



MISSISSIPPI DIVISION OF
MEDICAID

Administrative Code

Title 23: Medicaid
Part 100
General Provision

Table Of Contents

Table Of Contents 2

Title 23: Division of Medicaid..... 1

Part 100: General Provisions 1

Chapter 1: Introduction 1

 Rule 1.1: History and Legal Base 1

 Rule 1.2: Supplemental Security Income (SSI) Program 1

 Rule 1.3: Current Structure 2

Chapter 2: Agency Duties 3

 Rule 2.1: Duties of the Division of Medicaid..... 3

 Rule 2.2: Duties of the Department of Child Protection Services (CPS) 4

Chapter 3: Rights of Applicants and Recipients 4

 Rule 3.1: Opportunity to Apply 4

 Rule 3.2: Civil Rights and Non-Discrimination. 4

 Rule 3.3: Access to Information 5

 Rule 3.4: Confidentiality of Information..... 6

 Rule 3.5: Protected Health Information 6

 Rule 3.6: Release of Program Information 7

 Rule 3.7: Safeguarding Confidential Information 8

 Rule 3.8: Privacy and Security Training..... 8

Chapter 4: Right to Appeal and Fair Hearing [Refer to Part 300] 8

Chapter 5: The Hearing Process [Refer to Part 300]..... 8

Chapter 6: Improper Payments [Refer to Part 305] 8

Chapter 7: Quality Control [Refer to Part 305]..... 8

Chapter 8: Coverage of the Categorically Needy in Mississippi [Refer to Part 101] 8

Chapter 9: Administrative Rules 8

 Rule 9.1: Public Notice..... 8

 Rule 9.2: Public Records 9

 Rule 9.3: Declaratory Opinions 12

 Rule 9.4: Oral Proceedings 15

 Rule 9.5: Public Hearings 16

Title 23: Division of Medicaid

Part 100: General Provisions

Chapter 1: Introduction

Rule 1.1: History and Legal Base

- A. Title XIX of the Social Security Act, enacted in 1965, provides authority for states to establish Medicaid programs to provide medical assistance to needy individuals. The program is jointly financed by federal and state governments and administered by states. Within broad federal rules, each state decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the state to the providers that furnish the services.
- B. The Mississippi Legislature passed enabling legislation for the Medicaid program during a special session in 1969. Funds were appropriated, and the Mississippi Medicaid Commission was designated as the single state agency to administer the program.
- C. From 1969 to 1973, the State Department of Public Welfare (DPW) determined Medicaid eligibility. During this period, DPW authorized money payments for the aged, blind and disabled (ABD) as well as dependent children.

Source: Miss. Code Ann. § 43-13-101 *et. seq.*

History: Revised eff. 08/01/2020.

Rule 1.2: Supplemental Security Income (SSI) Program

- A. In 1972, the United States Congress passed amendments to the Social Security Act establishing the Supplemental Security Income (SSI) Program for the aged, blind and disabled (ABD) individuals. The Mississippi Legislature amended its code to specify that State Department of Public Welfare (DPW) would no longer determine eligibility for a monthly payment for ABD-designated recipients beneficiaries..
- B. Under the Social Security Act amendments, states had the option to either grant Medicaid to all persons receiving SSI or to grant Medicaid to persons who met more restrictive criteria as determined individually by states. The Mississippi Legislature voted to limit Medicaid eligibility to persons who met more restrictive criteria and to designate the DPW as the certifying agency for Medicaid.
- C. During the 1980 Session, the Mississippi Legislature extended Medicaid coverage to all individuals receiving SSI. In addition, SSI criteria would be used to determine eligibility for all ABD individuals. During the 1981 Session, the Mississippi Legislature designated the Mississippi Medicaid Commission to make Medicaid determinations for ABD individuals.

Regional Medicaid offices opened in July 1981 to assess eligibility of ABD individuals who did not receive SSI.

Source: 42 U.S.C. § 1382 *et seq.*, Pub. L. 92-603, Miss. Code Ann. § 43-13-115.

