



H.R. 5613 – PROTECTING THE MEDICAID SAFETY NET ACT OF 2008

FLOOR SITUATION

H.R. 5613 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative John Dingell (D-MI) and Representative Tim Murphy (R-PA) on March 13, 2008. The House Committee on Energy and Commerce approved the bill, as amended, by a vote of 46 to 0 on April 16, 2008.

H.R. 5613 is expected to be considered on the floor of the House on April 22, 2008.

SUMMARY

H.R. 5613 would prohibit the Department of Health and Human Services from finalizing and enforcing certain Medicaid regulations until April 1, 2009.

The seven proposed medical regulations blocked by H.R. 5613 would do the following:

- Reiterates that only units of government are able to participate in financing the State's share of Medicaid expenses.
- Limits Medicaid payments to governmentally operated healthcare providers to the cost of providing the covered service;
- Reaffirms that non-governmental healthcare providers receive and retain their full Medicaid payments from the State.
- Clarifies the definition of outpatient clinic and hospital services under the Medicaid program;
- Provides that graduate medical education payments are not federally reimbursable under Medicaid;
- Restricts federal reimbursement for services transporting school-aged Medicaid patients to and from school, and for services and administrative activities performed by school employees;
- Clarifies and limits what may be claimed as Medicaid rehabilitation services; and
- Limits State-levied taxes on Medicaid providers by redefining what may be considered to be an "allowable" provider tax.

In order to offset the costs associated with blocking these seven rules, H.R. 5613 contains a provision that requires all States to electronically verify the financial disclosures of Medicaid applicants to ensure that they are eligible to receive Medicaid. Additionally, the legislation requires the Secretary of Health and Human Services to submit a report to Congress outlining the Medicaid funding problems that the Administration's regulations intend to solve. The Secretary must also contract with an independent organization to report on the effectiveness of the Administration's regulations, and on suggested strategies to address problems in Medicaid funding.

In order to help address the underlying problems of fraud and abuse in the Medicaid program, the bill contains a provision to provide an additional \$25 million annually for the Medicaid fraud and abuse abatement programs.



Note: The electronic verification and the fraud and abuse abatement provisions were added by Republicans during Committee consideration of the bill.

BACKGROUND

The Department of Health and Human Services routinely issues guidance and implementing regulations for the Medicaid program. Usually, these rules are issued, finalized, and implemented without gaining much public attention. However, several interest groups advocating on behalf of the States, Medicaid beneficiaries, and certain healthcare providers that participate in the Medicaid program have identified a group of recently published Medicaid rules they are seeking to block. H.R. 5613 was introduced in response to the widespread opposition to these rules and seeks to place moratoria on these regulations until April 1, 2009.

Created in 1965, Medicaid is a means-tested entitlement program that finances the delivery of primary and acute medical services as well as long-term care to more than 63 million people at an estimated annual cost to the taxpayers of over \$315 billion. On average approximately 60% of all Medicaid expenditures are financed by the federal government and approximately 40% are financed by the State Medicaid programs.

ADDITIONAL VIEWS

Secretary of Health and Human Services Michael Leavitt: "Because H.R. 5613 could prevent the Administration from responsibly clarifying ambiguities in current Medicaid regulations and from stopping blatant abuses of the federal-State partnership arrangement that constitutes the Medicaid program, the Administration must oppose the legislation. The President's senior advisors would recommend that he veto the legislation if it were presented to him for his signature." ([Letter, April 15, 2008](#))

House Energy and Commerce Committee Ranking Member Joe Barton (R-TX): "I hope that the final outcome of the process will be a fiscally responsible, bipartisan compromise that members on both sides of the aisle can support... I don't support all of the regulations, which is one of the reasons I am supportive of the moratorium. I hope that in the time period while the moratorium is in place, we can work together not just on a committee level but with the administration to find a way to fine-tune some of the regulations and see if they can go into effect at some point in time." ([Press Release, April 16, 2008](#))

COST

The Congressional Budget Office has projected that H.R. 5613 will not increase federal Medicaid outlays due to the offset provision in the bill.

[CBO preliminary cost estimate for H.R. 5613](#) (PDF)

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