing coverage since earlier in 2023 with states now able to end coverage.⁹
- ii) **Factual question example:** How is my state restarting Medicaid renewals and terminations in this new phase of the pandemic?
- iii) **Scenario:** As the pandemic reaches a new phase, millions of people are losing their Medicaid coverage. Legislative offices have started receiving a steady flow of calls in response to losing coverage and television commercials encouraging those who have recently lost Medicaid coverage to visit healthcare.gov to obtain new insurance. How does the government verify that citizens are no longer eligible, and what process is in place to avoid interruption of care from Medicaid to another health insurance?

10) Medicaid Home and Community-Based Waivers

- i) **Subtopics** on Medicaid waivers include long term assisted care at home or within the community, a review of the process for securing a waiver, what sort of non-medical services are provided through the waiver program, and how to find housing.
- ii) **Factual question example:** How in my state would a person with Medicaid secure a waiver to be used in an assisted living facility? How long does it take for the typical application to be approved?
- iii) **Scenario:** Several constituents have contacted legislative offices sharing their frustrations with the long delay in obtaining a waiver, and further difficulties in understanding what is and is not covered. Why is this happening? Where is the breakdown in the system?

⁹ Medicaid.gov. Link: <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/index.html>

Six Avenues for State Legislative Oversight

Analytic Bureaucracies: The state government entities supporting legislative oversight through performance and fiscal agency reports and findings. Can include auditors, fiscal agencies, ombuds, legislative research staff, commissions, etc.

Appropriations: Using the state budget process to gain information. Can include reporting requirements, legislative veto, and appropriations subcommittee hearings.

Committees: How legislators can use their committee assignments for oversight. Can include hearings, interviews, interim charges/studies, and the power of the phone call to receive information on programs and services.

Administrative Rule Review: How a legislature contributes input throughout and after the administrative rule process. Can include cost considerations, audit office participation, recommend changes to an agency, delay adoption.

Advice and Consent: When legislatures have an opportunity to leverage their check on certain executive actions to gain information. Can include gubernatorial appointments, executive orders, and reorganization powers.

Monitoring Contracts: More government programs are being provided through contracted services. Legislative oversight on contracts can include mandatory reporting, audits, and hearings with relevant agencies and contractors.

Oversight Plan Framework:

Topic	Subtopic	Factual Question	Avenues	Routine or In-Depth	Timeline
Health Equity and Justice	Medicaid and Reentry	How do returning citizens that qualify for Medicaid become covered?	Analytic Bureaucracies, Appropriations, Committees, Advice & Consent, Admin Rule Review, Monitoring Contracts	Depends	Depends