History: Revised eff. 08/01/2020.

Rule 1.3: Current Structure

- A. During the 1984 Session, the Mississippi Legislature designated the Division of Medicaid in the Office of the Governor as the single state agency authorized to administer the Medicaid Program.
- B. After the Division of Medicaid's designation, the Mississippi Department of Human Services (MDHS, formerly known as Department of Public Welfare) continued to determine eligibility for Medicaid Programs for children and families. In 1999, MDHS acquired the authority to determine eligibility for the Children's Health Insurance Program (CHIP).
- C. During the 2004 Session, the Mississippi Legislature expanded the Division of Medicaid's eligibility jurisdiction, making the Division of Medicaid additionally responsible for determining initial and ongoing eligibility for all children, families, and pregnant women. The transition of the Families, Children and CHIP (FCC) programs from MDHS to the Division of Medicaid was effective January 1, 2005. MDHS remained the certifying agency for children under Title IV-E services and other related custody and adoption assistance programs and those eligible for Medicaid coverage under the Refugee Resettlement Program.
- D. During the 2012 Session, the Mississippi Legislature transferred the existing contract for insurance services for CHIP from the State and School Employees Health Insurance Management Board to the Division of Medicaid effective January 1, 2013.
- E. The Mississippi Legislature created the Department of Child Protection Services (CPS) during the 2016 Session, making CPS Mississippi's lead child welfare agency. Effective July 1, 2016, CPS became responsible for Medicaid certifications for children in its custody who qualify for Medicaid, and children under Title IV-E services and other related custody and adoption assistance programs and those eligible for Medicaid coverage under the Refugee Resettlement Program.
- F. During the 2018 Session, the Mississippi Legislature made CPS a sub-agency of MDHS. CPS remains independent of MDHS, but was housed within DHS to increase efficiency through the sharing of resources, such as system support and other related administrative functions.

Source: Miss. Code Ann. §§ 41-86-9, 41-86-15, 43-13-101 *et seq.*, 43-13-115, 43-26-1 .

History: Revised eff. 08/01/2020.

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. Conducting fair and impartial hearings.
- E. Safeguarding the confidentiality of records.
- F. Detecting and investigating alleged violations, and addressing 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 distributing 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 C.F.R. § 435.1200; Miss. Code Ann. § 43-13-121.

History: Revised eff. 08/01/2020; Revised eff. 09/01/2014.

Rule 2.2: Duties of the Department of Child Protection Services (CPS)

- A. The duties of the Child Protection Services (CPS) with regard to Medicaid include, but are not limited to:
1. Providing the opportunity for persons to apply for Medicaid benefits through all foster care and refugee programs.
 2. Determining eligibility for foster children and adoption assistance-related Medicaid applicants, certifying eligible children, and notifying the appropriate individuals of eligibility decisions certified by CPS
 3. Renewing foster care and adoption assistance Medicaid eligibility at required intervals.
 4. Providing the opportunity for filing appeals.
 5. Identifying and reporting third-party resources for foster care and adoption assistance beneficiaries to the Division of Medicaid.

Source: Miss. Code Ann. §§ 43-13-115, 43-26-1. .

History: Revised eff. 08/01/2020.

Chapter 3: Rights of Applicants and Recipients

Rule 3.1: Opportunity to Apply

Any individual, who requests assistance, including those who are clearly ineligible, must be allowed to apply without delay. The Division of Medicaid must make a reasonable effort to assist the applicant in establishing eligibility.

Source: 42 C.F.R. §§ 435.906, 435.908 (Rev. .

History: Revised eff. 08/01/2020.

Rule 3.2: Civil Rights and Non-Discrimination.

The Division of Medicaid complies with all state and federal policies which prohibit discrimination on the basis of race, age, sex, national origin, handicap or disability as defined through the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 and the Civil Rights Act of 1964. All complaints of discrimination will be investigated in accordance with state and federal laws and regulations.

Source: 42 C.F.R. § 435.901.

History: Revised eff. 08/01/2020.

