



Forum Session Meeting Announcement

Friday, September 15, 2006
8:30am — Continental Breakfast
9:00–10:45am — Discussion

Where You Stand Depends on Where You Sit: Perspectives on Medicaid Fiscal Integrity and Intergovernmental Relationships

A Discussion Featuring:

Alan Weil, JD

Executive Director

National Academy for State Health Policy

Timothy M. Westmoreland, JD

Visiting Professor of Law

Georgetown University Law Center

Barbara C. Edwards

Principal

Health Management Associates

With Comments from Key Congressional Staff

Location

Hyatt Regency Capitol Hill
400 New Jersey Avenue, NW
Columbia B Room

Registration Required

Space is limited. Please respond as soon as possible.

Send your contact information by e-mail to: nhpfmeet@gwu.edu

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Where You Stand Depends on Where You Sit: Perspectives on Medicaid Fiscal Integrity and Intergovernmental Relationships

OVERVIEW

This Forum session will review a new report by the National Academy for State Health Policy (NASHP), "Moving Beyond the Tug of War: Improving Medicaid Fiscal Integrity." The report, based on a one-day meeting of state and federal Medicaid officials and other experts, describes the tensions that have developed over the last 25 years between federal and state Medicaid program administrators around the financing of the program. The Medicaid program, which in 2004 spent over \$115 billion in state and \$172 billion in federal funds, supports health care coverage for over 55 million vulnerable people. The NASHP report identifies a cycle of federal action and state response, a cycle that intensifies the difficulty of delivering care to needy people and breaks trust between federal and state partners, making Medicaid reform and change more complex. Speakers will offer their insights about the report and comment on the different perspectives, attitudes, and views held by federal and state decision makers and administrators, as well as the potential actions that might be taken to break the cycle and potentially defuse the ongoing intergovernmental stalemate.

For more information – See Sonya Schwartz, Shelly Gehshan, Alan Weil, and Alice Lam, "Moving Beyond the Tug of War: Improving Medicaid Fiscal Integrity," National Academy for State Health Policy, August 2006; available at www.nashp.org/Files/Medicaid_Fiscal_Integrity.pdf. ■

SESSION

Recent headlines attest to the continuing differences between federal and state officials about appropriate sharing of Medicaid costs and the extent to which the federal government can and should regulate states' actions to leverage a maximum amount of federal funds. For most of its 40-year history, the Medicaid program, which was structured to be jointly administered by both federal and state officials, has been the subject of intense discussions and debates. As the number of people served by Medicaid has grown—and the costs have escalated beyond anything imagined in the early years of the program—these debates have grown ever more intense and difficult. Intergovernmental disputes about Medicaid financing have generated federal action and state

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reaction as states have used a variety of means to take full advantage of their potential to draw down federal funds to support their programs, and as federal officials have moved to protect the federal government from reimbursing inappropriate expenditures.

Recognizing this cycle as a continually repeated problem, the National Academy for State Health Policy (NASHP) in November 2005 convened a group of expert state, federal, and other stakeholders for a one-day discussion on this issue. The resulting report, "Moving Beyond the Tug of War: Improving Fiscal Integrity in Medicaid," has just been published and will be the topic of this Forum session. The NASHP meeting was designed to bring together participants with different perspectives to find common ground and generate ideas about improving Medicaid fiscal integrity.¹ The discussions were driven by a desire to reduce intergovernmental financing problems so that larger Medicaid program issues can be more thoughtfully addressed.

NASHP's report is timely, given current budget discussions in Washington and around the country. In one example of the common, cyclical debates that elicited NASHP's concern, the administration's 2007 budget contains several proposals that are the subject of yet another cycle of acrimonious discussion. The budget provisions in question propose to redefine a state's ability to use provider taxes to partially fund its share of Medicaid costs in several ways and to "phase down" allowable provider tax rates. Additional federal proposals, including new limits on Medicaid funds received by government-based providers, are also the subject of controversy. The administration's suggestion that many of these hotly contested provisions can be accomplished by regulations rather than congressional action has elicited howls from Republicans and Democrats in state capitals and in Washington, DC, as well.

