



Hearing Summary

HEARING ON THE ADMINISTRATION'S REGULATORY ACTIONS ON MEDICAID

Rep. Henry A. Waxman

Chairman, Committee on Oversight and Government Reform

Medicaid purchases health and long-term care services for over 60 million low-income Americans, including children and parents, individuals with disabilities, and seniors. Medicaid is jointly funded by the federal and state governments; in FY 2008, the federal share is projected at over \$200 billion. States administer the program on a day-to-day basis within broad parameters set by the federal government. The agency responsible for Medicaid at the federal level is the Centers for Medicare and Medicaid Services (CMS) within the Department of Health and Human Services.

Over the past 10 months, while public attention has been focused on the battle between the Congress and the Bush Administration over the future of the State Children's Health Insurance Program (SCHIP), CMS has proposed six rules that would make major changes in federal Medicaid policy. These rules seek to:

- Restrict coverage of rehabilitation services for Medicaid-eligible people with disabilities;
- Eliminate the ability of schools to provide administrative services, such as enrollment, eligibility counseling and referrals, for Medicaid children;
- Restrict what states may cover as hospital outpatient services under their Medicaid programs;
- Eliminate Medicaid support for graduate medical education (GME) — the training of new doctors — at our nation's teaching hospitals; and
- Restrict the manner in which states may raise funds to support the state share of Medicaid, and sharply limit Medicaid payments to public hospitals and other "safety net" providers.

According to CMS estimates, these six proposed rules would reduce federal Medicaid payments to states by a total of \$11 billion over the next five years.

At the hearing, seven witnesses addressed the impacts of the proposed rules. The Government Accountability Office testified on its work relating to fiscal integrity in the Medicaid program. The Director of the Center on Medicaid and State Operations within CMS explained the agency's proposed rules.

David Parrella, the director of the Connecticut Medicaid program, testified on behalf of all state Medicaid directors in opposition to each of the proposed rules and asked Congress to stop CMS from implementing them. He concluded by saying, "Absent any new sources of funding, to restrict the state option to use Medicaid to fund any of these activities will only make life harder for the millions of poor Americans who look to you for answers on health care."

Barbara Miller, a Maryland resident and former Medicaid beneficiary, testified that the rehabilitation services she received made it possible for her successfully to leave a state mental hospital. She said that thanks to these services, she is now employed and active in her community. She testified, "Please don't send people with mental illnesses back to [state hospitals]. We fought too hard and we've come too far to go back now."

Twila Costigan, a foster care worker from Montana, testified that therapeutic foster care was necessary to care for foster children under severe emotional distress. She said that without Medicaid support, this program would be curtailed or ended in many states, and that many of these foster children would "inevitably" end up in institutions, where the care would be more expensive for Medicaid and more restrictive for the child.

Denise Herrmann, a school nurse from Minnesota, testified that school-based administrative services like those school nurses perform every day make it possible for low-income children to get enrolled in Medicaid and to get referrals to the health care they need. She said that school nurses "are doing everything they can to keep children in school and out of hospitals and emergency situations." She also said that without Medicaid payment these services would be ended because school budgets could not absorb the cost.

Alan Aviles, the President of the New York City Health and Hospitals Corporation, testified that the proposed regulation on Medicaid cost limits would "severely damage" his hospitals and as well as safety net hospitals and health systems around the country. He concluded that the loss of federal funds as a result of the proposed rule would "translate into the reduction or elimination of essential services for our most vulnerable patients and the potential for diminished community-wide services, such as trauma care."

Dr. Sheldon Retchin, Vice President for Health Sciences at Virginia Commonwealth University in Richmond, testified that the loss of Medicaid support for graduate medical education (GME) programs "would endanger the ability of teaching hospitals to maintain their mission of training physicians." He noted that the U.S. "faces a looming physician shortage in conjunction with a rise in the healthcare demands of baby boomers." He expressed surprise that CMS would decide to eliminate federal support for GME after making such payments for over twenty years without any change in the federal Medicaid statute by Congress.

Dr. Angela Gardner, the Vice President of the American College of Emergency Physicians and an emergency doctor from Galveston, Texas, testified that the new CMS rules would greatly damage emergency care for all Americans, not just those on Medicaid. In response to questioning, she stated that the new rules would severely compromise the ability of communities to respond to the next natural disaster or public health emergency.

Dr. Marjorie Kanof, Managing Director of the Health Care Division at the Government Accountability Office (GAO), testified about past GAO work on the fiscal integrity of the Medicaid program. She reported that there have been numerous instances of state financing arrangements that effectively increased the federal share of Medicaid costs. She testified that CMS has acted to end these arrangements but that it has not done so in a transparent manner that made it possible for states to tell what was allowed and what was prohibited. During questioning, she said that GAO has not made any recommendations with regard to whether any of the six proposed rules should be implemented.

Dennis Smith, the Director of the CMS Center on Medicaid and State Operations, testified that each of the proposed rules is “vitaly important to ensure the integrity of the Medicaid program” and to ensure that “taxpayers are receiving the full value of their dollars that are spent through Medicaid.” He stated that the federal funds affected by these CMS regulatory actions “represent approximately one percent of annual federal spending on Medicaid.” In response to questions, he acknowledged that another proposed rule relating to targeted case management was in clearance and that additional proposed rules were under consideration.

Chairman Waxman concluded the hearing with the following statement: “I hope that Mr. Smith or Secretary Leavitt will be moved by what we’ve learned today and direct CMS to withdraw these proposed rules. If it does not, it will be up to the Congress to take the necessary measures to protect states, hospitals, physicians, and Medicaid beneficiaries from these reckless proposals.”

Additional information, including Chairman Waxman’s statement and copies of testimony, is available at www.oversight.house.gov.