

## MISSOURI

**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).

## MISSOURI

### A. General and Health Demographics

<b>Total Population</b>	5,595,211
Percent Black Population	11.2
Percent American Indian and Alaskan Native Population	0.4
Percent Asian Population	1.1
Percent Native Hawaiian and Other Pacific Islander Population	0.1
Percent Hispanic Population (of any race)	2.1
Percent White Population	83.8
Other (some other race and two or more races)	1.4
<b>Language Use - 1990 census data</b>	
Percent Limited English Proficiency (LEP) Population	0.93 (1.97)
<b>Health Care Delivery Profile</b>	
Percent of Total Non-elderly Population Privately Insured (1997-99)	78.0
Percent of Total Population Enrolled in HMOs	30.65
Medicaid Enrollment (as of June 30, 2000)	930,232 (16.63%)
Medicaid Managed Care Enrollment	413,008 (44.40%)
Percent of Total Non-elderly Population Uninsured (1997-99)	12.1

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

#### 1. Statutes, Regulations, Policies, and Other Written Materials

Missouri uses the term “insurer” to encompass all types of health care delivery systems, including health maintenance organizations (HMOs) and indemnity plans.<sup>1</sup> The Department of Insurance has regulatory authority over all insurers. The Department of Health only has

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<sup>1</sup> Mo. Rev. Stat. § 375.012(5).

regulatory authority over HMOs. This state summary will use the term “insurer” to refer to all health care delivery systems, unless a distinction is appropriate for a specific issue.

Missouri does not have any statutory or regulatory provisions that mandate, prohibit or discuss the collection or reporting of racial and ethnic data by insurers.

Missouri requires that all group health insurance policies and any application related to the policies receive approval from the Department of Insurance prior to its use.<sup>2</sup>

The Department of Insurance and the Department of Health have implemented various reporting requirements for insurers, including HMOs. The Department of Insurance requires insurers to provide quality of care and patient satisfaction data to the Director of the Department.<sup>3</sup> The foundation of these data submissions is the Health Plan Employer Data and Information Set (HEDIS) developed by the National Committee for Quality Assurance (NCQA).<sup>4</sup>

Likewise, the Department of Health requires HMOs to "provide data regarding quality of care, access to care, member satisfaction, and member health status."<sup>5</sup> The Department of Health is authorized by statute to require these submissions to be based on the HEDIS data set.<sup>6</sup> In both cases, if an insurer fails to provide the required data, it may be prohibited from participating in state-based health programs or may be held in violation of the Unfair Trade Practices Act.<sup>7</sup>

The member satisfaction survey used by HMOs is supposed to mirror the version of the NCQA-required Consumer Assessment of Health Plans Study (CAHPS) Questionnaire.<sup>8</sup> The CAHPS Questionnaire does request racial information, on a voluntary basis, from those persons completing the survey.

## 2. Discrimination

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<sup>2</sup> Mo. Rev. Stat. § 376.405.

<sup>3</sup> Mo. Rev. Stat. § 374.426(1)

<sup>4</sup> Mo. Rev. Stat. § 374.426(2). The HEDIS Consumer Survey is one part of the HEDIS instrument. The survey collects racial information on the survey respondents. The racial categories provided are: American Indian/Alaska Native; Asian; Black/African-American; Hispanic/Latino; Native Hawaiian/Other Pacific Islander; White; and Other.

<sup>5</sup> Mo. Rev. Stat. § 192.068(1)

<sup>6</sup> Mo. Rev. Stat. § 192.068(2)

<sup>7</sup> Mo. Rev. Stat. § 374.426. The Unfair Trade Practices Act is codified at R.S. Mo. §§ 375.930 - 375.948.

<sup>8</sup> 19 CSR 10-5.010, Table A.

Under its unfair practices statute, Missouri prohibits an insurer from "canceling or refusing to insure or refusing to continue to insure a policy solely because of race, . . . , color, . . . , national origin, or ancestry."<sup>9</sup>

### 3. Confidentiality

Missouri mandates that "any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person, . . . , by any [HMO] shall be held in confidence."<sup>10</sup> Exceptions exist when: (1) there is express consent by the enrollee or applicant; (2) there is a statute or court order for the production of evidence; or (3) there is a claim or litigation between the person and the HMO where such data is pertinent.<sup>11</sup> The statute provides additional protection by requiring HMOs to establish and maintain procedures to ensure that all mental health records of enrollees remain confidential.<sup>12</sup>

In addition, the Missouri Department of Insurance has issued a bulletin urging insurers to act promptly to ensure compliance with Title V of the Gramm-Leach-Bliley Act<sup>13</sup> by July 1, 2001.<sup>14</sup> The GLBA requires licensed insurers in Missouri to establish privacy policies and protect personal information of consumers and customers.

