Deficit Act Gives States Wide Leeway on Medicaid

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Changes made possible by last year's Deficit Reduction Act are raising concerns in some sectors about reductions in care and conflicts of interest in West Virginia's Medicaid program.

The act also has allowed Kentucky to change its Medicaid program, although those changes are generating less controversy, and have less pediatric impact.

"Kentucky's [plan] is more of a carrot; West Virginia's is more of a stick," Robin Rudowitz, a principal policy analyst at the Kaiser Family Foundation, said during a June 19 teleconference.

The new West Virginia Medicaid program was approved in early May by the Centers for Medicare and Medicaid Services (CMS) under a Deficit Reduction Act waiver. It starts in July in three counties, and officials anticipate a statewide rollout over 4 years.

Parents and children affected by the West Virginia plan will receive a "Medicaid Member Agreement" to be signed at the physician's office or clinic.

The agreement entitles them to an enhanced benefit package in exchange for a promise to "do my best to stay healthy," to "go to health improvement programs as directed by my medical home [doctor] and go to my medical home when I am sick," according to the plan that the state submitted to the CMS.

During the program's first year, physicians and health plans that contract with the Medicaid program will be asked to monitor whether beneficiaries comply with the agreement.

"If the member has fulfilled the responsibilities agreed to, he or she will remain in the Enhanced Benefit Plan," the plan notes. "If the member does not fulfill the responsibilities, he or she will be moved to the Basic Benefit Plan subject to good cause." Members will receive advanced notification if their benefits are reduced, and will have the right to appeal the decision.

An attachment to the West Virginia Medicaid plan shows differences between enhanced and basic coverage.

Diabetes care is included in the enhanced plan, but not the basic plan. "Chemical dependency/mental health services" also are included in the enhanced plan, but excluded from the basic plan. The basic plan limits patients to four prescriptions per month.

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No matter which plan they are in, "Children will get the services they need," John Law, assistant secretary for West Virginia's Department of Health and Human Resources, said in response to a question about diabetes and mental health care.

Regarding prescriptions, "in our study of this population, we found that members use less then one prescription each month," Mr. Law added.

Families also will not be penalized for going to the emergency department "when ER use is needed," Mr. Law said. He emphasized that no groups were eliminated from coverage under the new Medicaid program.

In addition, children will continue to be covered under the state Medicaid program's early periodic screening, diagnosis, and treatment (EPSDT) program, Mr. Law said.

Kentucky's plan requires patients to share in the cost of many services, but they also receive full coverage of preventive services such as vaccines.

"Emergent medical problems, such as an emergency room diagnosis of diabetes, will be immediately treated, and the child will be referred to his or her health care provider for follow-up care."

But the Center for Budget and Policy Priorities (CBPP), a progressive Washington think tank, expressed concern about coverage under the basic package compared with what the state currently provides.

Under the EPSDT program, "children who need them are supposed to be entitled to the very services that are contained in West Virginia's current benefit package but are being eliminated or scaled back under the state's new plan," the CBPP said in a statement.

Furthermore, the requirement that physicians monitor their patients' compliance with the member agreement may create problems for doctors, according to the Center for Children and Families (CCF) at Georgetown University, Washington.

Requiring physicians to report compliance "may create many ethical and legal dilemmas for doctors … who are asked to evaluate and report on their patients' confidential behaviors," the center noted in a statement.

"For example, pediatricians will be asked to make a decision regarding a parent's 'compliance' that could result in needed treatment not being available to a child."

Dr. Joan Phillips, president of the West Virginia chapter of the American Academy of Pediatrics, pointed out that electronic health records or case managers would be needed to track patient compliance, and that few private pediatric practices in the state have either. She spoke in a May teleconference hosted by the CBPP.

Kentucky's plan, also approved in May, has generated less controversy in the pediatric community, in part because its changes are aimed more at adults. For example, the "Get Healthy" benefits program provides incentives for members with certain targeted diseases to access additional benefits if they participate in certain "healthy practices."

Initially, that program will be limited to those with pulmonary disease, diabetes, and cardiac conditions, but may be expanded. Those benefits will include additional dental and vision services, or counseling for nutrition or smoking cessation.

Also, unlike the West Virginia program, Kentucky Medicaid patients are not required to sign a contract, said Judith Solomon, a senior fellow at the CBPP. Kentucky officials say they are trying to control Medicaid costs while boosting healthier behavior. For example, Kentucky's plan requires patients to share in the cost of many services, but patients also receive full coverage of preventive services such as vaccines.

Kentucky is using its newfound federal flexibility to create a "tiered" approach, sorting enrollees into different groups with benefits targeted to their needs. A May 2 document from the state's Department of Medicaid Services (DMS) stated that packages "may contain service-specific coverage limits … None of the visit or dollar cost limits are 'hard' limits but rather are 'soft' limits," which can be bypassed "if medical necessity is demonstrated by [a physician] through a prior authorization process."

A better integrated system is the goal—for example, mental and physical health services will be better coordinated, according to the DMS.

The state also plans to transform the Kentucky Children's Health Insurance Program "from a Medicaid-administered program to a program potentially operated by a managed care organization," according to the DMS.

This move will increase access to pediatricians and pediatric specialists, the DMS stated. ■