Role of State Law in Limiting Medicaid Changes

National Health Law Program
National Association of Community Health Centers

The Deficit Reduction Act of 2005 (DRA) (P. L. 109-171) revises important provisions of the Medicaid statute in ways that are likely to have substantial impact on Medicaid beneficiaries and the safety-net providers that serve them. Among other things, the Act provides states with the authority to impose new premium and cost-sharing requirements on certain groups of Medicaid beneficiaries, while simultaneously permitting the states to substantially redefine and limit the covered services and benefits to which Medicaid-enrolled persons are entitled. These statutory amendments have the potential to impact almost all groups of beneficiaries, including children, the elderly and those with disabilities, which in turn will result in a financial strain on the rest of the health care system, and certainly on health centers as they continue to serve these patients.

One characteristic of the DRA amendments is that they allow states to implement service, premium and cost-sharing changes simply by amending their state Medicaid plans. Prior to the DRA, states seeking such sweeping alterations to their programs had to get approval of a Section 1115 demonstration waiver from the U.S. Secretary of Health and Human Services. The DRA establishes these potential service and cost-sharing restrictions as legitimate state options within the federal law and allows a state to adopt these changes as a matter of course, simply by amending its state Medicaid plan.

While *federal* Medicaid law may now allow states to revise their services and cost-sharing requirements for certain Medicaid populations more easily, individual states may be constrained in making such changes as a result of their own *state laws*. For example, a particular state may have Medicaid legislation that specifies the services that will be provided in its Medicaid program or the cost-sharing limits that may be imposed on recipients; or it may have a general requirement that mandates state legislative approval before the state Medicaid agency can amend its state plan or before it can make substantive changes in its Medicaid program that will have a certain financial impact on over-all state expenditures in a fiscal year. If such mandates and/or limitations are written into state law, then the state agency cannot implement a DRA-enacted *option* unless the relevant state law is first amended by the state legislature or the state complies with the procedural requirements established by the state legislation.

The National Health Law Program and the National Association of Community Health Centers have researched the relevant laws in the 50 states and the District of Columbia to determine which jurisdictions currently have legislation that may restrict the ability of their State Medicaid agencies to implement the service and cost-sharing options in the DRA. Our research—as reflected in the chart below — indicates:

- where a state's statutory Medicaid language can be found and whether those statutes contain any substantive provisions;
- whether the state requires legislative approval for state plan amendments (SPAs) or waivers;
- if the state has statutory requirements related to Medicaid cost-sharing and benefits;
- which state's Medicaid changes are contingent upon fiscal appropriations;
- whether a state has regulations containing substantive Medicaid requirements and where they are located;
- where administrative procedures regarding public notice and comment can be found; and
- when legislative sessions convene.

The information reported below on individual states comes from three sources: responses from State Primary Care Associations (PCA) to a series of questions posed by NACHC; responses to a series of questions posed by NHeLP on its Listserv; and research of state statutes carried out by NACHC and NHeLP. In some cases, the state laws in question are less than crystal clear and, and local advocates will want to check to see how (of if) they are being implemented in their state. Further, this is a fluid area of law (a number of bills that would affect this chart were pending at the time of publication), so advocates will want to check the status of the laws in their states when embarking upon efforts to prevent harmful changes to Medicaid.

The results of our research, while not necessarily surprising, are nonetheless noteworthy:

- Four states have provisions requiring legislative approval of SPA's (Connecticut, District of Columbia, Missouri, and New Hampshire). Kentucky and Nebraska require notice to the legislature regarding SPAs and several other states (Alaska, Minnesota, Ohio, and Vermont) have requirements for legislative notice and review of rule changes.

- Thirteen states have a provision requiring legislative approval of waivers (Colorado, Florida, Louisiana, Massachusetts, Missouri Montana, Nevada, New Hampshire, North Dakota, Ohio, Oregon, District of Columbia, and Wyoming).

- Twenty-two (22) states have some form of statutory requirements related to Medicaid cost sharing. (Alabama, Alaska, California, Connecticut, Florida, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oregon, Texas, Vermont, and Wisconsin).

- Twenty (20) states have some form of statutory Medicaid benefits requirements. (Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, and Pennsylvania).

- Medicaid changes in 23 states are contingent upon fiscal appropriations. (Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, Ohio, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Virginia, Washington, District of Columbia, West Virginia, and Wisconsin).

- Eight states do not have state regulations that set forth substantive requirements for the state Medicaid program (Arkansas, Connecticut, Michigan, Mississippi, Nevada, North Dakota, Vermont, and Wyoming). In these states, the rules by which the Medicaid program is operated are found in program manuals, which may or may not have the force of law in the state, depending on definitions contained in the state's administrative procedures act.

NOTE ON USE OF THE CHART: UNDER THOSE COLUMNS THAT INDICATE WHETHER OR NOT APPROVAL OF A PROPOSED ACTION IS REQUIRED, A **NO** (IN BOLD) INDICATES THAT WHILE APPROVAL IS NOT NECESSARY, REVIEW OF THAT ACTION IS REQUIRED.

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Alabama	YES[2]	NO	NO	NO	YES[3]	**NO[4]**	NO[5]	YES[6]	YES[7]	1/10-4/24
Alaska	YES[8]	**NO[9]**	NO	**NO[10]**	YES[11]	YES[12]	NO[13]	YES[14]	YES[15]	1/9-5/9
Arizona	YES[16]	NO	NO	**NO[17]**	NO	YES[18]	NO	YES[19]	YES[20]	1/9-Late April
Arkansas	YES[21]	**NO[22]**	NO	NO	NO	NO	NO[23]	NO[24]	YES[25]	No regular session
California	YES[26]	NO	NO	NO[27]	YES[28]	YES[29]	NO[30]	YES[31]	YES[32]	1/4-8/31

