



April 11, 2024

President Joseph R. Biden, Jr.  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

***Subject:*** *Joint Governors' Response to CMCS Informational Bulletin entitled Health Care-Related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments & Document ID 2023-08961 - Proposed CMS Rule on Medicaid and Children's Health Insurance Program (CHIP) Managed Care Access, Finance, and Quality (CMS-2439-P)*

Dear Mr. President,

We urge you to reconsider and immediately disavow policies included in a final Informational Bulletin and a proposed rule issued by the Centers for Medicare & Medicaid Services (CMS) that would devastate the Medicaid safety net for elderly and disabled adults, pregnant women, and millions of children in our states and across the country.

On February 17, 2023, CMS issued an Informational Bulletin entitled "Health Care-Related Taxes and Hold Harmless Arrangements Involving the Redistribution of Medicaid Payments" (the "Bulletin"). Two months later, CMS issued a proposed rule for Medicaid and Children's Health Insurance Program Managed Care Access, Finance, and Quality. Both the Bulletin and rule set forth policies that change long-standing practices for how states fund the non-federal share of Medicaid payments.

The changes are overly prescriptive, administratively burdensome, and contrary to the interests of the Medicaid beneficiaries who receive services in our states and nation. The policies expand CMS's review authority beyond the express and limited prohibition of section 1903(w) of the Social Security Act. Moreover, the policies contradict prior CMS-approved program structures and impose on states heightened oversight burdens not supported by law. The Bulletin is currently the subject of ongoing litigation. Already, a federal court in Texas ruled that the Bulletin runs counter to decades of agency conduct, and to the statements of two agency employees who—more than 10 years apart—affirmed that the policies in the Bulletin were not the law. CMS should not attempt to subvert the judicial process by imposing controversial and poorly reasoned restrictions.

If CMS nevertheless forges ahead and implements these policies, Medicaid funding could be reduced by \$48 billion each year, impacting 49 states that rely on provider taxes to bolster their Medicaid programs. Suffering most would be states like Louisiana, Missouri, Texas, and Florida.

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Texas and Florida alone rely on provider taxes to support more than \$8 billion and \$2.6 billion, respectively, in critical Medicaid funding each year. Such reductions would harm critical healthcare systems serving our most vulnerable citizens, exacerbating disparities in care.

As Governors, we remain committed to protecting state flexibility in Medicaid financing, which assures our ability to continue offering high quality health care. Unfortunately, your administration's actions constitute an immediate threat to Medicaid funding and to our most vulnerable citizens.

We urge you to immediately abandon these misguided policies.

Sincerely,



Governor Brian Kemp  
State of Georgia



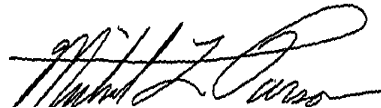
Governor Brad Little  
State of Idaho



Governor Kim Reynolds  
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