Feds Force States to Follow Medicaid Agenda by Holding Funds Hostage

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A federal agency may be punishing states that refuse to expand Medicaid or adopt new program rules by withholding funds meant to help uninsured individuals.

The Centers for Medicare & Medicaid Services (CMS) has allegedly threatened several states for not expanding the program. States have also been penalized for not adopting new program regulations and rules. Cato Institute Scholar Michael Cannon notes the agency has a history of pressuring states into doing its bidding.

“It is problematic, of course, that CMS might be using funds to leverage or coerce states,” Cannon told InsideSources. “There’s a history of the federal government trying to coerce states into doing its bidding and there is a history of CMS trying to bend the law to get states to do its bidding.”

The Texas Health And Human Services Commission (HHSC) recently was disallowed roughly $27 million in funding Sept. 1 meant to help residents in the state without insurance. The notice came after the agency already assured the state last year that funds could continue on through 2017, reported The Texas Tribune.

“This letter is notice of a disallowance in the amount of $26,844,551,” CMS stated in a letter Sept. 1 to the HHSC. “The disallowance amount is based on the projected value of in-kind donations to the Dallas and Tarrant County hospital districts.”

The federal government disapproved of the program because it guaranteed private hospitals specific financial returns. Nevertheless, Texas believed the disagreement was resolved because of the earlier assurance from the agency. CMS argues it evaluates individual programs based on their own merits, not whether the state expanded Medicaid or not.

“The decision to expand Medicaid, or not, is a state decision,” CMS said in a statement provided to InsideSources. “We will work with each state that has an uncompensated care pool regardless of its Medicaid expansion status, to support access to health care for low-income residents that works for individuals, hospitals and taxpayers, taking into account the state’s specific circumstances. CMS will review proposals regarding uncompensated care pools based on the same principles whether or not a state has expanded Medicaid.”

Nevertheless, CMS has allegedly not been shy to leverage funding for uninsured individuals to force states into following its agenda in other ways, as well. Several states have found themselves at odds with the agency for not expanding Medicaid services in the way it wants.

"CMS last week notified Texas health officials that the department would apply similar discretion to whether it will approve a Texas waiver program," a medical advisory board warned April 2015. "[It] extended the warnings to Kansas and Tennessee, noting that failing to expand Medicaid could put federal funding for uncompensated care pools at risk."

Florida was threatened in a letter from the agency in April 2015 that it could lose millions in federal funding if it didn't expand Medicaid. The letter made clear the state Low Income Pool (LIP) program would not continue unless Medicaid was expanded. CMS reportedly sent similar letters to Texas, Kansas and Tennessee.

"Medicaid expansion would reduce uncompensated care in the state, and therefore have an impact on the LIP," CMS Administrator Vikki Wachino said in the letter. "We believe that the future of the LIP, sufficient provider rates, and Medicaid expansion are linked in considering a solution for Florida's low-income citizens, safety net providers, and taxpayers."

A total of 19 states have decided not to expand the Medicaid program, according to Modern Healthcare. CMS actions were enough to garner the attention from 10 state attorneys general. They issued a letter June 2015 to congressional leaders warning them of what was happening.

"CMS informed Florida that it would no longer provide the over $1 billion in annual funding to support Florida's Section 1115 program unless and until Florida expanded Medicaid," the letter stated. "Kansas, Tennessee, and Texas face similar threatsregarding their uncompensated care pools and are experiencing increasing pressure from CMS."

CMS has also seemingly targeted states with unequal demands for adopting new programs. Texas found itself at odds with the agency over a decision to replace a funding system known as pass-through payments. The funding system helps to ensure funds are getting to where they are needed without delays or disruptions.

CMS detailed in a bulletin to the state July 29 that it was replacing the payment system because it was "inconsistent with the goals and objectives" of new Medicaid regulations issued this past summer. HHSC even issued a proposal for a pilot programin response to the new regulations.

The state agency hoped the pilot program would allow them to continue the pass-through payments under the new regulations. CMS effectively killed the idea when they issued an informational bulletin not long after the proposal was submitted. The agency reportedly gave other states 10 years to comply, according to the Rio Grande Guardian.

CMS Administrator Vikki Wachino even acknowledges in the bulletin that a sudden end to the pass-through payments could significantly disrupt safety-net providers. Texas being forced to comply much earlier than other states could put at risk the health and well-being of many state residents.

Cannon, of the Cato Institute, suggests a possible solution to the problem is to ban intergovernmental transfers. Such transfers give federal agencies enough leverage to force states to do almost anything. CMS is just one of many agencies that have such interconnected initiatives with state agencies.