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

### 1. Department of Social Services, Division of Medical Services (DMS)

#### a. Statutes, Regulations, Policies and Other Written Materials

DMS is the state agency responsible for the administration of the Missouri Medicaid program and the Managed Care Plus (MC+) for Kids program, Missouri's SCHIP program. There are no state statutes, regulations or policies that require or prohibit the collection or reporting of racial and ethnic data.

However, the MC+ for Kids application requests race and ethnicity information for the applicant and his or her household members. The application provides the following racial categories from which the applicant can choose: White, Black/African American, American Indian/Alaskan Native, Asian, and Native Hawaiian/Pacific Islander. In addition, the application inquires whether the applicant and/or household members are Hispanic. Finally, the application

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<sup>9</sup> Mo. Rev. Stat. § 375.936(11)(g)

<sup>10</sup> Mo. Rev. Stat. § 354.515(1)

<sup>11</sup> *Id.*

<sup>12</sup> Mo. Rev. Stat. § 354.515(2)

<sup>13</sup> 15 U.S.C. §§ 6801-6827.

<sup>14</sup> Missouri Department of Insurance, Bulletin 00-03, dated October 11, 2000. *See* <http://www.insurance.state.mo.us/laws/bulletin/00-03.htm>.

indicates that this information is only for statistical use and is optional for the applicant to provide.

The Missouri Medicaid Managed Care (“Managed Care Plus Program”) Request for Proposals<sup>15</sup> (the “Missouri RFP”) contains several standards that may implicate the need for racial, ethnic and primary language data. First, the health plan must make available interpreter services as necessary by phone or in-person “to ensure that members are able to communicate with the health plan and providers and receive covered benefits.”<sup>16</sup> Second, “if the health plan has more than 200 members or five percent (5%) of its program membership (whichever is less) who speak a single language other than English as a primary language” the health plan must make available the health plan’s materials and services in that language.<sup>17</sup> Finally, information regarding the grievance procedures must be made available in the member’s primary language.<sup>18</sup>

b. Discrimination

The Missouri RFP prohibits a health plan from not enrolling an eligible Medicaid beneficiary because of the individual’s race, color, national origin or language needs.<sup>19</sup> A contractor or subcontractor may not, on the grounds of race, color, [or] . . . national origin:

1. Deny or provide a member any covered service or availability of a facility;
2. Provide any services or other benefits to any individual that are different, or that are provided in a different manner, from those provided to others under the Medicaid program;
3. Subject an individual to unlawful segregation, separate treatment, or discriminatory treatment in any manner related to the receipt of any services or other benefits provided under the Medicaid program; or,
4. Deny any individual an opportunity to participate in any program provided by the contractor or subcontractor through the provision of services or otherwise, or afford an opportunity to do so that is different from the opportunity afforded others under the Initiative.<sup>20</sup>

Moreover, no payments will be made to a Medicaid provider who does not comply with Title VI of the Civil Rights Act of 1964.<sup>21</sup>

Finally, Missouri’s civil rights statute prohibits discrimination on basis of an individual’s race, color, national origin, or ancestry with regard to access to any “place of public

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<sup>15</sup> Missouri issues an RFP to solicit health plans that wish to deliver Medicaid services.

<sup>16</sup> Missouri RFP, § 6.6.

<sup>17</sup> *Id.*

<sup>18</sup> Missouri RFP, § 6.6.1.

<sup>19</sup> Missouri RFP, §§ 1.1 and 5.2.3.