[1] National Conference of State Legislatures
[2] ALA CODE §§ 22-6-1 -11 (2005).
[3] ALA CODE § 22-6-4.1. This section authorizes a co-payment of $2 per physician visit.
[4] ALA CODE §§ 22-6-10 to 11.
[5] ALA CODE § 22-6-1.
[6] ALA ADMIN. CODE 560-X-1.01 (2006) *et. seq*.
[7] ALA CODE §§ 41-22-5.
[8] ALASKA STAT. §§ 47.07.010-900 (2005).
[9] ALASKA STAT. §§ 24.05.182, 24.20.400. Note: legislative committees to *review* proposed regulations.
[10] Id. Standing Committee of Legislature shall review proposed regulations, amendments to regulation or repeal of regulation.
[11] ALASKA STAT. § 47.07.042. This section authorizes DHHS to use the maximum allowable federal amounts for cost sharing, except for inpatient hospital services, which is the lesser of $50 per day or the federal amount.
[12] ALASKA STAT. § 47.07.030. This section itemizes optional benefits.
[13] ALASKA STAT. § 47.07.050. This section stipulates that the Department of Health and Social Services must compile reports for the legislature, if requested.
[14] ALASKA ADMIN. CODE 7 § 43 (2006) *et. seq*.
[15] ALASKA STAT. § 44-62-4.
[16] ARIZ. REV. STAT. § 36-2901 (2005). *et. seq.*
[17] ARIZ. REV. STAT. § 36-109. Advisory Health Council.
[18] ARIZ. REV. STAT. § 36-2907. The statute requires that certain services be provided, such as periodic health screening for persons under the age of 21, eye examinations and emergency dental care for persons over the age of 21, podiatry care, and family planning.
[19] ARIZ. ADMIN. CODE 9 (2006). In addition see Ariz. Admin. Reg.
[20] ARIZ. REV. STAT. § 41-6-1.
[21] ARK. CODE ANN. § 20-77-101 – 1715 (2005).
[22] ARK. CODE ANN. § 20-77-110. This section indicates that before any changes can be made to reimbursement, and before rule, regulation, or amendments can be adopted, the Governor and Chief Fiscal Officer must approve.
[23] ARK. CODE ANN. §20-77-111. The Director of the Department of Health and Human Services must report to legislature quarterly.
[24] Arkansas Division of Medical Services Unit of Program Planning and Development promulgates Medicaid Policy Manuals.
[25] ARK. CODE ANN. § 25-15-204.

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Colorado	YES[33]	NO	YES[34]	YES[35]	NO	YES[36]	NO	YES[37]	YES[38]	1/11-5/10
Connecti-cut	YES[39]	YES[40]	**NO[41]**	YES[42]	YES[43]	YES[44]	NO	NO[45]	YES[46]	2/8-5/3
Delaware	YES[47]	NO	NO	NO	NO	NO	NO	YES[48]	YES[49]	1/10-6/30

[26] CAL. WELF. & INST. CODE §§ 14000-14199.3 (2005).

[27] CAL. WELF. & INST. CODE § 14165. California Medical Assistance Commission.

[28] CAL. WELF. & INST. CODE §14134. This section establishes a co-payment ceiling of $5 for non-emergency services in an emergency room and $1 for other medical services and drugs.

[29] CAL. WELF. & INST. CODE §§14021.3-14021.7. The legislature has affirmatively directed the Department of Health Services to amend the plan to cover certain services. In addition, § 14132 provides a detailed list of benefits that must be provided either for all persons or for persons under the age of 21.

[30] CAL. WELF. & INST. CODE §14100.5: All Dept. of Finance approved Medi-Cal estimates will then be made available to legislative fiscal committees. More specifically, under § 14150: within 60 days of budget, the department shall notify the legislature of any plans to withhold and not allocate any eligibility activities that were appropriated for administration.

[31] CAL. CODE REGS. tit. 17 & tit. 28 (2006). In addition, see Cal. Regulatory Notice Reg.

[32] CAL. WELF. & INST. CODE §§ 2-3-1-3.5-5.

[33] COLO. REV. STAT. § 26-4-101-1408 (2005).

[34] COLO. REV. STAT. § 26-4-535. This section authorizes the state to prepare a waiver and requires the state to submit it to appropriate legislative committees for approval.

[35] Id. Waivers must be submitted to Senate and House Health and Human Services Committees. In turn joint committees must hold at least four joint public hearings and within 60 days of the submission of the waiver to the joint committees, the Joint Health and Human Services Committee must either approve or reject the waiver as submitted by the department.

[36] COLO. REV. STAT. § 26-4-202. This section itemizes the mandated services for categorically needy.

[37] 10 COLO. CODE REGS. § 2505-10 (2006) *et seq.* In addition, see Colo. Reg.

[38] COLO. REV. STAT. § 24-4-101-108.

[39] CONN. GEN. STAT. § 17b-220-336 (2005).

[40] CONN. GEN. STAT. §§ 17b-291, 294(h).

[41] CONN. GEN. STAT. § 17b-303. This section requires notice to committees for any waivers related to HUSKY Plan Part A and B.

[42] CONN. GEN. STAT. § 17b-291, 303. Joint Standing Committees in General Assembly must approve changes related to Children's Health, waivers, and HUSKY programs.

[43] CONN. GEN. STAT. § 17b-17b-295(1). Stipulates that cost sharing is limited to 5 percent of a family's annual gross income.

[44] CONN. GEN. STAT. §§ 17b-278a, 278c, 281. Statutes require Medicaid payments for smoking cessation programs, mammograms, and oxygen products. In addition, §17b-294(d) also requires that persons in the Husky program get benefits as specified in Title V of the Social Security Act, including powered wheelchairs.

[45] The Connecticut Medical Assistance Program uses manuals and various other forms of publications to provide specific measures regarding state Medicaid program.

[46] CONN. GEN. STAT. § 4-168.

[47] DEL. CODE. ANN. § 501-523 (2006)

[48] See Delaware Register of Regulations.

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Florida	YES[50]	NO	YES[51]	YES[52]	YES[53]	NO	NO	YES[54]	YES[55]	3/7-5/5
Georgia	YES[56]	NO	**NO[57]**	NO	NO	NO	NO[58]	YES[59]	YES[60]	1/9-Mid March
Hawaii	YES[61]	NO	NO	**NO[62]**	NO	NO	NO	YES[63]	YES[64]	1/18-Early May
Idaho	YES[65]	NO	NO	NO	NO	YES[66]	NO	YES[67]	YES[68]	1/9-Late March

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[49] DEL. CODE. ANN. § 10115.

[50] FLA. STAT. ch. 409 (2005).

[51] FLA. STAT. ch. 409.91211. Statute authorizes the state to seek a waiver and requires legislative approval prior to implementation. If waiver has been approved by CMS and the legislature then implementation begins July 1, 2006.

