Proposed Changes to Provider Taxes, Direct Payment Program and Medicaid Expansion

May 12, 2025

The text released by the House Energy and Commerce Committee overnight proposes changes related to provider taxes, the direct payment program and Medicaid expansion payments. Our understanding of these provisions as drafted is summarized below. Note that we are awaiting the so-called "Chairman's Mark" which will serve as the final document for tomorrow's mark-up, in addition to a list of amendments the Committee may consider.

Section 44132 Moratorium on new or increased provider taxes – page 61

This provision freezes, at current rates, states with provider taxes in effect (meaning approved by the state through legislation or regulations) as of the date of enactment of this bill. Therefore, if a provider tax is under review by CMS (meaning it's already approved by the state), this bill shouldn't stop it from occurring.

After this bill is enacted, states are prohibited from making various changes (delineated in the bill) to how the tax is structured.

Section 44133 - Revising the payment limit for certain state directed payments – page 63

For states with existing programs:

States that have received written prior approval on the date of the bill's enactment for the rating period occurring as of such date of enactment are grandfathered in, meaning no changes to their existing DPP programs.

For states awaiting approval:

If the rating period begins on or after the date of enactment, the total payment rate is limited to 100% of Medicare. A rating period is defined in statute as a period of 12 months selected by the state in the rate certification submitted to CMS. Presumably, any proposals pending CMS approval would be for a future rating period.

Section 44142 – Modifying cost sharing requirements for certain expansion individuals – page 89

Beginning October 1, 2028, this provision imposes cost sharing requirements on Medicaid Expansion adults with incomes over 100 percent of the federal poverty level, not to exceed $35 per service. Cost sharing is prohibited for emergency room care (except for non-emergency care provided in an emergency room), primary care, prenatal care, and pediatric care.