



National Association of State Medicaid Directors

an affiliate of the American Public Human Services Association

NPRM	Comments Due	Effective Date	What the Rule Proposes to Do	Cost estimate	Congressional Action
Provider Tax					
3/23/07	5/22/07	1/1/08	The proposed rule seeks to clarify a number of issues in the original regulation, including more stringent language in applying the hold-harmless test. The new language affords CMS broader flexibility in identifying relationship between provider taxes and payment amounts.	\$85 million in FY 2008, \$115 million in FYs 2009-2011	P.L. 109-432 (Tax Relief and Health Care Act) - Codifies that the maximum amount that a state may receive from a health care-related tax is 6 percent. Temporarily reduces the permissible rate from Jan. 1, 2008 through 2011 to 5.5 percent. On Oct. 1, 2011, the cap reverts back to 6 percent.
GME					
5/23/07	6/22/07	Delayed Until: 5/25/2008	CMS indicates that GME isn't in the statute and therefore isn't allowable.	\$140 million in FY 2008, \$460 million over five years.	P.L. 110-28 includes a one-year moratorium that prohibits CMS from taking further action on the proposal until May 25, 2008.
Public Provider Cost Limit Regulation					
Final Rule May 29, 2007	7/13/07	Delayed Until: 5/25/2008	The rule imposes new restrictions on payments to providers operated by units of government and clarifies that those entities involved in the financing of the non-federal share of Medicaid payments must be a unit of government. In addition, the rule formalizes policies for CPEs and other reporting requirements. The regulation also applies to SCHIP, except for the cost limit on other reporting requirements.	\$120 million in FY 2008, \$3.87 billion over five years	Congress acted to delay the effective date to May 25, 2008.
Medicaid Pharmacy Pricing					
Final Rule July 17, 2007	1/2/2008-- comments are due on AMP and FUL sections	delayed	The regulation implements pharmacy-related requirements of the DRA	\$4.9 billion over 5 years	The D.C. U.S. District Court placed an injunction on the implementation until the case can be reviewed.

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Rehabilitation Services Option					
8/13/07	10/12/07	Delayed Until: 6/30/2008	NPRM seeks to clarify the definition of rehabilitative services. Seeks to determine difference between habilitative services and rehab services.	\$180 million in FY 08 and \$2.2 billion over five years	The Medicare Medicaid SCHIP Extension Act includes a moratorium until June 30, 2008. In addition, the manager's amendment to the Indian Health Care Improvement Act Amendments of 2007 (H.R. 1328) Includes a new definition of "Rehabilitation" "(8) REHABILITATION.—The term 'rehabilitation' means medical and health care services that—(A) are recommended by a physician or licensed practitioner of the healing arts within the scope of their practice under applicable law; (B) are furnished in a facility, home, or other setting in accordance with applicable standards; and (C) have as their purpose any of the following: (i) The maximum attainment of physical, mental, and developmental functioning. (ii) Averting deterioration in physical or mental functional status. (iii) The maintenance of physical or mental health functional status."
Tamper-Resistant Prescription Pads					
8/17/07		Delayed Until: 3/31/2008	The new mandate was enacted in the Iraq War Supplemental. Requires that prescriptions for Medicaid patients must be on tamper-resistant prescription paper, unless they meet an exception that is indicated in the regulation. If these standards are not met, there will be no FFP.	\$133 million	P.L. 110-90 (TMA, Abstinence Education, and QI Programs Extension Act of 2007)-Provided for a 6 month extension until March 31, 2008.
School-Based Administration and Transportation					
Final Rule Dec 28, 07		Delayed Until: 6/30/2008	Proposed rule eliminates funding for administrative activities performed by school employees or contractors or anyone under the control of a public or private educational institution, and transportation from home to school and back for school-age children with an IEP or IFSP.	\$635 million in FY 2009 and \$3.6 billion over five years.	The Medicare Medicaid SCHIP Extension Act includes a moratorium until June 30, 2008.

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Clarification of Outpatient Clinic and Hospital Facility Services Definition and Upper Payment Limit					
9/28/07	10/29/07		The proposed rule implements cost limits on payments to governmental providers and restrictions on Medicaid Graduate Medical Education payments. The rule would also limit the definition of outpatient hospital services and put a restriction for upper payment limit methodologies for private outpatient hospitals and clinics.	CMS declined to estimate the fiscal impact of this proposed rule because of "lack of available data"	
Targeted Case Management					
12/4/07	2/4/08	3/3/2008	The interim final rule implements restrictions so that states would no longer receive Medicaid reimbursement for case management services that could be paid for by third parties or other federal programs. Among the activities excluded from the definition of Targeted Case Management are transportation services, day care services and administrative activities for foster care or other non-medical programs.	\$1.28 billion between FY 2008 and FY 2012	
Procedures for the Departmental Appeals Board (DAB)					
12/28/07	1/28/08		The rule would change the regulations governing administrative review by the HHS DAB to allow the secretary to review final decisions and to correct errors in the application of law or deviation from published guidance. The current regulation does not specifically require the DAB to follow published guidance and does not call for secretarial review of the DAB's final decisions. The proposed rule also authorizes the Secretary to review DAB decisions to ensure consistency in decision-making and to ensure that the Secretary's policies are correctly implemented.	CMS determined this was not a major rule and therefore was not required to provide a cost analysis.	

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Option for Prescription Drug Plans to Lower Premiums for Low-Income Subsidy Beneficiaries					
1/8/08	3/10/08		The rule would allow Medicare Prescription Drug Plans to reduce prescription drug premiums for individuals eligible for the low-income subsidy only. The proposal would reduce the number of low-income beneficiaries reassigned to new plans each year because of plan bids that exceed the benchmark plan level.	\$20 million per year	
Self-Directed Personal Assistance Services (PAS).					
1/18/2008	2/18/2008		The rule implements Section 6087 of the Deficit Reduction Act of 2005 (DRA). The policy is intended to allow more Medicaid enrollees to determine how and by whom their personal assistance services are provided. States have the option of offering self-directed PAS by submitting a state plan amendment. The proposed rule provides guidance to states and requests comment on how states can best allow Medicaid enrollees to use the new option. The rule is attached, and comments are due to CMS by February 18, 2008.	CMS determined this was not a major rule and therefore was not required to provide a cost analysis.	