

NEWSSTAND

Healthcare Update - Healthcare News From Capitol Hill and The Department of Health and Human Services

August 30, 2010

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DEADLINE SET FOR STATES TO REQUEST ADDITIONAL MEDICAID DOLLARS:

The Centers for Medicare and Medicaid Services (CMS) announced on August 18 that states have until September 24 to request an extension of the enhanced Federal Medical Assistance Percentage (FMAP) – the federal government’s share of Medicaid funding.

In one of its final acts before breaking for the August congressional recess, the Senate approved legislation to provide a six month continuation of the enhanced FMAP that was originally included in the 2009 economic stimulus law. Action on the initiative had been in question throughout the summer, due to mounting deficit spending concerns, and the extension was set to expire at the end of 2010 – the middle of the fiscal year for most states. Many states had assumed the FMAP extension would be approved when they set their budgets, and a significant number of states were facing severe economic shortfalls without a backup plan in place.

Senate leaders broke the stalemate by proposing more than \$26 billion in offsets in order to keep the legislation – H.R. 1586 – deficit neutral, securing the necessary votes to prevent a filibuster and pass the legislation. Following Senate passage, House Speaker Nancy Pelosi (D-CA) called her chamber back into session the following week, interrupting the beginning of Members’ August recess in order to complete action on the long-stalled initiative.

The House passed H.R. 1586 on August 10 and the measure was signed into law by President Obama later the same day (Public Law 111-226). The package included \$16.1 billion in additional Medicaid payments to states, representing a 53.2 percent match to states for the first three months of 2011, a 51.2 percent match for the following three months, and additional funding eligibility for states with rapidly rising unemployment rates. Unrelated to healthcare, the legislation also included \$10 billion in education assistance to local school districts in order to prevent teacher layoffs.

In its August 18 informational bulletin, CMS stated that the chief executive officer of each state must submit a written request in order to continue receiving the enhanced FMAP funding through June 2011, and urged states to complete this process expeditiously. The CMS announcement also listed the requirements that states must meet in order to continue receiving the enhanced funding, including maintenance of Medicaid eligibility standards.

CBO ISSUES REPORT EXAMINING MEDICARE AND MEDICAID FINANCES:

On August 19, the Congressional Budget Office (CBO) released a report detailing the finances of the federal government's two healthcare programs – Medicare and Medicaid.

It reported that Medicare spending is expected to increase less than four percent this year, which could be due to the uncertainty surrounding Congress' efforts to prevent payment cuts to physicians who participate in the program. Medicaid spending is expected to rise by almost nine percent in 2010, based both on high unemployment rates that have increased program enrollment and the aforementioned increase the federal government's share of Medicaid spending (FMAP).

The CBO stated that while the new healthcare reform law took steps to restrain Medicare spending – outlays are expected to increase an average of six percent per year through 2020, down from the eight percent average growth over the last decade – the program will still expand faster than the economy. This expected growth can also be attributed to the significant rise in the nation's over-65 population.

As a result, the CBO stated: "To keep deficits and debt from reaching levels that would substantially harm the economy, policymakers would have to increase revenues significantly as a percentage of GDP, decrease projected spending sharply, or pursue some combination of those two approaches."

NEXT STEPS:

We continue to monitor Congress, CMS and other relevant federal agencies as the implementation of healthcare reform moves forward and as other related matters arise, and will provide timely updates as these developments occur.

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Should you have any questions on the content of this advisory, or wish to discuss any other healthcare related issue, please contact those listed below or call the Edwards Angell Palmer & Dodge LLP attorney responsible for your affairs.

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