Rule 3.3: Access to Information

- A. The beneficiary or their authorized representative may have access to information in the eligibility case record to either review the file or request copies of information from the file, in certain situations and under specified conditions as required by the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The privacy restrictions for protected health information (PHI) under HIPAA are specific regarding the disclosure of information to and on behalf of a Medicaid beneficiary. Privacy policies and procedures for all disclosures and the authorization forms required prior to the release of case record information are located in the HIPAA Privacy Policies Manual and the HIPAA Privacy Procedures Manual.
- B. The HIPAA Privacy Procedures Manual outlines requirements for the release of information, with or without consent of the beneficiary, and the type and amount of information that is allowed to be released to or for:
 - 1. A Medicaid beneficiary.
 - 2. A Personal Representative of a beneficiary as defined by HIPAA.
 - 3. A legal representative of a beneficiary.
 - 4. A parent or guardian of a minor child.
 - 5. Law enforcement agencies or officials.
 - 6. Public authorities.
 - 7. A judicial or administrative hearing.
 - 8. Federal or state agencies.
 - 9. Audits or compliance reviews.
 - 10. Legislators or elected officials.

11. Providers and their contractors.

Source: 45 C.F.R. Parts 160,164; Miss. Code Ann. §§ 43-12-17, 43-13-121.

History: Revised eff. 08/01/2020.

Rule 3.4: Confidentiality of Information

All individuals have the right to a confidential relationship with the Division of Medicaid. All information maintained about current and former beneficiaries beneficiariesbeneficiariesand current and denied applicants is confidential and must be safeguarded. The Division of Medicaid adheres to state laws and federal regulations regarding the protection of the confidentiality of information about applicants andbeneficiaries. Protected information may only be disclosed without the individual's authorization in accordance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

Source: 42 C.F.R. § 431. 300 *et seq.*; 45 C.F.R. Parts 160, 164.Miss. Code Ann. §§ 43-13-117, 43-13-121 .

History: Revised eff. 08/01/2020.

Rule 3.5: Protected Health Information

A. Protected Health Information (PHI) is information created or received by the Division of Medicaid that identifies an individual or for which there is a reasonable basis to believe an individual can be identified, is transmitted or maintained by electronic media or in any other form, with the exception of any such records held by the Division of Medicaid in its role as an employer or regarding a person who has been deceased for more than 50 years, and relates to the following:

1. The past, present, or future physical or mental health or condition of an individual,
2. The provision of health care to an individual, or
3. The past, present, or future payment for the provision of health care to an individual;

B. Protected Health Information (PHI) consists of eligibility/financial and/or medical information and includes, but is not limited to, the following information:

1. Eligibility information:
 - a) Name and address of applicants and beneficiaries,
 - b) Social and economic conditions or circumstances,

- c) Evaluation of personal information such as financial status, citizenship, residence, age and other demographic characteristics,
- d) Information received in connection with the identification of legally liable third-party resources,
- e) Information received for verifying income eligibility and benefit level and
- f) Income information verifying income eligibility and benefit level received from the Social Security Administration, the Veteran's Administration, State Retirement Board, or Medicare. Information provided by these agencies must be safeguarded according to the requirements of the agency that furnished the data.

2. Medical information:

- a) Medical data, including diagnosis and past history of disease or disability,
- b) Medical services provided,
- c) Medical status, psychobehavioral status, and functional ability,
- d) Results of laboratory tests, and
- e) Medication records.

Source: 42 C.F.R. §§ 160.103, 435.901, Miss. Code Ann. § 43-13-121.

History: Revised eff. 08/01/2020.

Rule 3.6: Release of Program Information

The Division of Medicaid releases program information for the purposes of informing the public and conducting necessary business in accordance with all applicable privacy laws. The release of such information includes, but is not limited to:

- A. The annual report of the Division of Medicaid, published pursuant to state law, containing the total number of beneficiaries, the total amount paid for medical assistance and care, the total number of applications, the total number of applications approved and denied, and similar data.
- B. Pamphlets, brochures and other documents prepared for distribution to the public.
- C. Information exchanged with other state or federal agencies pursuant to a contract or written agreement.

