

MISSISSIPPI

DISCLAIMER: The views, statistical analysis, findings, and opinions expressed herein are not necessarily those of the Office of Minority Health, the Office of Public Health and Science nor the Department of Health and Human Services. The National Health Law Program, Inc. (NHeLP), under contract #282-00-0026, reviewed and analyzed existing state policies related to collecting racial and ethnic data by managed care organizations and health insurers. The information in this draft report contains the findings of NHeLP and not that of the Office of Minority Health, the OPHS, nor the U. S. Department of Health and Human Services. The study was conducted between October 2000 and May 2001. The policies and/or data per state may have changed since that time. The findings that have been updated in this draft report are the U.S. Census data (updated so that all data is from the 2000 Census) and the Center for Medicare & Medicaid Services (CMS)/HHS Medicaid data (updated from the June 30, 2000 to the December 31, 2002 reports).

MISSISSIPPI

A. General and Health Demographics

Total Population	2,844,658	
Percent Black Population	36.2	
Percent American Indian and Alaskan Native Population	0.4	
Percent Asian Population	0.6	
Percent Native Hawaiian and Other Pacific Islander Population	0.0	
Percent Hispanic Population (of any race)	1.4	
Percent White Population	60.7	
Other (some other race and two or more races)	0.6	
Language Use - 2000 census data		
Percent Limited English Proficiency (LEP) Population	0.66	(1.37)
Health Care Delivery Profile		
Percent of Total Non-elderly Population Privately Insured (1997-99)	66.9	
Percent of Total Population Enrolled in HMOs	3.76	
Medicaid Enrollment (as of December 31, 2002)	650,800	(22.88%)
Medicaid Managed Care Enrollment	0	(0.00%)
Percent of Total Non-elderly Population Uninsured (1997-99)	21.6	

B. Collection and Reporting of Racial and Ethnic Data by Health Insurers or Managed Care Organizations

1. Statutes, Regulations, Policies and Other Written Materials

Mississippi uses the term "health insurer" to encompass all types of health care delivery systems, including health insurance companies and health maintenance organizations (HMOs).¹ This state summary will use the term "health insurer" to refer to all health care delivery systems. Any distinctions between each type of health insurance entity will be noted if relevant to the issue being discussed.

In the state of Mississippi, there are no statutes, regulations, or policies that prohibit or require the collection or reporting of racial and ethnic data.

¹ Miss. Code Ann. § 41-95-3(e). Sometimes the term "carrier" is used to refer to an insurer, HMO and preferred provider organization (PPO).

Mississippi requires that all health insurance policies and any application related to the policies receive approval from the Department of Insurance prior to its use.²

In its application to the Department of Health for a Certificate of Authority, an HMO must demonstrate that it has the "ability to collect, compile, evaluate and report statistics relating to . . . (c) the availability and accessibility of its services . . ."³ In addition, an HMO must develop a quality assurance plan that ensures availability and accessibility of care.⁴ The quality assurance plan is expected to focus on, among other things, the improved health status of HMO enrollees and assessment of the quality of health and medical care provided to enrollees.⁵

2. Discrimination

Mississippi only prohibits a health insurer from discriminating between "individuals of the same class and of . . . the same hazard in the amount of premium, policy fees, or rates charged for . . . health insurance."⁶ The unfair trade statute does not contain a prohibition against discrimination because of race, color or national origin.

In addition, Mississippi does not have a statute that prohibits discrimination on the basis of race, color or national origin with regard to access to public accommodations or public services. The only provision that addresses discrimination and access to public accommodations is one that prohibits discrimination because of a disability.⁷

3. Confidentiality

If an HMO should choose to collect racial and ethnic data, the data is protected by a statutory confidentiality provision. "Any data or information pertaining to the diagnosis, treatment or health of any enrollee or applicant obtained from the person or from the provider by any [HMO] shall be held in confidence."⁸ Under limited circumstances, an HMO may disclose an enrollee's confidential information. These circumstances are: (1) the express consent of the enrollee or applicant; (2) a statute or court order for the production of evidence; or (3) litigation between the person and the HMO where the data proves relevant.⁹

² Miss. Code Ann. § 83-9-3 (general health insurance policies); Miss. Code Ann. § 83-41-315 (HMOs).

³ CMSR 12-000-038(E)(3)(c). The Department of Insurance also has regulatory authority over HMOs.

⁴ Miss. Code Ann. § 83-41-313(1).

⁵ Miss. Code Ann. § 83-41-313(4).

⁶ Miss. Code Ann. § 83-5-35(g).

⁷ Miss. Code Ann. § 43-6-5.

⁸ Miss. Code Ann. § 83-41-355(1).

⁹ *Id.*; see also CMSR 12-000-038(Q)(a)-(d).

