Highmark's Weekly Capitol Hill Report

Issues for the week ending August 22, 2025

Federal Issues

Regulatory

Court Halts Certain Provisions of ACA Marketplace Integrity and Affordability Rule

A U.S. District Court in Maryland has partially granted a motion for a stay, temporarily blocking certain provisions of the Marketplace Integrity and Affordability Rule from taking effect on August 25, 2025.

Background: This ruling stems from a lawsuit filed by several cities and organizations challenging the rule, which aims to modify federal regulations related to the Affordable Care Act (ACA). The lawsuit alleges various provisions of the rule are contrary to law and/or arbitrary and capricious under the Administrative Procedures Act (APA).

The court found that the plaintiffs demonstrated a strong likelihood of success in their challenges to seven provisions of the rule, citing potential for irreparable harm if these provisions were not enjoined. The stay will remain in effect while the court considers the case.

In this Issue:

Why this matters: This decision does not vacate or uphold any provisions of the Rule. Instead, it stays, pending a final ruling, the effective date of the following regulatory provisions.

The seven provisions of the Marketplace Integrity and Affordability Rule impacted are:

1. **Eligibility Redetermination / Imposition of a "Junk Fee":** This provision imposes a monthly surcharge of $5 on enrollees to reconfirm eligibility.
2. **Revised Premium Adjustment Percentage Methodology:** This updates the methodology used to calculate the "premium adjustment percentage" by incorporating individual insurance market data.
3. **Actuarial Value Policy:** This revises the allowable ranges of actuarial values for different plan types sold on Exchanges.
4. **Revocation of Guaranteed-Issue / Past Due Premium:** This allows issuers to require a customer to pay any past-due premiums before new coverage is effectuated.
5. **SEP Eligibility Verification Requirements:** This adds verification requirements for Special Enrollment Periods (SEPs).
6. **Failure-to-Reconcile Provision:** This re-institutes a policy regarding failure to reconcile tax data.
7. **Income Verification When Data Shows Income Below 100 Percent of FPL:** This requires heightened income verification when a person's projected annual income does not match IRS data or when tax data is unavailable.

These provisions will not take effect until there is a final decision in the courts

regarding whether any or all of these provisions violate the APA.

The court did not postpone challenged Rule provisions that change the premium adjustment methodology (effective beginning plan year 2026) and eliminate the 60-day extension of time to resolve inconsistencies in household income data (effective August 25.)

In addition, any provisions of the Rule the plaintiffs did not challenge will also go into effect on the date specified in the final rule. This includes, among others, the Rule provision revoking the low-income SEP.

Litigation Next Steps: We do not yet know whether the Trump Administration will appeal Friday's stay decision to the Fourth Circuit Court of Appeals or instead allow the case to move ahead in the district court and be resolved on the merits. The government must notice an appeal within 60-days of the decision.
An appeal of the stay decision could take months to be resolved. And it is unclear if during that appeal the lower court merits proceedings would continue to move forward or paused pending the appeal.

Similarly, if the government does not appeal the stay decision, then merits proceedings in the lower court may take several months before a decision is issued, which itself may then be appealed.

Under either scenario, a final decision in the case likely won't occur until sometime next year. We will continue to closely

monitor this case and provide updates on any key developments.

Court Vacates Medicare Advantage Agent and Broker Marketing Provisions
A Texas district court ruled against the Department of Health and Human Services (HHS), vacating several marketing provisions finalized in CMS's CY 2025 Part C & D final rule released in April 2024.

The final rule standardized broker and agent compensation raised the pay cap for new enrollments and prohibited certain contracts and volume-based bonuses between MA plans and third-party marketing organizations.

Enforcement was paused last summer, and the court ultimately found that CMS exceeded its
statutory authority and violated the Administrative Procedures Act, citing the Supreme Court's recent overturning of the Chevron deference doctrine, which limits federal agencies' regulatory power.

Why this matters: The court determined CMS may regulate how compensation is used but cannot "engage in ratemaking." However, the court upheld a provision banning third-party marketing firms from sharing personal beneficiary data without consent.