[52] Id. § 91211(6) stipulates that federally approved waivers must b submitted to the President of the Senate and the Speaker of the House of Representatives for referral to appropriate legislative committees (ex: Health Care Regulation Committee, Health Care Appropriations Committee, etc). The appropriate committees shall recommend whether to approve the implementation of any waivers to the Legislature as a whole.

[53] FLA. STAT. ch. 409.816(1), 409.816(2), 409.9081, 409.9121. No cost sharing for children in Medicaid, section 409.816(1) and sets ceilings for others. Section 409.816(2). For other Medicaid recipients there are co-payment ceilings, e.g., $3 for outpatient hospital and $2 for a physician. Section 409.9081. May be overridden by waiver for FL's Medicaid managed care program Section 409-9121.

[54] FLA. ADMIN. CODE. ANN. 59-1 (2006) *et. seq*.

[55] FLA. STAT. ch. 120.54.

[56] GA. CODE ANN. § 49-4-1 (2005).

[57] GA CODE ANN § 49-4-152. Section gives DCH authority to pursue demonstration/waiver projects under Title XIX but does not call for legislative approval before the waiver is submitted or implemented.

[58] GA CODE ANN § 49-4-142. Section gives DCH authority to adopt and administer state plan for medical assistance "within the appropriations made available to the department." Does not appear to be a specific requirement that the state must clear specific plan amendments or regulations with the legislature to assure that proposed changes are within appropriation limits or the like.

[59] GA COMP. R. & REGS. 350-1 (2006) *et. seq*.

[60] GA CODE ANN § 49-4-142. Section stipulates that DCH must establish "reasonable procedures for notice to interested parties and an opportunity to be heard prior to the adoption, amendment, or repeal of any such rule or regulation.

[61] HAW. REV. STAT. § 346 (2005).

[62] HAW. REV. STAT. § 346-14.5. Financial Assistance Advisory Council.

[63] Hawaii Administrative Rules for Programs 17-0001, 17-0658, 17-0659 (2006).

[64] HAW. REV. STAT. § 91-3.

[65] IDAHO CODE § 56-209b (2005).

[66] IDAHO CODE § 56-209(d). Section mandates adult dental, vision and hearing services among other things.

[67] IDAHO ADMIN. CODE § 16.03.09 (2006) *et. seq.* Rules Governing the Medical Assistance Program.

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Illinois	YES[69]	NO	NO	NO	YES[70]	YES[71]	NO	YES[72]	YES[73]	1/11 - 12/31
Indiana	YES[74]	NO	NO	NO	YES[75]	YES[76]	NO[77]	YES[78]	YES[79]	1/9-3/14
Iowa	YES[80]	NO	NO	**NO[81]**	YES[82]	YES[83]	YES[84]	YES[85]	YES[86]	1/9-late April
Kansas	YES[87]	NO	NO	NO	NO	NO	NO[88]	YES[89]	YES[90]	1/9-late April
Kentucky	YES[91]	**NO[92]**	NO	**NO[93]**	YES[94]	NO	YES[95]	YES[96]	YES[97]	1/3-4/15

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[68] IDAHO CODE § 67-5220-5292. Section 5224(2)(d) requires that the state include an explanatory statement in its notice of adoption of a pending rule. Specifically, the requirement is that "an identification of any portion of the pending rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature". In addition, § 5224(5) states that a pending rule becomes final and effective "upon conclusion of the legislative session at which the rule was submitted to the legislature for review, or as provided in the rule, but no pending rule adopted by an agency shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review."

[69] ILL. COMP. STAT. 305/5-5 (2005).

[70] ILL. COMP. STAT. 305/5-4.1. Statute sets a ceiling on co-payments for certain services: $3 for brand name drugs; zero for generic drugs; $1 for other pharmacy services; $2 for physician services; $3 for hospital outpatient services; and zero for renal dialysis, radiation therapy, cancer chemotherapy, insulin, and other products used on a recurring basis.

[71] ILL. COMP. STAT. 305/5-5. The statue requires payment for a smoking cessation program; mammography for women over the age of 35; and dental services and eyeglasses for those participating in an education, training, or employment program.

[72] ILL. ADMIN. CODE tit. 89, § 120 (2006) *et. seq.*

[73] ILL. COMP. STAT. 100/1-1 et seq. Section 100/5-40 provides the general rulemaking requirements.

[74] IND. CODE § 12-15 (2005).

[75] IND. CODE § 12-15-6-4. Section provides statutory ban on co-payments for certain groups, e.g., children, pregnancy-related services.

[76] IND. CODE §§ 12-15-5-1, 12-15-5-5. The statute itemizes 23 medical services that are covered in the State's Medicaid program.

[77] IND. CODE. ANN. §§ 4-22-2-28, 4 –22-2-29, 12-15-1-10, and 12-15-1-16(d).

[78] IND. ADMIN. CODE tit. 405 art. 1 (2006) *et. seq.*

[79] IND. CODE. ANN. §§ 4-22-2-17 – 4-22-2-28.

[80] IOWA CODE ANN. § 249A (2005).

[81] IOWA CODE ANN. § 249A.4B. Medical Assistance Advisory Council.

[82] IOWA CODE ANN. §249A.4.14. Statute permits co-payments only for benefits that were optional as of February 1, 1991.

[83] IOWA CODE ANN. § 249A.18, 249A.32. EPSDT required under Section 249A.32B and FQHC/RHC required under Section 249A.18.

[84] IOWA CODE ANN. §§ 249A.3, 249A.4.

[85] IOWA ADMIN. CODE 441.-1.1 (2006) *et. seq.*

[86] IOWA CODE ANN. §§ 17A.1-17A.33.

[87] KAN. STAT. ANN. § 39-708c(s).

[88] KAN. STAT. ANN. § 39-708(c). There are fiscal reporting requirements to legislature and govt. on expenditures and costs of the program to the state.

[89] KAN. ADMIN. REGS. 39, 129 (2006) *et. seq.*

[90] KAN. STAT. ANN. §§ 77-501 – 77-550

[91] KY. REV. STAT. ANN § 205 (2005).

