



**Florida Essential**  
Healthcare Partnerships



March 20, 2023

The Honorable Marco Rubio  
United States Senate  
284 Russell Senate Office Building  
Washington, D.C.  
20510

Dear Senator Rubio:

On behalf of Florida hospitals, I write to inform you of an issue of critical importance that threatens access to care for the vulnerable Floridians relying on Medicaid services. On February 17, the Centers for Medicare & Medicaid Services (CMS) issued an Information Bulletin (the “Bulletin”) regarding state methods for funding the nonfederal share of Medicaid-related payments. The Bulletin contravenes longstanding Medicaid policy, creating uncertainty for states across the country, including Florida, that rely on consistent and predictable federal action related to financing their Medicaid programs. We hope that you will see the urgency of this matter and join us in the call for CMS to rescind the Bulletin.

For Medicaid beneficiaries living in Pensacola to Miami, the integrity of Florida’s Medicaid hospital safety net often represents the difference between life and death. Over 5 million Floridians are enrolled in Medicaid. Enrollees include the state’s most vulnerable residents: its children, elderly, disabled, and indigent. The majority of Floridians on Medicaid are infants and children, and individuals from communities of color. Enrollee concentration is highest in the state’s poorest areas: its inner cities and rural communities.

For the last two years, the federal government has approved a program designed to help Florida hospitals get closer to full reimbursement for the actual cost of providing Medicaid care. The Florida hospital directed payment program has contributed approximately \$4 billion to sustain Florida’s hospitals as they strive to meet the pressing needs of all Floridians. The nonfederal share of this program is funded by local assessments. The dollars generated by the assessments go to the state and qualify for federal match. The resultant pool of funds supports the medical safety net of our state.

In the recent Bulletin, CMS claims that state dollars—including those generated by local assessments—are ineligible for federal match if certain wholly private arrangements exist, regardless of whether the state is involved and regardless of whether the state knows about their existence. This prohibition apparently extends even to arrangements whereby hospitals identify and support financially threatened providers to prevent shrinking and disruption of the safety net hospital network. CMS further advises that states now have a duty to (1) make clear to providers that such wholly private arrangements are not permissible; (2) learn the details of how health care-related taxes, including local taxes, are collected; and (3) take steps to curtail certain private practices if they exist. This position marks a stark departure from CMS’s policy and enforcement on this issue. Moreover, the policy has no basis in the text of the Medicaid statute or regulations that outline CMS authority.

For Florida’s hospitals, this sort of abrupt move is unfortunate. This departure represents sudden and unexpected new federal policy, and it creates uncertainty around a program that provides a lifeline to the hospitals who care for those most in need. After two successful years, approval of Florida’s hospital directed payment program should become more certain and predictable, not less. Florida’s hospitals deserve consistent, reliable, and fair federal action as the strong track record of this program grows. But, instead,



the Bulletin moves the needle in the opposite direction—and it does so without any data showing how this policy will improve access to care for those most in need.

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At this critical juncture, we ask you to join our call for CMS to abandon this policy shift and to withdraw the Bulletin immediately. We further ask you to join us in seeking swift reapproval of Florida's hospital directed payment program. With your assistance, we believe we can ensure Florida's hospitals achieve the support they need to carry out their mission of care.

Our members are extremely grateful for your engagement and partnership. We look forward to continuing this dialogue and to working closely with you to improve access to health care for all Floridians.

Sincerely,



Don Lee  
President  
Florida Essential Healthcare Partners



Justin M. Senior  
Chief Executive Officer  
Safety Net Hospital Alliance of Florida



Mary C. Mayhew  
President & CEO  
Florida Hospital Association