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POLITICS

# Rule Would Discourage States' Cutting Medicaid Payments to Providers

By ROBERT PEAR MAY 2, 2011

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WASHINGTON — In a new effort to increase access to health care for poor people, the Obama administration is proposing a rule that would make it much more difficult for states to cut [Medicaid](#) payments to doctors and [hospitals](#).

The rule could also put pressure on some states to increase Medicaid payment rates, which are typically lower than what [Medicare](#) and commercial insurance pay.

Federal officials said Monday that the rule was needed to fulfill the promise of federal law, which says Medicaid recipients should have access to health care at least to the same extent as the general population.

“We have a responsibility to ensure sufficient beneficiary access to covered services,” the administration said in issuing the proposal, to be published Friday in the [Federal Register](#).

In many parts of the country, Medicaid recipients have difficulty finding doctors who will take them because Medicaid payment rates are so low.

Faced with huge financial problems, many states have frozen or reduced Medicaid payments to health care providers, and governors of both parties have proposed additional cuts this year. Medicaid recipients



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and health care providers have sued state officials to block such cuts, and one case, from California, is pending in the United States Supreme Court.

“Tight state budgets, coupled with increased demand for services during the [recession](#), have led many states to propose reductions in Medicaid provider payments, without clear federal guidance on how to assure access,” said Cindy Mann, the federal official in charge of [Medicaid](#).

The new rule provides that guidance, but several state officials expressed concerns.

Dennis G. Smith, secretary of the Wisconsin Department of Health Services, described the proposal as “a federal power grab.”

“The administration talks about flexibility and working with states, but continues to take actions such as this that are contrary to the partnership,” Mr. Smith said. “Putting states in jeopardy, by inventing a new meaning for a longstanding statutory provision, is another example of how distant and disconnected the administration is from what is happening across the country.”

Medicaid is financed jointly by the federal government and the states. Even before the recent recession, it was one of the fastest-growing items in most state budgets.

Douglas Porter, the Medicaid director in Washington State, said: “The intent of the proposed regulation is reasonable. But the administration has gone overboard, creating a system of access review that is far too complex, elaborate and burdensome.”

Bruce D. Greenstein, secretary of the [Louisiana Department of Health and Hospitals](#), said: “The proposal leaves too much discretion with the federal government. It does not clearly enunciate the criteria to be used in measuring access to care.”

The new initiative comes as federal and state officials prepare for a huge expansion of Medicaid eligibility, scheduled to occur in 2014 under the new health care law.

About half of the 34 million uninsured people who are expected to gain coverage under the law will get it through Medicaid.

The proposed rule generally prevents states from cutting Medicaid payments to providers unless they can show that Medicaid recipients

will have “sufficient access” to care after the cuts.

Regardless of whether they want to cut payment rates, states must continually monitor Medicaid recipients’ access to care and develop plans to fix any problems they discover, the rule says.

Under the rule, states must measure and document access to “each covered benefit” at least once every five years. Data from such reviews could provide doctors, hospitals and [nursing homes](#) with powerful new tools to lobby for higher reimbursement.

States set Medicaid payment rates within broad federal guidelines. Federal law has long said that states must “enlist enough providers” to make sure Medicaid recipients have access to care equivalent to that of other people in the area.

Under presidents of both parties, federal officials have often disregarded this requirement, approving cuts in Medicaid payment rates that discouraged doctors from accepting Medicaid patients.

In an effort to rein in costs, states have increasingly turned to health maintenance organizations and other types of managed care. The new rule does not apply to managed care. But the Obama administration said it was “considering future proposals” to guarantee access to care for Medicaid recipients in such private health plans.

Under the proposal being issued this week, “beneficiary access must be considered in setting and adjusting” Medicaid payments to doctors, dentists, [psychologists](#), hospitals, clinics, pharmacies, nursing homes and suppliers of medical equipment.

States must consult Medicaid recipients because, the rule says, their experience is “the most important indicator of whether access is sufficient.” Federal officials suggested that states survey Medicaid recipients to see how much difficulty they had in scheduling doctor’s appointments.

In addition, the rule says, states should compare Medicaid payment rates with the amounts paid by Medicare or commercial insurers, with providers’ costs or with their customary charges. Another important factor, it said, is the number and percentage of doctors who accept new Medicaid patients.

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