



Medicaid Policy Changes: The Nuts and Bolts

Presentation to
National Medicaid Congress
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June 4, 2006

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Changing State Medicaid policies

- What is the role of Congress, CMS, state legislatures, and state Medicaid agencies in changing state Medicaid policies?
- What is the role of federal statutory changes, CMS guidance, state plan amendments (SPAs), and waivers in changing state Medicaid policies?

The Federal Medicaid Statute: Title XIX of the Social Security Act

- Entitles states with approved State Plans to receive federal matching funds for allowable expenditures (benefits and administration)
- Sets forth 70 requirements for State Plans and allowable expenditures (section 1902(a))
- Establishes the formula for determining federal matching rate
- Authorizes Secretary of HHS to waive State Plan requirements (as does section 1115)

Role of Congress

- Establish and revise State Plan requirements for federal matching funds in Title XIX (e.g., DRA adds section 1902(a)(68), (69)(70)).
- Conform federal Medicaid spending to budget resolution (e.g., DRA reduces federal Medicaid spending by \$11.5 billion gross, \$4.9 billion net, over 5 years)
- Appropriate funds for CMS and for Research, Demonstration & Evaluations (e.g., Labor-HHS Appropriations bill)
- Oversight of CMS (Authorizing committees, Appropriations committees, GAO)

Role of CMS

- Define compliance with statutory State Plan requirements through administrative guidance
- Ensure compliance by participating states with State Plan requirements
- Process state requests for State Plan amendments (SPAs) and waivers
- Pay federal matching funds to complying states for allowable expenditures
- Carry out Congressional directives (e.g., DRA Medicaid Integrity Program)

Types of CMS Guidance

- Regulations (with OIRA)
 - notice and comment (NPRM)
 - interim final
- State Medicaid Manual (SMM)
- State Medicaid Director (SMD) Letters
- SPA Preprints
- Waiver Templates

Role of States

- If elect to participate, comply with State Plan requirements
- Within federal parameters, set policies for eligibility, benefits, provider and MCO payment, and administration
- Seek approval for SPAs, waivers needed to implement desired policies
- Finance state share of Medicaid expenditures
- In carrying out these functions, roles of state agencies and state legislatures vary

State Plan Amendments (SPAs)

- SPAs required to reflect (1) changes in federal law, regulations, or court decisions; or (2) “material” changes in state law, organization, or policy, or in the State’s operation of the Medicaid program
- SPAs need not be “budget neutral”
- CMS must approve or disapprove within regulatory time frames
- CMS discretion to condition approval (“5 Questions”)
- Federal court review available to states to challenge CMS disapprovals
- Approved SPAs are not time-limited

Waivers

- At discretion of Secretary (and OMB); Federal courts unlikely to overturn waiver disapproval
- Time-limited but renewable
- Demonstration (e.g., section 1115): “budget neutrality” required
- Program (e.g., section 1915(c) HCBS): “budget neutrality” required

DRA

- Contains 39 sections CBO estimates will affect federal Medicaid spending, including 3 new State Plan requirements (e.g., FCA education, MIP compliance, NEMT option)
- State compliance mandatory with 16 sections
- Congress requires CMS issuance of regulations in only 4 sections.
- Secretary has issued guidance (SMD Letters) for 4 sections (as of May 26, 2006)

DRA Policy Process Changes

- Converting Waivers to SPAs:
 - “Benchmark Benefits” Option (e.g., KY, ID, WV)
 - HCBS Services for Elderly and Disabled Option
- New Waiver Authorities:
 - Health Opportunity Accounts demonstration in up to 10 states (“budget neutrality” not required)
 - Money follows the Person (MFP) rebalancing demonstration (up to \$1.75 billion over 5 years)
 - HCBS alternatives to psychiatric residential treatment services demonstration (up to \$218 million over 5 years)
- \$2 billion for 32 Katrina fiscal relief section 1115 waivers already issued