Source: Miss. Code Ann. § 43-13-121.

History: Revised eff. 08/01/2020.

Rule 3.7: Safeguarding Confidential Information

- A. Privacy laws protect electronic records, paper records and oral communication. Employees of the Division of Medicaid are responsible for safeguarding the confidentiality of applicant and beneficiary information in all forms to prevent unauthorized disclosure.
- B. Failure to abide by the policies and procedures regarding confidentiality of applicant and beneficiary information, either intentionally or unintentionally, can result in disciplinary action. In addition, any violation of privacy and security policies and procedures may be referred to state and/or federal agencies for prosecution.

Source: 42 C.F.R. § 435.901; 45 C.F.R. Parts 160, 164. .

History: Revised eff. 08/01/2020.

Rule 3.8: Privacy and Security Training

- A. The Division of Medicaid ensures that all workforce members receive training regarding the privacy and security requirements of applicable state and federal laws, as well as the privacy and security policies and procedures of the the Division. In addition, all workforce members are trained how to identify, report, and prevent potential privacy and security incidents.
- B. Privacy and security training is ongoing throughout an employee's tenure with the Division of Medicaid and includes, but is not limited to, training in relevant Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandates and periodic security reminders.

Source: 45 C.F.R Parts 160, 164.

History: Revised eff. 08/01/2020.

Chapter 4: Right to Appeal and Fair Hearing [Refer to Part 300]

Chapter 5: The Hearing Process [Refer to Part 300]

Chapter 6: Improper Payments [Refer to Part 305]

Chapter 7: Quality Control [Refer to Part 305]

Chapter 8: Coverage of the Categorically Needy in Mississippi [Refer to Part 101]

Chapter 9: Administrative Rules

Rule 9.1: Public Notice

The Division of Medicaid provides public notice of any:

- A. Significant proposed change in methods and standards for setting payment rates for State Plan services, except when a change is:
 - 1. Being made to conform to Medicare methods or levels of reimbursement,
 - 2. Required by a court order, or
 - 3. Based on changes in wholesalers' or manufactures' prices of drugs or materials, if the Division of Medicaid's reimbursement system is based on material cost plus a professional fee.
- B. Significant proposed change in methods and standards for setting payment rates and an opportunity for public input on substantive changes to services and operations of a 1915 Waiver.
- C. Submission of an application or extension of an 1115 Demonstration Waiver.
- D. Proposed change to eligibility or benefits for the Children's Health Insurance Program (CHIP).
- E. Proposed significant modifications to existing premiums or cost sharing, including any change in the consequences for non-payment.
- F. Requests for bids or proposals as required by state law.
- G. Proposed changes to the MississippiCAN program.

Source: 42 CFR §§ 431.400, 431.404, 431.408, 438.50, 438.202, 441.301, 441.304, 447.57, 447.205, 447.253, 457.65; Miss. Code Ann. §§ 25-9-120, 31-7-13, 43-13-121.

History: New Rule eff. 07/01/2015.

Rule 9.2: Public Records

- A. The Division of Medicaid defines "public records" as all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of the Division of Medicaid or required to be maintained by the Division of Medicaid.
- B. The Division of Medicaid allows any person the right to inspect, copy, mechanically reproduce or obtain a reproduction of any public record of the Division of Medicaid, unless

the record is exempt from public inspection as specified by federal and/or state law, during the Division of Medicaid's normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays.