<sup>20</sup> *Id.*

<sup>21</sup> Mo. Rev. Stat. § 208.157.

accommodation” and its services and facilities.<sup>22</sup> DMS is a place of public accommodations as defined by statute and is therefore bound by its provisions.<sup>23</sup>

c. Confidentiality

All information concerning applicants and recipients of Medicaid “shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of [Medicaid].”<sup>24</sup>

2. Department of Health (DOH)

a. Statutes, Regulations, Policies and Other Written Materials

The DOH has extensive data collection and reporting requirements with regard to specific conditions and diseases, and these include the collection of racial and ethnic data. First, all Missouri hospitals are required to report any head or spinal cord injuries to the DOH registry.<sup>25</sup> The registry form, supplied by the DOH, includes a question on the race of the injured party.<sup>26</sup>

Second, a person who performs or conducts an HIV test must report a positive test result to the DOH.<sup>27</sup> This confidential report includes race and ethnicity information.<sup>28</sup>

Third, the DOH also requires certain types of providers to report various data that includes racial information. Each ambulance service must maintain an ambulance reporting system, which includes information on each ambulance run along with the racial background of each ambulance patient.<sup>29</sup> Moreover, all hospitals must submit annually to the DOH patient abstract data for both outpatients and inpatients.<sup>30</sup> The patient abstract data includes information

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<sup>22</sup> Mo. Rev. Stat. § 213.065(2).

<sup>23</sup> A “place of public accommodation” is any place or business that offers to the general public, goods, services and facilities “including, but not limited to: . . . [a]ny public facility owned, operated, or managed by or on behalf of [Missouri] or any agency. . . .” Mo. Rev. Stat. § 213.010(15)(e).

<sup>24</sup> Mo. Rev. Stat. § 208.155.

<sup>25</sup> 19 CSR 30-41.010(1)

<sup>26</sup> 19 CSR 30-41.010(3). The race categories listed on the form are: (1) White; (2) Black; (3) Hispanic; (4) Indian; (5) Asian; and (6) Other.

<sup>27</sup> 19 CSR 20-26.030(2)(C).

<sup>28</sup> *Id.* The race categories provided are: (1) White; (2) Black; (3) Asian/Pacific Islander; (4) American Indian/Alaskan Native; and (5) Other. The Department of Health also requests information regarding whether the HIV-positive patient is of Hispanic ethnicity.

<sup>29</sup> 19 CSR 30-40.375(4).

<sup>30</sup> Mo. Rev. Stat. § 192.667(1).

regarding the patient's race, along with the patient's diagnoses, procedures, and type of insurance.<sup>31</sup>

Finally, although not statutorily required, Missouri collects and reports racial information with regard to births, deaths, marriages and divorces.<sup>32</sup>

b. Discrimination

The DOH has civil rights regulations that cite to Title VI of the Civil Rights Act of 1964 and assure that all public health care services and benefits are made available to all eligible individuals without regard to race, color, or national origin.<sup>33</sup> This rule applies to all health providers and contractors who provide services for the Department of Health, and for all hospital and public health clinics that receive federal financial assistance or reimbursements for services provided.<sup>34</sup>

c. Confidentiality

The DOH must maintain the confidentiality of all medical record information abstracted by or reported to the department.<sup>35</sup> Medical information may be released in a “statistical aggregate form that precludes and prevents the identification of a patient. . .” In addition, medical information may be shared with other public health authorities “if they abide by the same confidentiality restrictions required of [DOH].”<sup>36</sup>

**D. Observations**

Missouri does not have any statutory or regulatory provisions that mandate, prohibit or discuss the collection or reporting of racial and ethnic data by insurers.

There is one concern regarding the regulatory provision governing the reporting of HIV test results. Because it appears that the physician who reports this information to the Department of Health is responsible for designating the patient's racial and ethnic background, there could be a possibility of misclassification of a patient's race.

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<sup>31</sup> Mo. Rev. Stat. § 192.665(6).

<sup>32</sup> With regard to births, racial information is collected from the mother of the newborn infant.

See <http://www.health.state.mo.us>.

<sup>33</sup> 19 CSR 10-2.010(2).

<sup>34</sup> *Id.*

<sup>35</sup> Mo. Rev. Stat. § 192.067(2).

<sup>36</sup> *Id.*

HMOs, although not required to collect racial and ethnic data, collect this data via their patient satisfaction surveys (CAHPS).<sup>37</sup> Possibly, similar mechanisms used to collect racial and ethnic data at this level may be used at other levels of the health care delivery system.

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<sup>37</sup> 19 CSR 10-5.010, Table A.