



University of California

Office of Federal Governmental Relations • Health Forum 2002

Upper Payment Limit (UPL)

- ❑ Support legislative language that restores the 150 percent Medicaid Upper Payment Limit (UPL) for California and ensures long-standing programs like California's are held harmless from the January 18, 2002 Medicaid UPL Rule.

Background

In the January 18, 2002 *Federal Register*, the Centers for Medicare and Medicaid Services (CMS) issued a final rule regarding the Medicaid Upper Payment Limit (UPL). The effective date of the rule was April 15, 2002. The rule modifies the Medicaid UPL to remove the 150 percent category for inpatient and outpatient hospital services furnished by non-state government owned or operated facilities like the University of California's five academic medical centers. The rule places a reimbursement cap on the UPL of 100 percent for all facilities, including non-state government owned or operated facilities.

The rule provides for a defined transition period for states with existing UPL programs. The transition, which is identical to the transition provision contained in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), is designed to serve as a phase-out of Medicaid payments exceeding the 100 percent UPL. At the end the transition period, Medicaid reimbursement for all facilities cannot exceed the 100 percent UPL. BIPA (and the proposed rule) provides for a six-year transition period commencing in the first state fiscal year beginning after September 30, 2002 and ending no later than September 30, 2008. Below is a description of the transition provision under BIPA and the expected impact on California.

BIPA Transition Provision/Impact on California

State FY 2001-02	California is held harmless
State FY 2002-03	California is held harmless
State FY 2003-04	Amount over UPL is reduced by 15 percent
State FY 2004-05	Amount over UPL is reduced by 30 percent
State FY 2005-06	Amount over UPL is reduced by 45 percent
State FY 2006-07	Amount over UPL is reduced by 60 percent
State FY 2007-08	Amount over UPL is reduced by 75 percent
State FY 2008-09	Amount over UPL is reduced by 90 percent in the first quarter only, ending September 30, 2008.
	Beginning October 1, 2008, for the last three quarters of state FY 2008-09 and thereafter, no Medicaid reimbursement over the established 100 percent UPL will be allowed.

Impact

California's public and private safety net hospitals stand to lose at least \$300 million in federal Medicaid funds annually, jeopardizing access to vital health care services for communities throughout the state. The University of California estimates the impact of the proposed rule on its hospitals will be approximately \$50 million in federal Medicaid funds annually.

Any change in the UPL will disrupt the financial stability of all safety net hospitals in California. California's Medicaid supplemental payments have been in place since 1990. These payments support emergency trauma services, pediatric care, the training of health care professionals and many other areas vital to the delivery of essential health care services to communities throughout the state. California's safety net hospitals are dependent on these payments as part of a patchwork of funding sources that help cover the high costs of caring for vulnerable populations. Further changes will seriously undermine the ability of safety net hospitals to carry out their missions in a stable and predictable fashion. This is particularly troublesome given the events of September 11th, the need for bioterrorism preparedness and our hospitals' existing commitment to providing our local communities with a fully functioning emergency response infrastructure.

Status of Relevant Legislation

California's Congressional Delegation has demonstrated strong bipartisan support to protect the state's healthcare safety net and has actively sought to maintain the 150 percent UPL. Fifty of fifty-two California House members and both Senators signed letters last year in support of preserving the 150 percent UPL.

In addition, at the request of the American Hospital Association (AHA), Representative Nathan Deal (R-GA) and Senator Blanche Lincoln (D-AR) introduced the Medicaid Upper Payment Limit Moratorium legislation (H.R.3360/S.1745). This bipartisan legislation would delay changes in regulations that reduce Medicaid payments for locally owned public hospitals (cost: \$9 billion over five years). While the University of California does not oppose these bills, we do not support them based upon the fact that they do not assist the state of California in preserving its 150 percent Medicaid UPL.

Advocacy Message

The CMS rule undermines a carefully crafted bipartisan agreement reached last year regarding the UPL. The agreement safeguards federal dollars by setting more stringent limitations on states' use of Medicaid funding while protecting states, like California, with legitimate programs that use the funds to support access to care for low-income populations.

The impact of the rule on the economic viability of the University of California's Health System is significant. To arbitrarily remove millions of dollars in Medicaid revenues at a time when the national economy is slipping into a recession will have a devastating impact on our health system's ability to provide vital health care services such as emergency and trauma care. The University of California opposes any regulation that eliminates state flexibility to provide higher Medicaid payments to our safety net hospitals.