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New U.S. Rule Pares Outpatient Medicaid Services

By [ROBERT PEAR](#)

WASHINGTON — In the first of an expected avalanche of post-election regulations, the Bush administration on Friday narrowed the scope of services that can be provided to poor people under [Medicaid](#)'s outpatient hospital benefit.

Public [hospitals](#) and state officials immediately protested the action, saying it would reduce Medicaid payments to many hospitals at a time of growing need.

The new rule conflicts with efforts by Congressional leaders and governors to increase federal aid to the states for Medicaid as part of a new economic action plan.

President-elect [Barack Obama](#) has endorsed those efforts. At a news conference on Friday, he said that legislation to stimulate the economy should include "assistance to state and local governments" so they would not have to lay off workers or increase taxes.

In a notice published Friday in the Federal Register, the Bush administration said it had to clarify the definition of outpatient hospital services because the current ambiguity had allowed states to claim excessive payments.

"This rule represents a new initiative to preserve the fiscal integrity of the Medicaid program," the notice said.

But John W. Bluford III, the president of Truman Medical Centers in Kansas City, Mo., said: "This is a disaster for safety-net institutions like ours. The change in the outpatient rule will mean a \$5 million hit to us. Medicaid accounts for about 55 percent of our business."

Alan D. Aviles, the president of the New York City Health and Hospitals Corporation, the largest municipal health care system in the country, said: "The new rule forces us to consider reducing some outpatient services like dental and vision care. State and local government cannot pick up these costs. If anything, we expect to see additional cuts at the state level."

Carol H. Steckel, the commissioner of the Alabama Medicaid Agency, said the rule would reduce federal payments for outpatient services at two large children's hospitals, in Birmingham and Mobile.

Richard J. Pollack, the executive vice president of the American Hospital Association, said these concerns were valid.

“The new regulation,” Mr. Pollack said, “will jeopardize important community-based services, including screening, diagnostic and dental services for children, as well as lab and ambulance services.”

Herb B. Kuhn, the deputy administrator of the Centers for [Medicare](#) and Medicaid Services, defended the rule.

“We are not trying to deny services,” Mr. Kuhn said. “We want to pay for them more accurately and appropriately. Payments for some services were way higher than they should be.”

The rule narrows the definition of outpatient hospital services to exclude those that could be provided and covered outside a hospital.

In May, the White House said it wanted to avoid the rush of “midnight regulations” that had occurred at the end of other administrations. But Bush administration officials said this week that they still intended to issue, or relax, many economic, environmental, health and safety rules before they leave office on Jan. 20.

Medicaid, financed jointly by the federal government and the states, provides [health insurance](#) to more than 50 million low-income people. Services can often be billed at a higher rate if they are performed in the outpatient department of a hospital rather than in a doctor’s office or a free-standing clinic. Hospitals generally have higher overhead costs.

Matt D. Salo, a health policy specialist at the [National Governors Association](#), said, “The new rule is consistent with the administration’s effort to squeeze, shrink and flatten Medicaid spending.”

In a recent letter, the governors urged Congress to increase the federal share of Medicaid for at least two years. With state tax revenues plunging, many governors are considering cuts in Medicaid and other programs. Such cuts, they say, would further depress economic activity.

Ann Clemency Kohler, the executive director of the National Association of State Medicaid Directors, said: “The new rule is a pretty sweeping change from longtime Medicaid policy. Since the beginning of the program, states have been allowed to define hospital outpatient services. We have to question why the rule is being issued now, three days after the election, with a new administration coming in.”

The rule was proposed in September 2007. It takes effect on Dec. 8, six weeks before Mr. Bush leaves office.

Ms. Kohler said the rule would cut “money going to the states, to safety net providers, at a time when states are really being stressed.”

“More and more people are coming onto Medicaid,” she said. “People are losing their jobs and running out of unemployment benefits. Some employers can no longer afford to provide health

insurance to their workers.”

In the last 18 months, Congress has imposed moratoriums on six other rules that would have cut Medicaid payments. But the administration says Congress did not block the rule issued on Friday.

Larry S. Gage, the president of the National Association of Public Hospitals, said, “We will urge Congress to extend the moratorium to this rule, and we will ask the Obama administration to withdraw it.”

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