

LEGAL UPDATES

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Texas Sues CMS to Halt Recoupment of \$83 Million in Medicaid Payments

On December 11, 2024, the Texas Medicaid Agency filed suit against CMS in Federal District Court in Austin to fight an \$83 million disallowance of Medicaid payments made to hospital providers in the Austin area between 2014 and 2017. HHSC asked for a restraining order to pause CMS's effort until a similar underlying issue is resolved in a Dallas lawsuit that has been pending, but administratively stayed, for several years. Alternatively, the state is seeking direct relief on the core dispute which, then and now, concerns a Medicaid finance mechanism based on public-private collaborations. CMS issued a State Medicaid Directors letter (sub-regulatory guidance) in 2014 disclaiming the use of these mechanisms and has pursued disallowance actions and other investigations across the country since then.

While not official, the Dallas lawsuit has likely been stayed because Texas largely abandoned that finance mechanism several years ago in favor of a provider-tax model. The new lawsuit indicates that: 1) either the Dallas court or the Austin court will have to resolve the underlying dispute regarding Medicaid financing, and 2) CMS could potentially pursue action against public-private collaborations in Texas. Without speaking to the validity of any of CMS's assertions, Texas hospital providers received hundreds of millions of dollars in payments over the past decade from Medicaid payment programs similar to the payments CMS now wants to disallow. Texas regulations allow HHSC to recover any recouped funds directly from providers. The case at issue is *Texas Health and Human Services Commission v. United States Department of Health and Human Services*, Civil Action No. 1:24-cv-1520-RP (W.D. Tex. – Austin, December 11, 2024).

Contact us

We plan to monitor this case closely. Please reach out to Baxter Morgan or Husch Blackwell's Medicaid Reimbursement Strategies team for further information and assistance.