

# WebMemo



Published by The Heritage Foundation

No. 1837  
March 6, 2008

## Congress Should Support HHS Efforts to Curtail Medicaid Mismanagement

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Members of Congress are pushing to extend a moratorium on several key Medicaid regulations, arguing that they would devastate state Medicaid programs. However, these regulations would serve to eliminate any ambiguity in the current law and prevent future fraud and abuse. Congress should recognize the importance of these regulations and go even further to promote accountability and transparency in Medicaid.

For years, the Government Accountability Office (GAO) has called on the federal government to improve oversight of state efforts to maximize federal reimbursement under Medicaid. The Centers for Medicare and Medicaid Services (CMS) has worked with the states to address many of these inappropriate schemes. The regulations in question aim to close the loopholes on intergovernmental transfers, rehabilitation services/targeted case management, school-based services and administrative costs, and graduate medical education.

**Problems with Medicaid Financing.** Medicaid's open-ended financing structure encourages states to maximize opportunities for federal contributions. States receive a guaranteed federal matching rate for qualified Medicaid services that ranges from 50 percent to 83 percent. For every dollar a state spends, the federal government contributes between one and three dollars. This generous and unlimited matching structure creates perverse incentives for states to manipulate the system to their own advantage while leaving federal taxpayers to foot the bill.

**What the Regulations Would Do.** The current system has allowed some states to exploit the Med-

icaid financing structure inappropriately. The CMS regulations focus on ending questionable practices in the following key areas:

- **Intergovernmental Transfers (IGTs).** Under this scheme, states overpay for Medicaid services provided by certain government facilities in order to capture more federal funds. Typically, once these federal contributions have been received, a portion of the Medicaid payments is returned to the state. Therefore, states overcharge the federal government and use the excess funds for other purposes. The CMS regulation would cap the amount states could pay these providers at actual cost and enable the federal government to recoup overpayments made under this scheme.
- **Rehabilitation Services/Targeted Case Management.** Reports show that some states are charging Medicaid for services that are not medically necessary or are using federal payments to fund non-Medicaid services. The CMS regulation would clarify the definition of covered services and would stop federal payments for non-Medicaid services.
- **School-Based Services and Administrative Costs.** States can use Medicaid to fund discrete services provided in public schools. However,

This paper, in its entirety, can be found at:  
[www.heritage.org/Research/HealthCare/wm1837.qfm](http://www.heritage.org/Research/HealthCare/wm1837.qfm)

Produced by the Center for Health Policy Studies

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

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some states are overbilling Medicaid for administrative costs and for school initiatives completely unrelated to Medicaid. The CMS regulation would end federal payments for excessive administrative overhead and for certain transportation services outside the scope of Medicaid.

- **Graduate Medical Education.** States receive federal Medicaid payments to help support graduate medical education. Since these activities are not a direct Medicaid service, the CMS regulations would eliminate these payments.

**What Congress Should Do.** *First*, Congress should allow regulations to move forward. Congress should reject any attempt to further delay the implementation of these regulations. Congress imposed the current moratorium last year and has yet to propose any substantive alternative solutions to address the exploitation of the federal Medicaid matching rate. Under these regulations, the federal government would continue to fund legitimate Medicaid services, and states would be held accountable for paying their fair share.

*Second*, Congress should consider transferring non-health services out of Medicaid. Congress could eliminate the ambiguity of qualified Medicaid services by limiting the federal matching rate to essential medical services. All other non-medical support services—such as rehabilitation, transportation, and school-based services—should be con-

sidered discretionary spending and should be subject to debate as to whether the federal government has responsibility to fund them.

*Third*, Congress should reform Medicaid and its financing structure. As noted, the current federal matching rate system and the open-ended entitlement structure encourage states to manipulate the system to maximize federal contributions. Medicaid, along with the other major entitlements, faces long-term fiscal disaster. If Congress is serious about reforming the nature of these entitlements, it could start by reforming the way the Medicaid program is funded.

**Conclusion.** The result of state gimmicks is an inappropriate shift of costs to federal taxpayers. Congress should reject any attempt to prevent the CMS from implementing sound and sensible regulations. These changes are a first step toward fixing the mismanagement of the Medicaid program.

If Congress is serious about entitlement reform, it is time to draw the line. Congress should go even further than these regulations to promote accountability and transparency in Medicaid. Policymakers should protect Medicaid funding for essential medical services and reconsider the entire federal matching structure under Medicaid.

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