

Medicaid Experts Reject Claims That Provider Taxes Constitute Fraud As Congress Eyes Cuts

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As Republicans on Capitol Hill eye federal cuts to Medicaid, a group of experts at a KFF virtual panel on Medicaid fraud and abuse -- including a state Medicaid director, a former HHS Inspector General and a senior MACPAC official -- pushed back Thursday (April 24) against claims that state provider taxes are a “money laundering scheme” and emphasized instead these taxes are legitimate policy tools explicitly permitted under federal law.

Provider taxes are a common way states finance their Medicaid programs. States collect taxes from health care providers, like hospitals or managed care organizations, and use that money to help cover their share of Medicaid costs. This approach lets them draw down additional federal matching funds, which can then be used to increase provider payments or expand services.

But as congressional Republicans work on a reconciliation package that directs the House Energy & Commerce Committee to cut \$880 billion over 10 years -- an amount that would largely have to come from changes to how the federal government funds state Medicaid programs -- conservatives and the Congressional Budget Office (CBO) have recently highlighted provider taxes as a major savings target, estimating its elimination could save \$612 billion.

Provider taxes have therefore become a key point of debate as Congress searches for ways to close budget gaps without directly cutting benefits. Some proposals call for restricting or phasing out provider taxes, arguing they let states artificially boost Medicaid spending to pull in more federal dollars. Certain lawmakers and conservative advocates have labeled the practice as fraud and abuse, pointing to it as proof of widespread waste in Medicaid.

But health policy experts at the event pushed back, saying these accusations misrepresent how provider taxes actually work and why states rely on them.

“There's absolutely a policy issue at play here, but I think we have to start from the perspective of the state-federal partnership,” Tim Hill, a former CMS official and American Institutes for Research senior vice president of health, said at the event Thursday. “The statute is very clear, that the state has many mechanisms they can use to finance their share of the Medicaid program. Among them are appropriate tax situations, ways that they can set up provider taxes to pay for their benefits.”

Hill is also a commissioner on the Medicaid and CHIP Payment and Access Commission (MACPAC).

Hill acknowledged some states may “push the envelope” in how they structure provider taxes, but he cautioned against equating these practices with criminal behavior. He noted while states might use these funds for purposes that wouldn’t be politically palatable elsewhere, this is a policy debate and not evidence of fraud, abuse, or even waste since these decisions are made within the boundaries of existing law.

“I don't think from my perspective that it's a hundred percent fair to say that because provider taxes are allowed in the system that it's money laundering or that it's resulting in services that shouldn't otherwise be provided,” Hill added.

Cheryl Roberts, Virginia’s Medicaid director, pointed out her state uses provider taxes with full approval from CMS and that the entire process is overseen and regularly reviewed by federal officials. She added while CMS is now taking a closer look -- asking more questions about quality and compliance -- the focus is on clarifying policy, not rooting out fraud.

Roberts also emphasized states don’t act alone when it comes to provider taxes. It’s not as if the state just went rogue and did something on its own, according to Roberts.

“As part of our federal-state partnership, when we have a request, we do get it approved by CMS as well as the terms and what was needed as part of the pre-print,” Roberts said. “We are hearing that CMS is taking a harder look at them and asking more additional questions . . . but it sounds more of like a policy question, a clarification on policy. I don't believe it's a fraud question.”

Former HHS Inspector General Christi Grimm stressed provider taxes aren’t inherently suspicious, and any irregularities in Medicaid financing should be addressed through established audit and review processes, not by jumping to accusations of fraud.

She explained her office, along with other federal oversight agencies, routinely reviewed state funding mechanisms like provider taxes to ensure states are following CMS-approved plans and complying with federal law.

“As an OIG, essentially what we would do is take a look at, in that instance, what the state plan articulates for the state Medicaid agency -- to look at waivers if that information presents criteria, if you will,” Grimm said. “Then, we would look at whether states were following those rules. I think a more appropriate view for that is more along the lines of at least starting with an audit to take a look at what are the rules [and] what's actually happening? Then, during the course of that, if you're seeing something that might be fraud, of course, bringing in the investigators.”

“But I agree with Tim. Just on its face to call it fraud, there are a lot of steps that need to happen to get there,” Grimm added.

Overall, the panelists agreed the real debate is about policy and questions like whether provider taxes should be allowed, how much flexibility states should have, and whether

these taxes create unintended incentives or inequities. They emphasized it's misleading to label provider taxes as "fraud" or "abuse" unless there's actual evidence of deception or misrepresentation.

This isn't the first time experts have pushed back on claims that provider taxes amount to fraud or a "money laundering scheme." The American Hospital Association (AHA) recently challenged a report from the conservative Paragon Health Institute, which argued states' use of provider taxes has shifted more Medicaid costs to the federal government and called on Congress to crack down on or ban the practice. -- *Jalen Brown* (jbrown@iwnews.com)