

Texas Judge Tosses Rule Revising Medicaid Hospital Payments (1)

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Updated with CMS statement in ninth paragraph.

- Court vacates regulation, but declines permanent injunction
- Hospitals argued rule unfairly limited low-income care

A Biden administration rule adopted last year unlawfully restricts payments to hospitals treating large numbers of low-income patients, a federal judge in Texas ruled Thursday in a decision vacating the federal regulation.

The [opinion](#) from Trump-appointed Judge Mark T. Pittman of the US District Court for the Northern District of Texas stems from a rule finalized by the Centers for Medicare & Medicaid Services in 2023 that adjusted the calculation used to determine payments to [disproportionate share hospitals \(DSH\)](#)—hospitals that serve a “significantly disproportionate number of low-income patients.”

The Texas Healthcare Transformation and Quality Improvement Program received federal approval in 2021, allowing the Texas Medicaid program to provide direct payments to hospitals from Uncompensated Care Cost pools—a bucket of funds reserved for hospitals to cover compensation for providing free or low-cost health-care to eligible individuals.

The 2023 rule, however, excluded patients receiving UCC pool benefits from the the Medicaid fraction numerator, or the number of days a hospital treated Medicaid-eligible patients. A group of roughly a dozen Texas hospitals argued this would improperly restrict payments to hospitals and filed a lawsuit in May of this year challenging the rule.

The hospitals, represented by attorneys at King & Spalding LLP, argued the regulation reduced DSH payments “by excluding individuals who are not traditionally eligible for Medicaid, but whom the Secretary deemed to be Medicaid-eligible when he approved a Texas Medicaid waiver that helped pay for their inpatient care.”

The hospitals also said that the regulation “unfairly targets DSH hospitals in states, like Texas, that have elected to provide Medicaid-like benefits to uninsured individuals through uncompensated care pools rather than expand traditional Medicaid benefits to the same population.”

Pittman sided with the hospitals, writing in his opinion that the regulation “contradicts the statute’s plain text,” which states that the Medicaid fraction includes “patients who ... were eligible for medical assistance under a State plan approved under [Medicaid].”

The judge declined to issue a permanent injunction on the rule, writing the hospitals failed to show they have suffered an “an irreparable injury.” The Department of Health and Human Services had argued that alternative remedies are available to the hospitals through the established administrative processes, including recovering any underpaid DSH payments with interest.

The CMS said in an email that it doesn’t comment on matters in litigation.