



Maintain the UPL Agreement

Draft Rule Threatens to Devastate California's Medi-Cal Program, Eliminate Services at Public Hospitals

Summary

Federal regulators are expected to soon issue a rule that would result in a loss of *at least \$250 million each year* in federal Medicaid funds to California's public hospitals. California uses the funds targeted by the draft rule to provide essential health care services to low-income Medicaid, working uninsured and immigrant populations. Implementation of the draft rule would devastate California's Medicaid program (Medi-Cal) and seriously threaten access to health care for vulnerable populations.

Background

Last year, the Centers for Medicare and Medicaid Services (CMS, formerly known as HCFA) issued a proposed rule that limited the maximum overall amount—known as the “upper payment limit” (UPL)—the federal government will pay states for Medicaid services. The rule was initially introduced in response to Medicaid supplemental payment mechanisms in some states—not California—that allowed those states to draw down federal Medicaid funds to pay for a variety of non-health care services. In California, federal Medicaid funds are used exclusively to pay for vital health care services to low-income patients.

In March 2001, a final rule was put into effect that provides a higher upper payment limit for public hospitals—150 percent, instead of 100 percent—out of recognition of their higher costs and significant role as safety net providers. The higher limit was the result of negotiations balancing the federal government's need to ensure appropriate use of federal Medicaid funds with the tremendous needs that states, like California, face in ensuring access to care for low-income Medicaid, working uninsured and immigrant patients. In addition, Congress at the end of 2000 enacted legislation as part of the Beneficiaries Improvement and Protection Act (BIPA) that provides states, including California, with an extended transition period—seven years—to comply with the new limits.

Under the draft rule California's public hospitals stand to lose *at least \$250 million* in federal funds each year.

Status of Draft Rule

CMS has sent a draft “Notice of Proposed Rulemaking” (NPRM) for expedited review by the Office of Management and Budget and the Department of Health and Human

Services. The draft rule would eliminate the higher upper payment limit of 150 percent for public hospitals. The rule is expected to be issued by the end of October and could have an effective date of January 2002.

Impact of Draft Rule

The draft rule would seriously undermine the carefully crafted solution reached last year regarding the Medicaid upper payment limit regulation. In the *Federal Register* notice announcing the final UPL in January, CMS indicated that it was setting this higher UPL for public hospitals in recognition of the “important role non-State public hospitals play in providing emergency room and trauma care and in caring for the indigent” and to assure “the continued existence and stability of these core providers who serve the Medicaid population.”

California’s public hospitals stand to lose *at least \$250 million each year* in federal Medicaid funds if the draft rule is implemented. The magnitude of this loss would decimate the state’s Medicaid program and force the reduction or elimination of services at public hospitals throughout the state, which provide 40 percent of the inpatient care to the state’s uninsured population. Consequently, it would jeopardize access to health care for millions of working uninsured Californians.

California’s immigrant population in particular would face reduced access to needed health care services, as this population relies heavily on safety net providers such as public hospitals and health systems for primary care services, emergency care and other vital public health programs. The rule would also force the reduction or elimination of important emergency and trauma services that benefit the general public—insured and uninsured alike—and that may not otherwise be available.

A reduction in the upper payment limit for public hospitals will trigger a serious negative ripple effect across California’s entire health care system.

Any reduction in the upper payment limit for public hospitals will trigger a serious negative ripple effect across California’s entire health care system. Although the higher payment limit applies only to public hospitals, the structure of California’s Medi-Cal program intrinsically links public- and private-sector hospitals. Private safety net hospitals, children’s hospitals and teaching hospitals—as well as public hospitals—all receive supplemental Medi-Cal payments and all would be seriously harmed by the proposed change.

Policy Recommendation

The federal government should protect the safety net, maintain the balance struck in the upper payment limit regulations and keep the 150 percent UPL for public hospitals.