1. Public records must be inspected or reproduced at the central or regional office(s) of the Division of Medicaid, depending on the type of public records requested.
 2. The Division of Medicaid may have a staff member observe the inspection or reproduction of public records by the requestor.
 3. The Division of Medicaid will provide reasonable space for the inspection and/or reproduction of public records.
 4. Requested public records and/or information will be provided by a Division of Medicaid staff member.
 5. Public records subject to inspection and/or reproduction may not be destroyed, altered, marked upon, or disassembled in any manner by the requestor.
 6. The time, place and manner of inspection and/or reproduction of public records cannot interfere with other essential duties or unreasonably disrupt operations of the Division of Medicaid.
 7. The time, place and manner of inspection and/or reproduction of public records must be mutually agreed upon by the Division of Medicaid and the requestor.
- C. The requestor must claim or review the assembled records within thirty (30) days of the Division of Medicaid's notification to him or her that the records are available for inspection or reproduction.
1. The Division of Medicaid will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the Division of Medicaid to make arrangements to claim or review the records.
 2. If the requestor or a representative of the requestor fails to claim or review the records within the thirty (30) day period or make other arrangements, the Division of Medicaid may close the request and refile the assembled records.
- D. Any person requesting to inspect, copy, mechanically reproduce or obtain a reproduction of public records of the Division of Medicaid must make the request in writing by email, fax or letter addressed to the Division of Medicaid's public records officer and must include the following information:
1. Name of requestor,
 2. Address of requestor,

3. Other requestor contact information, including telephone number and an email address,
 4. Identification of the requested public records, by individual item or by category with reasonable particularity, so that the public records officer or designee can locate the public records, and
 5. Date of request.
- E. Within seven (7) business days of receipt of the request, the public records officer will:
1. Make the public records available for inspection and/or reproduction,
 2. Deliver requested copies to the requestor if terms of payment are agreed upon,
 3. Request clarification from the requestor via telephone, letter or email, or
 4. Deny the request and give the specific exemption or other authority and/or provide a brief explanation.
- F. If the Division of Medicaid cannot produce the requested public records within seven (7) business days of the request, the public records officer will:
1. Provide the requestor with notification specifying the reason why the requested public records cannot be produced within seven (7) business days, and
 2. Obtain a mutually agreed upon delivery date for the public records to be released.
- G. The Division of Medicaid may charge for the processing, retrieval/searching, reviewing and duplicating of information and/or public records not readily available, unless the information and/or public records are requested by a federal agency, institution of higher learning, or a Medicaid beneficiary, as follows:
1. The actual cost of searching for, reviewing and redacting exempt information from public records, which is based on the hourly rate of compensation for the lowest paid agency employee qualified to perform the tasks multiplied by the actual time to complete the task according to the Division of Medicaid's fee schedule,
 2. The cost of any associated computer run time or database processing time related to the retrieval of data according to the Division of Medicaid's fee schedule,
 3. The cost of electronic copies of public records being placed on a data storage device. There is no charge for e-mailing electronic public records to a requestor, unless another cost applies such as a scanning fee or system costs according to the Division of Medicaid's fee schedule,

4. Fifty Cents (\$0.50) per page for standard black and white and/or color copies of any public record made on a Division of Medicaid copier, and
 5. The actual cost of mailing, including the cost of the shipping container.
- H. The Division of Medicaid requires payment, by check or money order, to the Division of Medicaid in the amount of the estimated cost of processing or retrieval of public records and/or information prior to the completion of the request.

Source: Miss. Code Ann. §§ 25-61-1, et seq., 43-13-121.

History: New Rule eff. 07/01/2015.

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.

Rule 9.5: Public Hearings

- A. This rule applies to all public hearings held for the purpose of providing the public with an opportunity for input on the Division of Medicaid's submissions to the Centers for Medicare and Medicaid Services (CMS).
- B. The date, time, and place of a public hearing will be published as part of a public notice.

- C. Public hearings held by the Division of Medicaid will allow for a reasonable time for the public to provide input.
- D. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious administration of the public hearing.
- E. The Division of Medicaid is not required to respond to public comments or questions during a public hearing.
- F. Physical and documentary submissions presented by participants of a public hearing are to be submitted to the presiding officer and become property of the Division of Medicaid, subject to the public records request procedure.
- G. The Division of Medicaid may record public hearings by stenographic or electronic means.

Source: 42 CFR § 447.205; Miss. Code Ann. § 43-13-121.

History: New Rule eff. 07/01/2015.