



March 26, 2008

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Timothy F. Murphy
United States House of Representatives
Washington, DC 20515

Dear Chairman Dingell and Mr. Murphy:

On behalf of the National Association of Counties and America's 3,066 county governments, I commend you for introducing H.R. 5613, the Protecting the Medicaid Safety Net Act of 2008.

As you know, counties deliver and finance health care for America's most vulnerable people. For decades, Medicaid has provided the flexible financial framework around which states and counties have built their own unique health care safety net systems to support these populations. Over the past year, however, the U.S. Department of Health and Human Services Center for Medicare and Medicaid Services (CMS) has issued a number of regulations which would fundamentally alter Medicaid policy. These rules will either shift the cost of Medicaid programs to states and counties on a massive scale, or, what is more likely given the current economic downturn, require states and counties to slash services to Medicaid beneficiaries.

NACo has attempted to convey the counties' concerns to CMS about the impacts of the proposed rules both formally and informally, but to no avail. We have also, as you are no doubt aware, strongly supported the efforts of many Members of Congress to delay the implementation of individual rules by legislation.

On March 3, 2008, the NACo Board of Directors unanimously approved an interim policy resolution (attached), calling on Congress to issue a blanket moratorium on all the pending Medicaid rules. H.R. 5613 answers that call in a meaningful and constructive way, and we stand ready to help you see it enacted without delay.

Sincerely,

A handwritten signature in black ink that reads "Larry E. Naake". The signature is written in a cursive, flowing style.

Larry E. Naake
Executive Director

Attachment

1 **HEALTH STEERING COMMITTEE**

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3 **RESOLUTION ON REGULATIONS ISSUED BY THE CENTERS FOR MEDICARE**
4 **AND MEDICAID SERVICES**
5

6 **Issue:** Numerous proposed regulations issued by the Centers for Medicare and Medicaid
7 Services (CMS) will alter the administration and financing of the Medicaid program and reduce
8 access to services by the neediest beneficiaries.
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10 **Adopted policy:** NACo opposes CMS' proposed rules which would place severe restrictions on
11 the ability of state and county governments to finance the Medicaid program and provide
12 Medicaid services. NACo further opposes any additional regulations which will reduce federal
13 payments and/or shift costs to local safety net providers. NACo urges Congress stop the rules'
14 implementation by extending and/or creating moratoriums through April 2009 for CMS
15 regulations, including, but not limited to: Rehabilitation Services Option, Graduate Medical
16 Education, Public Provider Cost Limit, School Based Administration and Transportation,
17 Outpatient Clinic and Hospital Facility Services, and Targeted Case Management. Congress
18 should tell CMS that any similar proposals also will be blocked.
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20 **Background:** Since March 2007, CMS has issued 10 proposed rules that would fundamentally
21 alter the financing and administration of the Medicaid program. The proposed rules would
22 undermine the federal-state Medicaid partnership by significantly reducing federal payments and
23 shifting the cost of maintaining services to state and local governments. By redefining key
24 elements of the Medicaid program CMS seeks to save federal dollars, but these changes will
25 place further stress on local systems of care and create barriers to needed services for
26 beneficiaries.
27

28 Counties have been providing Medicaid services for years, in some cases, decades. Limiting
29 eligible services and the funding available to support them would have profoundly detrimental
30 effects on the access, quality, and delivery of necessary services for Medicaid beneficiaries
31 including those with complex mental and behavioral health needs. Adults and children
32 experiencing severe and disabling mental illness or developmental disabilities, for example, are
33 currently able to live outside institutional or hospital settings because critically needed,
34 community-based services are available. Proposed changes in the definition of allowable
35 services under the "Rehabilitation Option Services" plan would place these services and the
36 people who rely on them in jeopardy.
37

38 The current state of the American economy adds to the imperative to prevent the proposed rules
39 from going into effect. With unemployment rising, home foreclosures at a record high and real
40 wages declining, local public health and behavioral health systems are seeing increased demand
41 for services from economically vulnerable families and individuals. A growing need for services
42 requires increased financial resources. If the 10 proposed regulations were to go into effect, the
43 federal financial contribution to Medicaid would be **reduced by more than \$15 billion over five**
44 **years**. States and local authorities will have to cut services, increase revenues or reprogram
45 dollars from other critical services to keep pace.
46

1 Counties and other service providers already provide billions of dollars to support local safety
2 net systems. One proposed rule would even create a barrier to utilizing these local funds to
3 support Medicaid programs. CMS has redefined a “unit of government” in the Public Provider
4 Cost Limit proposed regulation and would only allow those entities with “generally applicable
5 taxing authority” to contribute to the non-federal share of Medicaid through IGT’s and CPE’s.
6 Many counties, local authorities and service providers currently contributing to their state’s
7 match would no longer be permitted to do so. The loss of these revenues, which enable states to
8 maximize Medicaid services, would devastate local systems of care and reduce access to services
9 for beneficiaries.

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11 NACo urges Congress to be diligent in its oversight of CMS and the Medicaid program and to
12 prevent the Congressional intent of the statutes to be diverted or reinterpreted by CMS’
13 regulations or directives. Enacting moratoriums on the implementation of the proposed
14 regulations is the quickest way to prevent CMS from usurping Congressional authority and
15 causing potentially irreparable harm to the Medicaid program and the people it is intended to
16 serve.

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18 **Fiscal/Urban/Rural Impact:** Every county, whether urban, suburban or rural, will be affected if
19 the proposed regulations go into effect. In many rural communities, the county’s health and
20 mental health services are the only services available to the most vulnerable populations
21 including people with serious mental illness. Even in large urban communities with multiple
22 providers, Medicaid beneficiaries often rely on public health and mental health services to deal
23 with complex physical and behavioral health care needs. Reducing eligible services, curtailing
24 federal support and limiting other fiscal resources available to maintain safety net systems will
25 profoundly damage the integrity of the Medicaid program and severely harm the beneficiaries it
26 was created to help.

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28 Adopted by the NACo Board of Directors
29 March 3, 2008
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