Rumors Circulate That Pending Provider Tax Rule Could Go Beyond H.R. 1

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CMS might expand H.R. 1's cap on how much states can use provider taxes to raise Medicaid funds to other taxes or fee collections that states use to boost their Medicaid funding, Georgetown University's Center for Children and Families research professor Edwin Park told reporters Monday (July 13), predicting the Trump administration will once again go beyond the statutory requirements.

Phasing down and capping Medicaid provider taxes in expansion states at 3.5% beginning 2032 was one of several changes to Medicaid financing that Congress made last year in the Working Families Tax Cuts Act. So far the Trump administration's guidances on implementing H.R. 1's state-directed payments cap, budget neutrality requirement for 1115 waivers and work requirement have gone beyond what Congress initially laid out.

"[W]e are concerned that the forthcoming rule will likely go after intergovernmental transfers, which are local government contributions to the costs of Medicaid, which H.R.1 does not address at all -- it completely leaves unmodified -- but that these rules will similarly restrict the ability of states to use such local government contributions, and in turn, that puts even greater financial pressure on state Medicaid programs," Park said.

Counties contribute to the non-federal share of Medicaid costs in 24 states, the National Conference of State Legislatures said at a conference in February.

The Paragon Health Institute has highlighted states' use of intergovernmental transfers to raise federal dollars and recommended Congress and CMS close loopholes that allow this to happen.

Park also expects the proposed rule will further define for stakeholders what counts as a provider tax that was already imposed -- a key detail that will determine how quickly some states will have to meet the provider tax cap.

Earlier this year, CMS finalized the timeline to phase down state taxes on Medicaid managed care organizations and certain providers. -- *Dorothy Mills-Gregg* (dmillsgregg@iwpnews.com)