Protecting Medicaid in Hard Times

Thirty-nine states are projected to face budget gaps next year, and on average these shortfalls represent nearly a fifth of total state budgets. Because it is one of the largest line items in every state budget, these pressures are leading state policymakers to turn to Medicaid for savings. But protecting and sustaining Medicaid is more important than ever. Not only do millions of low-income parents, children and seniors rely on this program for access to needed health care services today, but Medicaid also serves as the foundation for nearly half of the new coverage gains expected under the Affordable Care Act (ACA).

Fortunately, the ACA includes a Maintenance of Effort (MOE) requirement that prohibits most states from cutting Medicaid eligibility before 2014, when all states will have to cover almost everyone with income below 133 percent of the federal poverty line (FPL). However, this requirement has some significant limitations, for example it does not protect against benefit and provider rate cuts, leaving Medicaid exposed to significant cuts in the years ahead.

How does the Maintenance of Effort (MOE) requirement protect state Medicaid beneficiaries?

The MOE temporarily blocks Medicaid and CHIP eligibility cuts. Specifically, it prohibits states from restricting the "eligibility standards, methodologies or procedures" that were in effect on March 23, 2010 for adults on Medicaid until January 1, 2014 and children on Medicaid or the Children's Health Insurance Program (CHIP) until October 1, 2019.

This means the ACA not only precludes states from eliminating coverage or scaling back income eligibility levels for Medicaid and CHIP enrollees in the next few years, but also prohibits them from introducing new barriers to enrollment. For example, with the MOE in effect, states cannot newly require applicants to come in for a face-to-face interview or shorten their renewal period.

There is one exception to the MOE for states that are facing, or project they will face, a budget deficit: these states are permitted to reduce eligibility for non-disabled, non-pregnant adults down to a floor of 133 percent of the Federal Poverty Level (FPL). But most states do not currently cover adults above 133 percent FPL, so this exception does not apply to them.[1]

What types of Medicaid cuts are *not* prohibited by the MOE requirement?

The MOE only protects Medicaid programs against restrictions in eligibility standards, methodologies or procedures. Numerous other types of Medicaid cuts are permitted, including:

- *Eliminating optional benefits*. All states cover some services in their Medicaid benefits packages that are not mandated by the federal government.[2] These critical benefits are not protected by the MOE, and eliminating them would reduce access to needed health services. Optional benefits include:[3]
    - prescription drugs
    - clinic services
    - dental services, dentures
    - physical therapy and rehab services
    - prosthetic devices, eyeglasses

  - primary care case management
  - intermediate care facilities for the mentally retarded (ICF/MR) services
  - inpatient psychiatric care for individuals under 21
  - home health care services
  - hospice services

- *Reducing the scope of benefits*. The federal government requires states to cover each mandatory service in sufficient "amount, duration, and scope to reasonably achieve its purpose." There is no precise federal regulatory definition of this requirement, so it has been left largely to the courts to define when there is a challenge to a state benefit limit. For example, courts have upheld limits of three doctor's visits per month and 14 hospitalized days per year.

- *Cutting provider reimbursement rates,* which already average only 72 percent of Medicare rates.[4] Further cuts can make it difficult for beneficiaries to access needed providers.

- *Closing CHIP enrollment*. This option is only open to states with separate CHIP programs and a pre-existing cap as part of their state plan.

How Can Advocates Protect Their Medicaid Programs From These Cuts?

Successful Medicaid defense strategies will achieve two objectives:

1. *Persuade state policy makers that the types of cuts enumerated above are a bad idea.* Advocates should engage vulnerable Americans who rely Medicaid, such as the elderly and disabled, to express the harm caused by these cuts on their access to needed health services. They should also engage the provider community to illustrate the financial implications of the cuts to doctors and hospitals. It is also persuasive to highlight the inefficiency of these cuts, since every state dollar cut from the Medicaid program triggers the loss of at least one federal dollar as well.

2. *Offer viable alternatives to produce savings or revenue*. Given the imperative in states to achieve a balanced budget, advocates will need to demonstrate grassroots support for alternative cost-saving proposals. Impacted constituencies should be engaged both in advocating for consumer-friendly cost savings within Medicaid, such as improved care coordination and investment in home- and community-based long term care options, as well as new revenue sources, such as tobacco, alcohol, and provider taxes.

Other resources

For more information on:

- **The Maintenance of Effort Requirement**, see Holding the Line on Medicaid and CHIP, a fact sheet from the Center on Budget and Policy Priorities and Georgetown University's Center for Children and Families.
- **Strategies for protecting your Medicaid program against cuts**, see Defending Medicaid in Hard Times, a webtool from Community Catalyst.

[1] Check here to see if your state currently covers adults above 133% FPL.
[2] Click here to see which benefits your state's Medicaid program covered in 2008.
[3] For more information on required and optional services in Medicaid, see slide 11 of this Kaiser Family Foundation Power Point presentation.
[4] Check here to see how your state's reimbursement rates compare to Medicare rates.