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Louisiana	YES[98]	NO	YES[99]	NO	NO	NO	NO[100]	YES[101]	YES[102]	3/27-6/19
Maine	YES[103]	NO	NO	NO	YES[104]	YES[105]	YES[106]	YES[107]	YES[108]	1/4-4/19
Maryland	YES[109]	NO	NO	NO	NO	YES[110]	YES[111]	YES[112]	YES[113]	1/11-4/10
Massachu-setts	YES[114]	NO	YES[115]	**NO[116]**	YES[117]	YES[118]	YES[119]	YES[120]	YES[121]	1/4-throughout the year

[92] KY. REV. STAT. ANN § 205.525(1). The legislature must be notified of any amendments to the Medicaid plan.

[93] Id. Cabinet for Health and Family Services shall provide copy of application for waiver, waiver amendments, or request for plan amendment to Interim Joint Committee on Health and Welfare and Interim Joint Committee on Appropriations and Revenue. In addition, at least quarterly Cabinet must provide both Committees with status of application for waiver, waiver amendment or request for plan amendment to Medicaid Program. In addition see § 205.540. Advisory Council for Medical Assistance.

[94] KY. REV. STAT. ANN § 205.6312(2). State law prohibits co-payments for certain groups, e.g., children and pregnant women.

[95] KY. REV. STAT. ANN §§ 205.210, 205.240, and 205.525 and Title VI, Chapter 45 – Budget and Financial Administration.

[96] 907 KY. ADMIN. REGS. 1:005 (2006) *et. seq.*

[97] KY. REV. STAT. ANN. §§ 13A.010 – 13A.350.

[98] LA. REV. STAT. ANN. § 46:153 (2005).

[99] LA. REV. STAT. ANN. § 46:160.4.b.11. Specifically, Demonstration Projects.

[100] There are fiscal reporting requirements under LA. REV. STAT. ANN. §§ 46:52, 46:53, and Title 39 – Public Finance. More specifically 39.77 – penalties for agency going over budget appropriations.

[101] LA. ADMIN. CODE tit. 50 (2006) *et. seq.* In addition, see La. Reg.

[102] LA. REV. STAT. ANN. §§ 49:950 – 49:970

[103] ME. REV. STAT. ANN. § 3172 (2005).

[104] ME. REV. STAT. ANN. § 3173-C. Statute prohibits co-payments for certain services, e.g., family planning and outlines a schedule of co-pays.

[105] ME. REV. STAT. ANN. §§3173D, F, G, and S. The statute requires coverage for alcoholism, dental care for those over 21, pregnancy, children under the age of one, and dental care for children.

[106] ME. REV. STAT. ANN. §§ 203.

[107] CODE ME. R. § 10, 14 (2006). In addition, Maine DHHS promulgates manuals and publications related to rules and changes to state Medicaid program.

[108] ME. REV. STAT. ANN. §§ 8001 – 1116.

[109] MD. CODE ANN. HEALTH-GEN.I. § 15-103.

[110] Id. Dental services for pregnant women, certain services for substance abuse enrollees older than 21.

[111] Id.

[112] MD. REGS. CODE tit. 10 (2006) *et. seq.* In addition, see Md. Reg.

[113] MD. CODE ANN. STATE GOV'T §§ 10-101 – 10-905.

[114] MASS. GEN. LAWS 118E § 1-52 (2005).

[115] MASS. GEN. LAWS 118E § 9A. Specifically Demonstration Projects.

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Michigan	YES[122]	NO	NO	YES[123]	NO	YES[124]	YES[125]	NO[126]	YES[127]	1/11- throughout the year
Minnesota	YES[128]	**NO[129]**	**NO[130]**	NO	YES[131]	YES[132]	NO	YES[133]	YES[134]	3/1-5/22
Mississ-ippi	YES[135]	NO	NO	NO	NO	YES[136]	YES[137]	NO[138]	YES[139]	1/3-4/2

[116] MASS. GEN. LAWS 118E § 6. Medical Care Advisory Committee shall have opportunity to participate in policy development and program administration. Furthermore, see 118E § 7. In addition to all powers conferred on state agencies, Division or Department of Elder Affairs as appropriate has the power to make, amend, and repeal all rules and regulations for the management of its affairs.

[117] MASS. GEN. LAWS 118E § 25 provides that co-payments cannot exceed $3 unless part of a managed care plan.

[118] MASS. GEN. LAWS 118E §10A, 10B, and 10C. The statute requires prenatal care, childbirth care, and postpartum care; newborn hearing screening tests; and diabetes treatment. Sections 10A, 10B, and 10C.

[119] MASS. GEN. LAWS 118E § 9B.

[120] MASS. REGS. CODE tit. 130 § 430-650 (2006) et. seq. In addition, see Mass. Reg.

[121] MASS. GEN. LAWS 30A §§ 1-17.

[122] MICH. COMP. LAWS § 400.1-40.121.

[123] MICH. COMP. LAWS § 400.2. Michigan Social Welfare Commission.

[124] MICH. COMP. LAWS §400.111k. Medicaid must provide lead screening for children.

[125] MICH. COMP. LAWS §§ 400.1b.

[126] MICH. ADMIN. CODE R. 325.6101-400.7706, 722.701-706 (2006).

[127] MICH. COMP. LAWS ANN. §§ 24.201 – 24.328.

[128] MINN. STAT. § 256B (2005).

[129] MINN. STAT. § 256B.04(5). Although, statute does not contain a procedural legislative approval requirement for SPA's, there is an annual reporting requirement, that mandates that the State Medicaid agency provide the State Legislature with a full report on the operations and expenditures of funds for the state's Medicaid program.

[130] MINN. STAT. § 256.092B(4) – indicates that Commissioner cannot approve home and community based waivers/demonstration projects for individuals who suffer from mental retardation or related conditions, unless they comply with state law and are within state fiscal Medicaid limitations/appropriations.

[131] MINN. STAT. § 256B.0631 establishes specific co-payment ceilings for certain services.

[132] MINN. STAT. § 256B.0625 itemizes all covered services including inpatient hospital and physicians services among others.

[133] MINN. R. 9505 (2006) *et. seq.*

[134] MINN. STAT. §§ 256B.065,14.01 to 14.69.

[135] MISS. CODE ANN §§ 43-13-101-145 (2005).

[136] MISS. CODE ANN § 43-13-117. Section itemizes all covered services including FQHC.

[137] MISS. CODE ANN § 43-13-111.

