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STATE MEDICAL ASSOCIATIONS NATIONAL MEDICAL SPECIALTY SOCIETIES

February 1, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2393-P, Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Medicaid Fiscal Accountability Regulation, CMS-2393-P

Dear Administrator Verma:

The undersigned state medical associations and national medical specialty societies represent hundreds of thousands of physicians who treat our nation's Medicaid patients every day. Our organizations are writing to comment on the Medicaid Fiscal Accountability regulation recently issued by the Centers for Medicare and Medicaid Services (CMS). Overall, we are committed to working with the Administration to improve fiscal accountability and transparency in the Medicaid program.

However, our organizations are concerned that the proposed rule would significantly reduce the federal commitment to the Medicaid program, physicians, and our patients without appropriate data and a thorough impact analysis. We respectfully ask that the agency collect data on the current state funding mechanisms and how the dollars are actually spent in each state, to make more informed policy decisions before CMS overhauls the Medicaid financing structure.

We strongly urge CMS to withdraw the proposed rule and work with states, physicians, and patients on alternatives that will ensure not only efficient use of taxpayer dollars, but also protect patient access to Medicaid services.

The proposal represents a substantial shift in the state-federal Medicaid partnership and a reversal of more than two decades of policy that allowed states different options for financing our share of medical care in order to receive federal Medicaid matching dollars. For years, all 50 states have used hospital fees, Medicaid managed care plan taxes, intergovernmental transfers, state special funds or other local sources of funding to receive a federal match. The proposed rule would restrict every state's ability to use such funding for the non-federal share of Medicaid financing. Moreover, there are no clear standards by which future state Medicaid financing will be considered, and the rule does not allow adequate time for states to plan for these substantial changes.

As physicians, we are extremely concerned that the proposed rule would result in significant Medicaid funding cuts to our most vulnerable patients – children, pregnant women, the elderly and disabled.

Medicaid provides coverage to

- 21% of Americans
- Nearly 50% of our nation's children
- More than 1/3 of our nation's disabled
- More than 10 million seniors

For some states, the cuts could represent up to 50% of their Medicaid budgets. Such drastic cuts would harm physicians' ability to continue to participate in the program, exacerbate existing Medicaid physician shortages, and thus, undermine access to care for these fragile Medicaid patients. The proposal would disproportionately harm rural and underserved communities who shoulder an even heavier Medicaid burden.

Finally, we are concerned about the negative impact of the proposed rule on state budgets and states' capacity to address funding gaps. This rule would create significant funding gaps in state budgets and leave states without adequate resources or time to prepare for the future. States could be forced to close budget gaps with either untenable cuts to providers and medical services or burdensome increases in state and local taxes. Underfunding the Medicaid program shifts the uncompensated care burden to states and safety net providers on the front lines caring for these patients. The proposed cuts are unsustainable for states, safety net physicians, and our Medicaid patients- most of whom are children.

If enacted, the proposed rule would negatively impact patients, physicians, and state budgets in all 50 states. We respectfully urge CMS to protect health care services for children, the elderly and disabled by withdrawing the rule and working with us to improve fiscal accountability in other ways with more informed data.

Sincerely,

Medical Association of the State of Alabama
Alaska State Medical Association
Arizona Medical Association
Arkansas Medical Society
California Medical Association
Colorado Medical Society
Connecticut State Medical Society
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association
Medical Association of Georgia
Hawaii Medical Association
Idaho Medical Association
Illinois State Medical Society
Indiana State Medical Association
Iowa Medical Society
Kansas Medical Society
Kentucky Medical Association
Louisiana State Medical Society

Maine Medical Association
Maryland State Medical Society
Massachusetts Medical Society
Michigan State Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association
Montana Medical Association
Nebraska Medical Association
Nevada State Medical Association
New Hampshire Medical Society
Medical Society of New Jersey
New Mexico Medical Society
Medical Society State of New York
North Carolina Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oklahoma State Medical Association
Oregon Medical Association
Pennsylvania Medical Society
Rhode Island Medical Society
South Carolina Medical Association
South Dakota State Medical Association
Tennessee Medical Association
Texas Medical Association
Utah Medical Association
Vermont Medical Society
Medical Society of Virginia
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society

American Academy of Dermatology Association
American Academy of Pediatrics
American Academy of Physical Medicine and Rehabilitation
American Academy of Hospice and Palliative Medicine
American Association of Child and Adolescent Psychiatry
American Association of Neurological Surgeons
American College of Obstetricians and Gynecologists
American College of Emergency Physicians
American College of Physicians
American College of Rheumatology
American Society of Anesthesiologists
Congress of Neurological Surgeons



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Larry Hogan
Governor of Maryland

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Governor of New York

January 29, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2393-P
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Medicaid Fiscal Accountability Rule (CMS-2393-P)

Dear Administrator Verma:

On behalf of the National Governors Association, we appreciate the opportunity to provide comments on the Centers for Medicare & Medicaid Services (CMS) proposed Medicaid Fiscal Accountability Rule (MFAR).

Governors support the Administration's goals to strengthen transparency and accountability in the Medicaid program to ensure long-term fiscal integrity. However, we are concerned that the proposed rule, as drafted, would significantly curtail the longstanding flexibility states have to fund and pay for services in their Medicaid programs. In losing this flexibility, states may be unable to adequately fund their Medicaid programs, which could lead to unintended consequences that would negatively impact Medicaid beneficiaries across the country.

Medicaid is a federal-state partnership and all states, the District of Columbia, and the U.S. territories have Medicaid programs that provide health coverage for 73 million of the nation's most vulnerable citizens. States invest heavily in their Medicaid programs; 24.5 percent of all state spending is on Medicaid. Consistent with federal law, states have had the longstanding ability to finance their programs in different ways such as with state general revenue, intergovernmental transfers (IGTS), certified public expenditures and provider taxes. This flexibility is a hallmark of the Medicaid federal-state partnership, and has been truly invaluable in allowing states to tailor their programs to meet the unique health needs of their residents.

We understand that CMS desires more oversight. However, the MFAR makes broad changes that could prohibit or limit many permissible financing and supplemental payment arrangements in Medicaid programs across the states. MFAR would prohibit certain longstanding IGT arrangements altogether, even though such arrangements are allowed under current law. The proposed rule also establishes new broad discretionary standards of review for provider taxes and supplemental payments, and limits approval to three years. These changes create significant uncertainty as to whether a state's payment and financing structure will meet federal requirements. For example, a provider tax which had previously been approved by CMS as consistent with federal law may now be deemed inappropriate. This leaves the state without a valid financing source and may lead to cuts to states' Medicaid programs.

Although CMS is unable to identify the impact of the rule, the proposed rule will have significant and broad impacts in many states across the country. Preempting states' authority and reducing states' flexibility within their Medicaid program will result in decreased access to care for many vulnerable Americans.

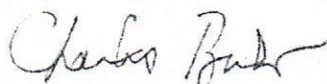
Governors request that CMS not move forward with the current proposed rule, as written, and instead, gather more data to understand the impact, identify more targeted evidence-based policies to address concerns and work with states to determine best practices for how to strengthen accountability and transparency in the Medicaid program. Medicaid plays a significant role for millions of people across the country and its complex structure warrants careful and thoughtful steps for any reform.

We thank you for the opportunity to submit these comments and look forward to engaging with you on the proposed rule.

Sincerely,



Governor Kate Brown
Health and Human Services Committee
National Governors Association



Governor Charlie Baker
Health and Human Services Committee
National Governors Association