



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

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The Honorable John D. Dingell, Jr.
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Dingell and Representative Barton:

The National Conference of State Legislatures strongly supports H.R. 5613, Protecting the Medicaid Safety Net Act of 2008. This bill will delay until March 2009 the implementation of seven Medicaid rules whose cumulative effect will be to severely reduce critically needed services to the country's most vulnerable populations.

NCSL remains concerned about the way in which the Centers for Medicare and Medicaid Services (CMS) over the past few months has moved a regulatory agenda and promulgated regulations that: (1) are unsupported by legislative activity; (2) are not imposed pursuant to direction from Congress; or (3) exceed authority provided in law. Significant changes in Medicaid law and policy have been put forth through regulation, letter, and other administrative activities. Some of the rules began as legislative proposals that Congress failed to embrace. This "regulatory activism" compromises the process by which states and other stakeholders provide input and perspective into the revision of Medicaid policy and law. What results is a process that is fundamentally flawed.

While NCSL strongly supports H.R. 5613 and urges its adoption, we recognize that it is a short term solution. Unless action is taken to address these rules and the issues raised by these rules in a more permanent fashion, next year at this time we will be back asking for more delays. We cannot continue to seek delays or to spend limited state resources to fight these rules in the courts. With this in mind, NCSL supports the Health Subcommittee's revisions to the bill that would begin a review process related to the rules and the impact these rules, if implemented, would have on Medicaid beneficiaries and states.

NCSL looks forward to a continued dialogue on Medicaid and urges you to move forward on this important legislation with all deliberate speed.

Sincerely,

Carl Tubbesing
Deputy Executive Director

cc: Members, House Energy and Commerce Committee