The NASHP report notes that there are very different perceptions about the nature and magnitude of the Medicaid fiscal integrity problem, depending on whether one asks a state or federal official. It suggests that rules, definitions, and structures—and their implementation—need to be developed so that federal and state officials can move toward relationships characterized by clear expectations on both sides. As the NASHP report notes in its conclusion: "States feel that they do not know what will or will not be approved by federal administrators, while federal administrators feel that they do not have the information they need to determine if states are financing and operating their programs appropriately. Congress, state legislatures, and governors echo these concerns and wonder whether the large Medicaid budgets are justified."²

Without getting into the specific 2007 budget debate, this Forum session will address the larger issues raised in the NASHP report and explore the potential for improving federal-state dialogue and developing accountability measures that are useful and acceptable to all.

KEY QUESTIONS

- What is the history of federal-state disagreements over Medicaid financing and state claims for federal funds? Have these debates always been as rancorous as they are today?
- In what ways has Congress attempted to address these questions before? Why haven't those legislative changes solved these problems?
- How has the federal government's approach to Medicaid financing strategies changed, or ebbed and flowed, over the years? How have these approaches affected state behavior?
- To the extent that federal standards are needed, what kinds of rules and definitions might be helpful? Should these be defined in statute, or can they be handled in regulations, guidelines, state plans, or other federal communications?
- Haven't some states been more aggressive about maximizing federal fund flows, to the point of engaging in patently illegal activities? Is there a line between legal but creative financing strategies and illegal claiming practices?
- What types of monitoring programs from the federal level are appropriate and acceptable to states? Why should states have a right to say what is acceptable in a federally chartered program?
- Are there new approaches to better accountability on the part of both federal and state administrators that could be employed? How can the success of the new fiscal integrity mechanisms suggested in the report, or other new methods, be evaluated?
- Is the fundamental cause of these federal and state differences the politics of taxation and the differences between federal and state taxing and spending constraints? That is, because the federal government has the ability to deficit finance without changing tax policy but states have constitutional limits on spending, are states more vulnerable to rising Medicaid costs than the federal government?

SPEAKERS

Alan Weil, JD, executive director of NASHP since 2004, will give an overview of his organization's report, including the problems it addresses and the suggestions and measures it discusses. Mr. Weil is also president of NASHP's parent organization, the Center for Health Policy Development. Previously, Mr. Weil was director of the Urban Institute's *Assessing the New Federalism* initiative and has served in health financing and policy positions in Colorado and Massachusetts.

Timothy M. Westmoreland, JD, is visiting professor of law at the Georgetown University Law Center and will comment on problems related to developing and implementing federal Medicaid fiscal integrity

rules. From 1999 to 2001, he was director of the Center for Medicaid and State Operations in the Health Care Financing Administration (now the Centers for Medicare & Medicaid Services), where, among other things, he worked to address Medicaid fiscal integrity issues. He previously served as counsel for the Committee on Energy and Commerce, Subcommittee on Health and the Environment, in the U.S. House of Representatives.

Barbara C. Edwards, currently a principal at Health Management Associates, will provide comments related to state views of fiscal integrity problems. She works as a consultant to a number of different states and was director of Ohio's Medicaid program until 2005. In that role, she also served as vice chair of the National Association of State Medicaid Directors.

ENDNOTES

1. The NASHP report distinguishes "fiscal integrity" from "program integrity," which generally refers to efforts to avoid fraud by providers and beneficiaries. The report states that "while fiscal integrity can promote program integrity, the two terms focus in different areas." Sonya Schwartz *et al.*, "Moving Beyond the Tug of War: Improving Medicaid Fiscal Integrity," National Academy for State Health Policy, August 2006, p. 8; available at www.nashp.org/Files/Medicaid_Fiscal_Integrity.pdf.
2. Schwartz *et al.*, "Moving Beyond the Tug of War," p. 28.



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