[138] Mississippi Division of Medicaid promulgates manuals reporting state Medicaid program policies.

[139] MISS. CODE ANN. §§ 25-43-1-19.

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Missouri	YES[140]	YES[141]	YES[142]	YES[143]	YES[144]	YES[145]	YES[146]	YES[147]	YES[148]	1/4-5/30
Montana	YES[149]	NO	YES[150]	YES[151]	NO	NO	YES[152]	YES[153]	YES[154]	No regular session
Nebraska	YES[155]	**NO[156]**	**NO[157]**	YES[158]	YES[159]	YES[160]	NO[161]	YES[162]	YES[163]	1/4-mid April

[140] MO. REV. STAT. § 208 (2005).

[141] MO. REV. STAT. §§ 208.507, 208.435,536.024, 536.028. Statutes indicate that any and all changes to the state Medicaid plan must be submitted to Joint Committee on Administrative Rules and then to the General Assembly for review and approval.

[142] *Id.*

[143] Section 536.208 – Administrative Procedure and Review – stipulates that State Medicaid Agency must submit any proposed changes to Medicaid State Plan to Joint Committee on Administrative Rules and then General Assembly for review and approval.

[144] MO. REV. STAT. § 208.152.2.4. Statute indicates that there can be no cost sharing for personal services or mental health services.

[145] MO. REV. STAT. § 208.152.2.4. The statute sets forth a detailed list of Medicaid services that must be provided.

[146] MO. REV. STAT. §§ 208.174, 536.024.

[147] MO. CODE REGS. ANN. tit. 13, § 70-1.010 (2006) *et. seq*. In addition see Mo. Reg.

[148] MO. REV. STAT. §§ 536.026, and MO. ANN. STAT. 25-43-1-19.

[149] MONT. CODE ANN §§ 53-6-101-189.

[150] MONT. CODE ANN §§ 56-6-113, 56-6-101, and 53-2-215.

[151] MONT. CODE ANN §§ 53-2-215. Section 1115 Waivers

[152] MONT. CODE ANN §§ 53-6-113, 53-2-215.

[153] MONT. ADMIN. R. 37.82.101 – 37.88.1420 (2006)

[154] MONT. CODE ANN §§ 2-4-101-711, 53-2-215(19)-(20).

[155] NEB. REV. STAT. §§ 1018 – 1025, and 1099 (2005).

[156] NEB. REV. STAT. §§ 68-1019, 68-1062. Reporting Requirement. Department of Health and Human Services cannot promulgate rules or regulations or make changes to state plan without submitting/reporting changes to state Legislature and Governor.

[157] NEB. REV. STAT. §§ 68-1019, 68-1062. Reporting Requirement. Department of Health and Human Services cannot promulgate rules or regulations or make changes to state plan without submitting/reporting changes to state Legislature and Governor.

[158] NEB. REV. STAT. § 68-1092 Medicaid Reform Plan; Preparation; and Duties. Health and Human Services Committee, Medicaid Reform Advisory Council recommendations for development of Medicaid plan amendments and waivers to state plan must be submitted to Governor and Legislature.

[159] NEB. REV. STAT. § 68-1019(6). Legislature has seven months in which to reject any proposed change in Medicaid cost-sharing rules.

[160] NEB. REV. STAT. §§ 68-1019(3), 68-1019.06. Certain categories of services must be provided, including hearing screening for newborns. Sections

[161] NEB. REV. STAT § 68-1019. There is a general fiscal reporting requirement to Governor and legislature regarding cost effectiveness and cost containment mechanisms for various aspects of the state Medicaid program.

[162] NEB. ADMIN. CODE tit. 468, 470, 471, 482, (2006) *et. seq.*

[163] NEB. REV. STAT §§ 84-901-919.01.

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Nevada	YES[164]	NO	YES[165]	YES[166]	NO	NO	YES[167]	NO[168]	YES[169]	No regular session
New Hampshire	YES[170]	YES[171]	YES[172]	YES[173]	NO	NO	YES[174]	YES[175]	YES[176]	1/4-7/1
New Jersey	YES[177]	NO	NO	NO	YES[178]	NO	NO	YES[179]	YES[180]	1/10-throughout the year
New Mexico	YES[181]	NO	NO	NO	YES[182]	NO	NO[183]	YES[184]	YES[185]	1/17-2/15
New York	YES[186]	NO	**NO[187]**	NO	YES[188]	NO	NO	YES[189]	YES[190]	1/4-throughout the year

[164] NEV. REV. STAT. § 422 (2005).
[165] NEV. REV. STAT. §§ 422.2726-2728.
[166] Id. Interim Finance Committee and Legislative Committee on Health Care.
[167] NEV. REV. STAT. §§ 422.240, 422.270, and 422.271.
[168] Nevada Division of Health Care Policy and Financing promulgates measures in Medicaid Operations, Services, and State Plan Manuals.
[169] NEV. REV. STAT. § 422A.190. In addition, please see NEV. REV. STAT. §§ 233B.010 – 233B.150.
[170] N.H. REV. STAT. ANN. § 167 (2005).
[171] N.H. REV. STAT. ANN. § 161:2(VI), 167:3(c), and 541-A: 3 and 13. These sections, when read together, provide procedural requirements for all *rule* changes to Medicaid, and those changes ultimately require legislative approval except for interim rules or those initiated in an emergency.
[172] Id.
[173] Id. Assembly Fiscal Committee.
[174] N.H. REV. STAT. ANN. § 541-A and 167:7
[175] N.H. CODE ADMIN. R. ANN. Department of Human Services – Division of Human Services He-W 500, 600 (2006) *et. seq.*
[176] N.H. REV. STAT. ANN. § Chapter 541-A:5. For more specific information see, §§ 541-A:11 and 19.
[177] N.J. STAT. ANN. § 30:4D-5 (2005).
[178] N.J. STAT. ANN. § 30:4D-13. The Administration cannot require premiums.
[179] N. J. ADMIN. CODE. tit. 10, § 10-70, 71, 72 (2005) *et. seq.*
[180] N.J. STAT. ANN. § 30:1AA-19, 52:14B-1-15.
[181] N.M. STAT. ANN. § 27-2 (2005).
[182] N.M. STAT. ANN. § 27-2-12.13(17). Statute does set a ceiling for emergency room co-payments.
[183] N.M. STAT. ANN. § 27-2-12. Section stipulates that the Medicaid Program in NM is subject to appropriation of state funds.
[184] N. M. ADMIN. CODE tit. 8 § 200-305 (2006).
[185] N.M. STAT. ANN. §§ 12-8-23, 12-8-25. In addition, see §§ 12-8-1 thru 12-8-25.
[186] N.Y. SOC. SERV. LAW § 363-A.

