Policy Brief

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Proposed Medicaid Oversight Rule Promises Stewardship, Threatens Stability

The Centers for Medicare & Medicaid Services (CMS) proposed the Medicaid Fiscal Accountability Regulation (MFAR) just days before it issued its final policy requiring hospitals to publish negotiated rates for shoppable services in November. CMS couched both rules as charging forward with the Trump Administration's promise for transparency and integrity, but health care stakeholders nationwide have sounded alarms about the access issues MFAR could create. States and health associations have been troubled by the proposed reallocation of discretion to the federal government away from states and its implications for how states would legally be able to fund their Medicaid share.

What Does MFAR Do?

Medicaid is jointly administered by the federal government and individual state governments. Each party contributes a portion of the overall funding. MFAR narrows definitions and limits the legal sources of state funding streams for this portion. In addition to establishing certain reporting requirements, MFAR also transfers a significant degree of discretion to CMS to determine if, under the "totality of circumstances," a financing arrangement is permissible. Provider taxes, intergovernmental transfers and upper payment limits are all subject to stricter regulation.

The Government Says…

States are likely not doing anything wrong, but CMS allegedly lacks the information needed to ensure states are accountable partners in administering Medicaid. The agency has seen supplemental Medicaid payments balloon over the past decade and cites urging from the Office of the Inspector General (OIG), Government Accountability Office and MACPAC to get a firmer grip on state stewardship.

But State and National Hospital Associations Counter…

The crux of Medicaid is its adaptability to localized needs for indigent care, and Medicaid already doesn't cover the cost of care. Ambiguously restricting the ways that states can fund their share puts a vulnerable population at serious risk. If these proposals are finalized, it is likely that many states would have to limit eligibility, reduce covered services and possibly raise revenue by tax hikes. Organizations like the American Hospital Association strongly oppose this rule.

MedPAC Drafts Recommendations for Medicare Reimbursements

The Medicare Payment Advisory Commission (MedPAC) recently drafted recommendations on hospitals' Medicare reimbursements. MedPAC was created by Congress to advise them on Medicare program payments; their recommendations are not required to be implemented but can influence how Medicare is administered. MedPAC recommended the following:

- An overall 3.3% market basket update
    - 2% of this update would go to overall hospital payments
    - 1.3% of this update would be tied to quality measures
- Introduce a Hospital Value Incentive Program (HVIP) that would replace the four existing Medicare hospital quality payment programs
- Increase the payment rates for health professional services
- Increase the end-stage renal disease prospective payment system
- Eliminate the FY 2021 update for skilled nursing facilities, ambulatory surgical centers and hospice providers
- Reduce the CY 2020 base payment rate for inpatient rehabilitation facilities by 5%
- Reduce the CY 2020 base payment rate for home health agencies by 7%

Trump Administration Proposes Weaker School Lunch Standards

The U. S. Department of Agriculture (USDA), via the Food and Nutrition Service, has proposed new regulations that relax requirements for fruits, vegetables and whole grains in school lunches. The rule allows for more meat and meat-alternatives, as well as permits more processed, fried and sugary foods. Deputy Under Secretary Brandon Lipps believes the proposal will reduce food waste and allow for more flexibility for local school officials. Child advocates and health professionals worry that the changes will instead come at the expense of kids' nutrition, suppressing students' ability to learn and increasing the prevalence of childhood obesity—particularly in lower-income communities.

What is being proposed?

During the Obama Administration, schools' participation in the National School Lunch Program required that cafeterias increase the amount of fruits and vegetables, serve skim or low-fat milk, decrease the amount of sodium and completely eliminate trans fats. The proposed rule undermines these efforts by cutting the amounts of fruit and vegetables required, counting potatoes (including french fries) as an acceptable lunch vegetable, and allowing pizzas and burgers to be served *a la carte* every day. In other rules, the Trump Administration has weakened child nutrition standards by allowing fewer whole grains, more sodium and the substitution of white potatoes for breakfast fruits.

Are the current requirements actually leading to more wasted food?

Apparently not. The USDA found no dramatic increase in food waste in its own 2019 *School Nutrition and Meal Cost* study. Rather, the study found that schools' compliance with Obama-era standards increased students' rates of participation in the school lunch program and garnered higher scores on the Health Eating Index.

Low-income children rely on schools for their nutrition and are at the greatest risk.

Of the 30 million kids who eat school meals each day, roughly two-thirds are low income. For these children, the meals they have at school can be their only source of nutrition for the day. Low-income children of all ethnicities are disproportionately at-risk for childhood obesity, diabetes and other chronic

illnesses. Even children who come from food-secure families often rely on school meals for more than half of their daily calories.

Supreme Court Permits Public Charge Policy

In a 5-4 split, the Supreme Court ruled to allow the enforcement of the updated definition of a "public charge"—a person who is likely to become dependent on government funds for basic survival. The controversial policy creates new barriers to lawful immigration, expanding officials' ability to deny visas or green cards if applicants are predicted to become a public charge in the future. The new public charge definition is much more expansive than the previous policy, and includes the lawful use of public health, nutrition and housing-assistance programs. The rule, initially scheduled to become effective in October, was widely criticized by immigrants' rights groups and some state governors as disincentivizing the lawful use of social safety net programs. While the rule primarily impacts those applying for a green card via family-based petitions, it has created a chilling effect—discouraging the use of Medicaid, SNAP and other support programs by the much broader immigrant community.

CMS Releases Guidance for New Medicaid Block Grant Program

Branded as "Healthy Adult Opportunity" (HAO), CMS released guidance for states promoting the use of Medicaid Block Grants, significantly expanding the utility of 1115 waivers. The HAO framework uses capped budgets (either on a total expenditure or capitated per-enrollee basis) with enhanced options for state flexibility through programs that are value-based (saving money while demonstrating quality improvement). HAO programs seek to give states a way to offer Medicaid coverage to nontraditional Medicaid populations who are not eligible under another state plan. As a demonstration program, CMS will have significant fiscal oversight of HAO, which comes with a required suite of reporting measures. Despite the purported flexibility, indigent care providers have been wary of block-grant-style funding due to the ceiling it imposes on Medicaid expenditures, which could lead to some states narrowing eligibility requirements and vulnerable populations losing coverage.

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