In addition, the Mississippi Department of Insurance has promulgated an emergency regulation¹⁰ to establish a date by which licensed insurers must comply with Title V of the Gramm-Leach-Bliley Act.¹¹ By July 1, 2001, licensed insurers in Mississippi “must establish privacy policies, [and] develop systems for implementing those policies and protecting personal information of consumers and customers. . . .”¹²

C. Collection and Reporting of Racial and Ethnic Data by Other Health Care Entities

1. Department of Human Services and Division of Medicaid

a. Statutes, Regulations, Policies and Other Written Materials

The Department of Human Services and the Division of Medicaid oversee Mississippi's Medicaid program and the Mississippi Health Benefits program (SCHIP).¹³ Mississippi has no state statutes, regulations or policies prohibiting or mandating the collection of racial, ethnic, or primary language data with regard to Medicaid applicants or recipients. However, the Department of Human Services collects racial data for all household members on its application for Mississippi Health Benefits.

b. Discrimination

In order to remove any concerns that Medicaid applicants may have regarding the collection of racial information, the application for Mississippi Health Benefits includes a section which informs applicants that their application will be considered without regard to race, color, or national origin.

¹⁰ CMSR 28-000-077.

¹¹ 15 U.S.C. §§ 6801-6827

¹² CMSR 28-000-077.

¹³ The Department of Human Services makes eligibility determinations for Medicaid and SCHIP. The Division of Medicaid develops and implements policies with regard to both programs.

In addition, the Mississippi Medicaid Provider Policy Manual requires that all health care providers accept HealthMACS¹⁴ beneficiaries and not refuse enrollment or request disenrollment solely on the basis of race or national origin.¹⁵

c. Confidentiality

The Mississippi Medicaid Provider Policy Manual states that all “records and information acquired in the administration of any part of the Social Security Act are confidential and may be disclosed under the conditions prescribed . . . [by] the Department of Health and Human Services.”¹⁶ A provider may disclose records or information acquired under the Medicaid program “only when the record or information is to be used in connection with the claim, or to verify the utilization of Medicaid benefits. . . .”¹⁷

The SCHIP program regulations require that any information or records concerning children enrolled in Mississippi Health Benefits be held in confidence.¹⁸ The disclosure or use of this information is restricted to “purposes directly connected with the administration of the Program.”¹⁹

2. Department of Health

a. Statutes, Regulations, Policies and Other Written Materials

The only provision regarding the collection and reporting of racial data by the Department of Health is one pertaining to reportable diseases and conditions. This regulatory provision requires each "clinician" to report to the Department of Health any diagnosed case of reportable diseases and each report must include the patient's race.²⁰ Although not statutorily required, Mississippi reports racial information with regard to births and deaths.²¹

¹⁴ Health Through Medicaid Managed Access to Care and Services (HealthMACS) is a primary care case management program that is mandatory for certain Medicaid recipients who receive their eligibility from the Department of Human Services. Each Medicaid eligible is enrolled with a primary care provider (PCP) for case management of health care needs. While Mississippi no longer contracts with HMOs to deliver Medicaid managed care services, in the HMO contract, provisions were made for enrollees to have foreign language interpreters and member materials printed in any language spoken by five percent (5%) or more of the enrollees in a service area. Interestingly, these requirements were not incorporated into the HealthMACS program.

¹⁵ CMSR 13-000-011(2).

¹⁶ CMSR 13-000-011(7.01)

¹⁷ *Id.*

¹⁸ CMSR 09-000-004(8.6)

¹⁹ *Id.*

²⁰ CMSR 12-000-028. Clinician includes physicians, pathologists and nurse practitioners. The designated diseases and conditions are listed as an appendix to the regulation.

²¹ See <http://www.msdh.state.ms.us/phs/stat1999.htm>.

b. Discrimination

As discussed above, Mississippi's public accommodations statute does not prohibit discrimination on the basis of race, color or national origin with regard to access to public accommodations or services.

However, standards and policies for some types of health facilities contain prohibitions against discrimination on the basis of race, color or national origin. These facilities are home health agencies,²² hospices,²³ and psychiatric hospitals.²⁴

c. Confidentiality

Each report made to the Department of Health regarding reportable diseases and conditions must be made in strict confidence.²⁵ In addition, each health facility has its own confidentiality provisions which require that all medical records be confidential.²⁶

Hospital records are exempted from Mississippi's public records statute and therefore are not available for public inspection or copying.²⁷

D. Observations

In the state of Mississippi, there are no statutes, regulations, or policies that prohibit or require the collection or reporting of racial and ethnic data.

Mississippi is one of five states whose public accommodations statute only prohibits discrimination on the basis of disability.

The mandates imposed by the Department of Health upon an HMO seeking a Certificate of Authority might be implemented effectively with the periodic collection of racial, ethnic, and primary language data.

²² See <http://www.msdh.state.ms.us/documents/licensure.hhareg.pdf>.

²³ See <http://www.msdh.state.ms.us/documents/licensure.hplicereg.pdf>.

²⁴ See <http://www.msdh.state.ms.us/documents/licensure.psychreg.pdf>.

²⁵ CMSR 12-000-028.

²⁶ See <http://www.msdh.state.ms.us/licensure/index.htm> for each health facilities standards.

²⁷ Miss. Code Ann. § 25-61-15; Miss. Code Ann. § 41-9-67.