

Proposed Federal Rule Would Upend Patient Care

Once again, the stability of the Texas hospital industry is in jeopardy, as a proposed federal rule aims to severely limit states' ability to draw down critical federal Medicaid payments. Hospitals across the state rely on payments through state-directed payment programs (SDPs) to provide essential care for Medicaid enrollees and the uninsured.

The proposed rule – called Medicaid and CHIP Managed Care Access, Finance, and Quality – was issued by the Centers for Medicare & Medicaid Services in early May 2023. The effort is the latest in a series of federal actions seeking to erode states' flexibility, increase oversight and curtail arrangements that help hospitals draw down federal funds and provide much-needed access to care for Texas patients.

THE RULE: HURTS PAYMENTS, HURTS HOSPITALS

Texas' hospital Medicaid payments are financed permissibly, but the proposed rule would restrict Texas from using longstanding CMS-approved methods to shore up access to care.

The Details

The proposed rule would grant CMS broad authority to withhold approval of SDPs or retroactively deny already-approved SDPs it believes to be financed with impermissible non-federal dollars. The rule also would require individual hospitals that participate in SDPs to attest in writing they do not participate in any "hold harmless" arrangement (arrangements in which a taxpaying hospital is paid back part or all of their tax). CMS's interpretation of impermissible "hold harmless" arrangements in this rule **oversteps the language of federal statute and regulation** and would require providers to attest they are not engaged in plainly permissible activities.

The Bottom Line: The Rule Is an Overreach and Should Be Withdrawn

CMS should withdraw the financing restrictions in this rule and stop applying a faulty interpretation of federal statute to permissible financing arrangements. **A rule of this kind would accelerate Texas hospital closures**, reduce service lines like OB-GYN, pediatrics, and behavioral health, limit access to care for low-income Texans, and leave the State of Texas holding the bag on an even larger financial Medicaid burden.

IN A STATE WHERE NEARLY
1 IN 5 TEXANS ARE



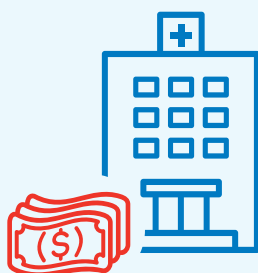
**ENROLLED IN
MEDICAID**
THE STAKES FOR
TEXAS ARE HIGH



5 MILLION
TEXANS ARE ENROLLED IN
MEDICAID
ANOTHER 5.2 MILLION ARE
UNINSURED

- State and federal laws require hospitals to provide care for anyone who seeks it, **regardless of their ability to pay**.
- Base Medicaid payments do not cover hospitals' costs of providing care. On average they only reimburse hospitals for **72% of inpatient** and **75% of outpatient costs**.
- Medicaid SDPs in Texas exceed **\$6 billion** in fiscal year 2023. These funds are essential to offset Medicaid reimbursements that are below cost.

THIS PROPOSED RULE WOULD DEVASTATE THE HEALTH CARE SAFETY NET AT THE EXPENSE OF TEXAS' POOREST RESIDENTS, INCLUDING LOW-INCOME PREGNANT WOMEN, CHILDREN AND SENIORS.



CURRENT LAW PROVIDES THE
FLEXIBILITY
TO FINANCE THE NON-FEDERAL
SHARE OF THE SDPs

WITHOUT IT:

- Texas would have a **multi-billion-dollar hole** in its Medicaid program.
- Local taxes would **increase**.
- Rural hospitals would **shutter**.
- Patients would have **fewer options to access** OB-GYN, pediatric and behavioral health services.

A TIMELINE OF OVERREACHES

This rule is not CMS's first attempt to impose financing restrictions that incorrectly interpret and overstep the law. It's the latest in a series of attacks on long-standing methods CMS has permitted states to use to finance their Medicaid programs.