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North Carolina	YES[191]	NO	**NO[192]**	NO	NO	NO	NO[193]	YES[194]	YES[195]	5/9-July
North Dakota	YES[196]	NO	YES[197]	NO	NO	YES[198]	NO[199]	NO[200]	YES[201]	No regular session
Ohio	YES[202]	**NO[203]**	YES[204]	YES[205]	YES[206]	YES[207]	YES	YES[208]	YES[209]	1/2-throughout the year

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[187] N.Y. SOC. SERV. LAW § 34-A. Note: There is an annual implementation-reporting requirement. A multi-year consolidated services plan encompassing adult services and family and children's services shall be submitted to the Governor and the majority leader of the Senate and the Speaker of the Assembly.

[188] N.Y. SOC. SERV. LAW § 367-a(6)(b). Section provides statutory ceilings on certain co-payments.

[189] N.Y. COMP. CODES R. & REGS. Tit. 18 § 360-1 (2005) et. seq.

[190] N.Y. A.P.A §§ 101-501.

[191] N.C. GEN. STAT. § 108A-25.

[192] N.C. GEN. STAT. § 108A-27.9 Note: There is a general submission and reporting requirement under § 108A-27.9. Section stipulates that DHHS must prepare and submit state Medicaid plan to Director of Budget, Senate Appropriations Committee on Health and Human Services, and House of Representatives Appropriations Subcommittee on Health and Human Services, local government, and private sector organizations for review and comments prior to submitting the State plan to the NC General Assembly. Final approval for State Medicaid plan rests with State Budget Director and General Assembly.

[193] N.C. GEN. STAT. § 108A-87-91.

[194] N.C. ADMIN. CODE tit. 10A, 21A.0101-21D.0503 (2005). Note: some services policies are exempt from APA

[195] N.C. GEN. STAT. § 108A-27.9, 108A-70.25, and 150B-1-64.

[196] N.D. CENT. CODE § 50-24.1 (2005).

[197] N.D. CENT. CODE § 50-24.1-2 - Department to submit plans and seek waivers.

[198] N.D. CENT. CODE § 50-24.1-15, 50-24.1-06, 50-24.1-16, and 50.24.1-19. Certain Medicaid services must be provided: prehospital emergency services, remedial eye care, ambulance, and oral maxillofacial services.

[199] N.D. CENT. CODE § 50-06-25. Stipulates that the DHHS must submit biennial report on Medicaid services and programs, including a five-year historical analysis of the number of persons receiving medical assistance program services. The council uses this report to monitor program policies and legislative appropriations.

[200] North Dakota Department of Human Services promulgates manuals and other types of publications specifying state policies regarding state Medicaid program.

[201] N.D. CENT. CODE §§ 28-32-1-22.

[202] OHIO REV. CODE. ANN. § 5111 (2005).

[203] OHIO REV. CODE. ANN. § 5111.02 and 119.03.2. The legislature has 65 days to approve or reject any proposed *rule* otherwise it is deemed approved.

[204] OHIO REV. CODE. ANN. § 5111.85. For more information see §§ 5111.85.1, 5111.87, 5111.873, and 119.03.2.

[205] OHIO REV. CODE. ANN. § 5111.01, 5111.02, and 119.03. Joint Committee on Agency Rule Review must approve state Medicaid agency's proposed rule, amendment or rescission to state plan and then the General Assembly must approve. In addition please see § 111.15.

[206] OHIO REV. CODE. ANN. § 5111.0112. Statute permits co-payments only for certain services.

[207] OHIO REV. CODE. ANN. § 5111.023 and 5111.024. Mental health services and screening for breast and cervical cancer must be provided.

[208] OHIO ADMIN. CODE § 5101.3-1 (2006) *et. seq.*

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Oklahoma	YES[210]	NO	**NO[211]**	**NO[212]**	NO	NO	NO	YES[213]	YES[214]	2/6-5/26
Oregon	YES[215]	NO	YES[216]	NO[217]	YES[218]	NO	YES[219]	YES[220]	YES[221]	No regular session
Pennsya-nia	YES[222]	NO	NO	NO	NO	YES[223]	NO	YES[224]	YES[225]	1/3-throughout the year
Rhode Island	YES[226]	NO	**NO[227]**	NO	NO	NO	YES[228]	YES[229]	YES[230]	1/3-late June

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209 OHIO REV. CODE. ANN. § 119.03.2.

210 OKLA. STAT. tit. 56 § 198 (2005).

211 OKLA. STAT. tit. 56 § 198.15. Section stipulates that home and community-based waivers must operate based on approval by fed. govt. or through funds appropriated by state legislature.

212 OKLA. STAT. tit. 56 § 198.16 F indicates that Department of Humans Services, with the help of the Governor, President Pro Tem of the Senate and Speaker of the House of Representatives shall appoint a committee to assist the DHS in the development of waivers and rules related to self-directed services.

213 OKLA. ADMIN. CODE § 317:35-1-1 (2006) *et. seq.*

214 OKLA. STAT. tit. 75 §§ 250-323. Agencies wishing to make a rule must post it, allow 30 days, hold public hearing, and then submit simultaneously to governor and legislature. As a result, governor and legislature have 30 days to act in opposition.

215 OR. REV. STAT. § 414.018-414.839.

216 OR. REV. STAT. § 414.031.

217 OR. REV. STAT. § 414.021. Oregon Health Policy Commission shall serve as primary advisory committee to administrator, the Governor and Legislative Assembly. In addition see § 414.031. DHS shall submit to Oregon Health Policy Commission any proposals to amend the State Medicaid Plan, modify Medicaid operational protocols, submit and application for waiver to CMS or adopt or amend any administrative rules for the state's medical assistance program and other health care programs. DHS must consider any concerns by the Oregon Health Policy Commission regarding the aforementioned initiatives during its decision-making.