HHS Federal Healthcare Advisory Committee Seeks Nominations for Membership
HHS and CMS recently issued a notice requesting nominations for membership on the newly established Healthcare Advisory Committee. The advisory committee will be tasked with providing "strategic recommendations directly to HHS Secretary Robert F. Kennedy Jr. and CMS Administrator Dr. Mehmet Oz to improve how care is financed and delivered across Medicare, Medicaid and the Children's Health Insurance Program (CHIP), and the Health Insurance Marketplace." **The notice indicates that the committee will advise on the following:**

- Actionable policy initiatives to promote chronic disease prevention and management;

- Opportunities for a regulatory framework of accountability for safety and outcomes that reduce unnecessary red tape and allow providers to focus on improving patient health;
- Levers to advance a real-time data system, enabling a new standard of excellence in care, rapid claims processing, rapid quality measurement, and rewards;
- Structural opportunities to improve quality for the most vulnerable in the Medicaid program; and
- Sustainability of the Medicare Advantage program, identifying opportunities to modernize risk adjustment and quality measures to assess and improve health outcomes.

The advisory committee will consist of 15 individuals appointed by the CMS Administrator. Additional details including information on eligibility and the submission process are included in the notice. Nominations must be received by CMS September 22 and can be sent via email to HAC@cms.hhs.gov.

CMS New Oversight Initiative to Remove Ineligible Medicaid and CHIP Enrollees

The Centers for Medicare & Medicaid Services (CMS) announced it is launching an oversight initiative to "ensure that enrollees in Medicaid and the Children's Health Insurance Program (CHIP) are U.S. citizens, U.S. nationals, or have a satisfactory immigration status."

CMS indicates that it will begin providing states with monthly enrollment reports identifying individuals whose citizenship or immigration status could not be confirmed through federal databases. All states will receive a report over the course of a month.

The press release says states must review the cases received, verify citizenship or immigration status of identified individuals, request additional documentation if needed, and take appropriate actions when necessary, including adjusting coverage or enforcing non-citizen eligibility rules.

CMS Releases New Medicaid State Plan Amendment Templates

CMS released two new State Plan Amendment (SPA) templates: a mandatory Medication Assisted Treatment (MAT) benefit SPA and a state plan option to cover medical assistance for eligible individuals who are patients in eligible institutions for mental disease (IMDs). These templates are designed to streamline state submissions for benefits required or made available under the Consolidated Appropriations Act of 2024. These templates are available as part of the CMS SPA toolkit. Read More

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WISeR Model FAQs

On August 13, the CMS Innovation Center added new FAQs to clarify the scope and purpose of the WISeR (Wasteful and Inappropriate Service Reduction) Model. The FAQs

provide additional details on model scope, goals, protections for patients, and provide clearer expectations for participating organizations.

Industry Trends

Policy / Market Trends

AHIP Responds to WSJ Editorial: Health Insurance 101 and Paragon's Myth of the "Phantom Patient"

AHIP responded to a recent *Wall Street Journal* editorial that repeats misleading claims by the Paragon Institute about consumers who shop for and enroll in health insurance in the individual market. In advancing a false narrative of so-called "phantom patients," Paragon demonstrates a concerning, if not irresponsible, disregard for the fundamentals of insurance.

In their response, AHIP asserts the facts around:

- Basic Actuarial Math: Why Some Consumers Could and Should Have No Claims in a Given Year;
- Why Facts Disprove Allegations of Fraud; and
- Who Really Benefits from Health Care Tax Credits.

AHIP made clear health plans welcome substantive, data-driven conversations about ensuring health care markets deliver clear value to consumers and taxpayers, but that conversation should be rooted in fair, complete and accurate reporting.

Consequences of Letting eAPTCs Expire: If Congress lets the health care tax credits expire, individuals and families with Exchange coverage will face, on average, a 75% increase in premium payments, according to KFF. Given the steep, sudden increase in costs, many will drop coverage entirely. That will lead to widespread instability in insurance markets, more uninsured families, and higher costs for everyone.

The Bottom Line: Paragon and *The Wall Street Journal's* take boils down to this: if you don't file a claim on your health insurance over a certain period of time, you must not need it, or there must be fraud. That's like saying consumers should cancel their home insurance if their house doesn't burn down this year – and just as absurd.

- There are no "phantom patients." There are, however, millions of Americans who have benefited from access to stable, affordable health coverage through the premium tax credits. Congress must protect these Americans from higher costs by taking urgent action to extend the health care tax credits before they expire at the end of this year.

Next Steps: AHIP is submitting a letter to *The Wall Street Journal* in direct response to the editorial. AHIP is also engaging key stakeholders in pushing back on these misleading and irresponsible claims.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: **http://legis.delaware.gov/.**
New York Legislation: **https://nyassembly.gov/leg/**
Pennsylvania Legislation: **www.legis.state.pa.us.**
West Virginia Legislation: **http://www.legis.state.wv.us/**
For copies of congressional bills, access the Thomas website – **http://thomas.loc.gov/.**