

CMS Proposes Rule Change to Protect Medicaid Provider Payments

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Today, the Centers for Medicare & Medicaid Services (CMS) proposed changes to the Medicaid Provider Reassignment regulation that would eliminate state's ability to divert Medicaid payments away from providers, with the exception of payment arrangements clearly authorized by statute. This proposed regulatory change is intended to ensure that taxpayer dollars dedicated to providing healthcare services for low-income Americans are not siphoned away for other purposes.

This proposed rule is intended to guarantee that providers collect their complete payment, and any conditions in which a state does avert part of a provider's payment must be clearly permitted under the law.

Section 1902(a)(32) of the Social Security Act generally prohibits States from making payments for Medicaid services to anyone but the provider. The statute provides only a few specific exceptions to this requirement, such as withholding payment due to a court order for wage garnishments, child support orders, or judgments for monies that are owed to the state.

In 2014, CMS revised the regulation to provide for a new exception to the direct payment requirement for certain providers, which primarily include independent in-home personal care workers. This new regulatory exception authorized a state to divert part of the Medicaid payment to third parties that could then be used to fund other costs on behalf of the provider. After further review, CMS has determined that the new exception created by the 2014 rule is not consistent with the statute, may have resulted in provider payments being diverted in ways that do not comport with the law, and, in some cases, may have occurred without the express knowledge of the provider.