

Advocates push for Medicaid waiver final rule

By Jason Millman

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Medicaid advocates are pushing the Obama administration to issue a long-delayed final rule requiring states to provide greater transparency as they seek federal permission to make substantial changes to their Medicaid programs.

It's been about 13 months since the administration proposed new requirements for more public input involving 1115 waivers, a process that allows states to pursue significant reimbursement and eligibility changes in their Medicaid programs. The Affordable Care Act rule is especially important this year, advocates say, because a number of states with budgetary challenges are asking for CMS's blessing to pare back Medicaid spending.

Emphasizing the importance of finalizing the rule, 34 advocacy organizations signed onto an April letter to HHS Secretary Kathleen Sebelius. Just last week, two-thirds of those groups signed onto a [White House letter](#), again expressing urgency for the administration to post a final rule.

“[G]iven that many states are already discussing or have submitted comprehensive Medicaid waivers, we hope that you will make finalizing these important regulations a top priority,” the groups wrote.

Some of the proposed rule's most notable features are requirements for states to hold public hearings and accept comments at least 30 days before submitting a Medicaid waiver request to CMS. States would have to issue a detailed justification for the changes, including an analysis of the impact on Medicaid beneficiaries.

Months have passed since the final rule was originally slated for release. HHS sent a final rule to OMB for review in May, but the budget office extended its review almost two months ago.

A CMS spokesman declined to comment on why the rule is being held up.

“CMS is committed to fostering transparency in the 1115 demonstration process, and we are continuing our rulemaking process,” the spokesman said.

Health care lobbyist Licy Do Canto said it's “troubling” that the rule is on hold.

“The longer it goes, the more speculation it invites as to why,” he said.

The delay has led some close observers of the rule's progress to wonder whether California's request for \$1.5 billion in Medicaid cuts could be holding the administration's release of the

regulation. The request has put the Obama administration in a tough spot of whether to back a Democratic governor who has been sympathetic to health care reform efforts, or stand firm on its commitment to Medicaid, which will cover about half of the ACA's newly insured individuals starting in 2014.

California provider groups, who have sued the state to disclose more details about their negotiations with CMS, have repeatedly criticized the private nature of the waiver process.

The typically arcane Medicaid waiver process has come into the public light during GOP presidential debates. Texas Gov. Rick Perry has blamed his state's high uninsured rate on the CMS waiver requirements, and argued that block grants would give states greater ability to manage their Medicaid programs.

"I think what you should see is the block grant, not having to go to Washington and saying, 'Mother, may I' every time," Perry said in a debate two weeks ago.

Judy Solomon, vice president for health policy at the left-leaning Center on Budget and Policy Priorities, said Republican governors and lawmakers who critique the waiver process overlook CMS's key oversight role.

"CMS asks a lot of questions, and they're right to do that," Solomon said.

Arizona, which earlier this year won a public battle with CMS to enact Medicaid eligibility cuts, warned that the proposed Medicaid transparency regulation could further stretch states' already-thin administrative budgets.

"[Arizona] is also in the process of implementing health care reform mandates," Arizona health director Thomas Betlach wrote in November 2010. "All of these changes have required enormous hours of staff time."