218 OR. REV. STAT. § 414.075. Section indicates that Department of Human Services may pay for deductibles and other cost sharing required by law. §414.839(4) stipulates that DHS shall take an individual's ability to pay into account when determining the amount of cost sharing.

219 OR. REV. STAT. § 414.032.

220 OR. ADMIN. R. 410.050-0100, 410.120-000 (2006) *et. seq.*

221 OR. REV. STAT. §§ 183.025 – 183.725.

222 PA. STAT. ANN. tit. 62 (2005). In Pennsylvania, substantive Medicaid provisions can also be found in the Pennsylvania Code of Regulations, not legislation. See PA. CODE. tit. 55, Part III and VI.

223 PA. STAT. ANN. tit. 62 § 443.3. Section describes both required and optional services for Medicaid recipients. With respect to outpatient services states that payments will generally be made for "preventative, diagnostic, therapeutic, rehabilitative or palliative services.

224 PA. CODE § 1101.11 (2006) *et seq.*

225 PA. STAT. ANN. tit. 45 §§ 1101-1208.

226 R.I. GEN. LAWS § 40-8 (2005).

227 R.I. GEN. LAWS § 40-1-1. RI has created an advisory council to the DHHS that has no administrative authority, advisory council can make recommendations on the department's policies and rules to the director of DHHS.

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South Carolina	YES[231]	NO	NO	NO	NO	NO	NO[232]	YES[233]	YES[234]	1/10-6/1
South Dakota	YES[235]	NO	NO	**NO[236]**	NO	NO	YES[237]	YES[238]	YES[239]	1/10-mid March
Tennessee	YES[240]	NO	NO	**NO[241]**	NO	NO	NO[242]	YES[243]	YES[244]	1/10-late April
Texas	YES[245]	NO	NO	NO	YES[246]	NO	YES[247]	YES[248]	YES[249]	No regular session
Utah	YES[250]	NO	NO	NO	NO	NO	YES[251]	YES[252]	YES[253]	1/16-3/1

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[228] R.I. GEN. LAWS § 40-8-13.
[229] R.I. CODE R. 15-040-001– 019 (2006).
[230] R.I. GEN. LAWS §§ 42-35-1 thru 42-35-18.
[231] S.C. CODE ANN. §§ 43-5, 43-7, 44-6 (2005).
[232] S.C. CODE ANN. §§ 43-1-170, 44-6-80. Sections indicate that Department of Social Services must submit an annual budget as well as interim and annual reports to Governor and General Assembly on status of state Medicaid program and relevant expenditures.
[233] 29 S.C. CODE ANN. REGS. 126-350-950 (2005).
[234] S.C. CODE ANN. § 44-6-540. In addition, see S.C. CODE ANN. §§ 1-23-10-40.
[235] S.D. CODIFIED LAWS § 28-6 (2005).
[236] Section 1-26-1.2 Legislature Rules Review Committee must review all proposed agency rules and make recommendations to agency's regarding rules and legislation authorizing rules.
[237] S.D. CODIFIED LAWS § 28-6-36.
[238] S.D. ADMIN. R. 67:16-54 (2006).
[239] S.D. CODIFIED LAWS § 1-26. Administrative Procedure and Rules.
[240] TENN. CODE. ANN. §§ 71-5-101-199 (2005).
[241] TENN CODE ANN. § 71-5-125. Fiscal Review Committee.
[242] Note: Please see TENN. CODE. ANN. § 71-1-113. In addition, see § 71-5-125 Fiscal Review Committee to report quarterly to General Assembly all expenditures and additional expenditures of Medicaid program, and § 71-5-105 Department shall submit annual report to Governor and General Assembly rules and regulations promulgated, full account of operations and expenditures, etc.
[243] TENN. COMP. R. & REGS. 1200-13-1-15, 1240-3-1-3 (2006).
[244] TENN. CODE. ANN. §§ 4-5-101-324.
[245] TEX. HUM. RES. COD. ANN. § 32 (2005).
[246] TEX. HUM. RES. COD. ANN. § 32.064, cost-sharing follows a sliding scale (with higher income families paying a higher percentage) and requires beneficiaries to pay the maximum amount allowed under federal law.
[247] TEX. HUM. RES. COD. ANN. §§ 32.021, 32.041, 21.010.
[248] TEX. ADMIN. CODE tit. 25 & 40 (2006). Note: Medicaid regulations are provided throughout various sections of the state Administrative Code.
[249] TEX. GOV'T COD. ANN. § 2001.

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Vermont	YES[254]	**NO[255]**	**NO[256]**	NO[257]	YES[258]	NO	YES[259]	NO[260]	YES[261]	1/3-early May
Virginia	YES[262]	NO	NO	YES[263]	NO	NO	YES[264]	YES[265]	YES[266]	1/11-3/11
Washing-ton	YES[267]	NO	NO	NO	NO	NO	YES[268]	YES[269]	YES[270]	1/9-3/9

[250] UTAH CODE ANN. § 62A (2005).
[251] UTAH CODE ANN. § 62A-1-113.
[252] UTAH ADMIN. CODE § 380-448 (2006). More specifically, see § 414-1-99. Utah Medicaid Program.
[253] UTAH CODE ANN. § 63, Chapter 46b. Administrative Procedures Act.
[254] VT. STAT. ANN. tit. 33 §19 (2005).
[255] 33 VSA §§ 2001 and 2081. Note: There are reporting requirements to various legislative committees. More specifically, the Commissioner of Prevention, Assistance, Transition, and Health Access must provide the state legislature's Medical Care Advisory Committee, Health Access Oversight Committee, and Joint Legislative Committee on Administrative Rules with all changes to the state Medicaid program for "report and review". In addition, § 2081stipulates that the Legislature must approve any amendment to the rules for prescription drugs.
[256] 33 VSA §§ 2001. Section provides requirements for modifications that impact the states pharmacy best practices and cost control program.
[257] Section 1-26-1.2 Legislature Rules Review Committee must review all proposed agency rules and make recommendations to agency's regarding rules and legislation authorizing rules.
[258] VT. STAT. ANN. tit. 33 §1901. Section indicates cannot set a monthly premium to exceed $20 for an adult and $10 for pregnant women and children. In addition, § 1994 sets a cost-sharing ceiling on drugs.
[259] 33 VSA § 1901a – Medicaid Budget
[260] Vermont Agency for Human Services promulgates Medicaid policies through the Vermont Medicaid Manual.
[261] 3 VSA Chapter 25. Vermont Administrative Procedures Act
[262] VA. CODE ANN. § 32.1 (2005). Chapter 9 – Regulation of Medical Assistance and Chapter 10 – Department of Medical Assistance Services.
[263] Additional Approval Requirements are located at § 32.1-323.1. Section stipulates that the Department of Planning and Budget and Department of Medical Assistance Services must submit an estimate of Medicaid expenditures and a forecast of expenditures to the House Committees on Appropriations, Health, and Welfare Institutions; Senate Committees on Finance, Education, and Health; and Joint Legislative Audit and Review Commission. In addition, see § 32.1-324 – Board of Medical Assistance Services; § 32.1-325 – Board to Submit Plan for Medical Assistance. Sections indicate that Virginia's Board of Medical Assistance Services must first obtain the governor's approval of a state plan for medical assistance services or periodic amendments to the plan, before the plan or amendments are forwarded to the Secretary of the Department of Health and Human Services.
[264] VA. CODE ANN. § 32.1-320, 32.1-323.1.
[265] VA. ADMIN. CODE § 30-10-10 – 30-150-100 (2006).
[266] VA. CODE ANN. § 32.1-24. Applicability of Administrative Process Act.
[267] WASH. REV. CODE §§ 74.09.010-755 (2005).
[268] WASH. REV. CODE § 74.04.120.
[269] WASH. ADMIN. CODE § 388-1-892 (2006).
[270] WASH. REV. CODE ANN. §§ 34.05.001 – 34.05.902.

STATE	STATE STATUTE OR CODE CONTAINS **SUBSTANTIVE PROVISIONS** FOR THE STATE MEDICAID PROGRAM	STATE STATUTE OR CODE REQUIRES LEGISLATIVE APPROVAL FOR CHANGES TO THE STATE MEDICAID PROGRAM VIA **STATE PLAN AMENDMENTS**	STATE STATUTE OR CODE REQUIRES LEGISLATIVE APPROVAL FOR CHANGES TO STATE MEDICAID PROGRAM VIA **WAIVERS**	STATE STATUTE OR CODE REQUIRES THAT MEDICAID CHANGES BE **APPROVED BY ANOTHER ENTITY** (BOARD, COMMITTEE, COUNCIL, ETC)	STATE STATUTE OR CODE CONTAINS PROVISIONS RELATED TO **COST-SHARING**	STATE STATUTE OR CODE CONTAINS PROVISIONS RELATED TO **BENEFITS**	**APPROVAL** OF MEDICAID CHANGES **DEPENDS UPON** THE **AMOUNT OF** ANY NECESSARY **APPROPRIATION**	STATE HAS **REGULATIONS** (OR OTHER BINDING AUTHORITY) **CONTAINING SUBSTANTIVE PROVISIONS** FOR THE MEDICAID PROGRAM	STATE STATUTE OR CODE HAS AN ADMINISTRATIVE PROCEDURES PROVISION THAT REQUIRES **PUBLIC NOTICE AND COMMENT** BEFORE REGULATIONS CAN BE CHANGED	LEGISLATIVE SESSION[1]
Washing-ton D.C.	YES[271]	YES[272]	YES[273]	NO	NO	NO	YES[274]	YES[275]	YES[276]	
West Virginia	YES[277]	NO	NO	NO	NO	NO	YES[278]	YES[279]	YES[280]	1/11-3/11
Wisconsin	YES[281]	NO	NO	NO	YES[282]	NO	YES[283]	YES[284]	YES[285]	1/17 – 12/31
Wyoming	YES[286]	NO	YES[287]	NO	NO	NO	NO	NO[288]	YES[289]	2/13-early March

271 D.C. CODE ANN. § 4 (2005). Chapter 2, Subchapter 4 – Medicaid Program Administration and Subchapter 5 – Public Assistance Programs.

272 D.C. CODE ANN. § 1-307.02. District of Columbia Medical Assistance Program, and § 1-307.03. Medical Assistance Expansion Program Establishment.

273 Id.

274 D.C. CODE ANN. § 4-219.01. DC Code Title 4 Chapter 2 Subchapter XIX Appropriations Authorization.

275 D.C. MUN. REGS. tit. 29, § 29-900-999 (2006).

276 D.C. CODE ANN. § 2-505. Public Notice and Participation in Rule-making; Emergency Rules.

277 W.VA. CODE § 9 (2005). Human Services.

278 W.VA. CODE § 9-4A-2a. Section stipulates that the Governor must approve Medicaid expenditures from the state's trust fund. Reporting Requirements - All Medicaid expenditures from the trust fund must then be reported to the Joint Committee on Government and Finance. In addition see § 9-4A-4, which indicates that the Department of Health and Human Resources (DHHR) must submit an annual report to the Legislature on the use of the state's uncompensated care fund. The Health Care Cost Review Authority must also submit an annual report to the Legislature on the impact of improved Medicaid inpatient payments.

279 W. VA. CODE ST. R. § 65-01-26, 69-01-04 (2006).

280 W.VA CODE § 9-4D-9. In addition, see §§ 29A-1-1 thru 29A-7-4.

281 WIS. STAT. § 49.43-49.499 (2005).

282 WIS. STAT. § 49.45(18). Statute prohibits cost sharing for certain people, e.g., children and pregnant women, and sets ceilings for other cost sharing, e.g., drugs.

283 WIS. STAT. § 20.435(4)(b), 49.45(2)(a)(8), and 49.45(2)(a)(16). Indicate that periodic reports regarding Medicaid expenditures must be made to Joint Committee on Finance and Appropriate Standing Committees of each House of Legislature, and that Department must notify Governor and Joint Committee on Legislative Organization, Joint Committee on Finance, and Appropriate Standing Committee's if Medicaid expenditures exceed allotment provided in state Medicaid appropriation account.

284 WIS. ADMIN. CODE § HFS 100-109 (2006).

285 WIS. ADMIN. CODE § HFS 101. In addition see § 227.01-227.26.

286 WYO STAT. ANN. § 42-4 (2005).

287 WYO STAT. ANN. § 42-4-119.

288 Wyoming Department of Health provides state Medicaid procedures through various forms of publications.

289 WYO STAT. ANN. § 42-4-104(a)(iv), 16-3-101-115.