

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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Baltimore, Maryland 21244-1850



March 18, 2025

Tyler Sadwith
State Medicaid Director & Chief Deputy Director
California Department of Health Care Services
1501 Capitol Avenue
Sacramento, CA 95814

Dear Director Sadwith:

The Centers for Medicare & Medicaid Services (CMS) is committed to the fiscal integrity of the Medicaid program, including ensuring that Federal Financial Participation (FFP) is only paid to states as authorized by federal Medicaid law.

As you are aware, section 1903(v)(2) of the Social Security Act prohibits states from claiming FFP for non-emergency services for individuals without a satisfactory immigration status (including both undocumented immigrants and certain lawfully present immigrant's ineligible for full Medicaid coverage, e.g. Lawful Permanent Residents who are subject to a five-year waiting period), referred to in this letter as "Emergency Medicaid." Although individuals without a satisfactory immigration status may receive emergency Medicaid, the state may not receive federal Medicaid funds for other services delivered to them.¹ California uses Medi-Cal, which is funded in part by federal Medicaid dollars, to pay for the healthcare of individuals without a satisfactory immigration status through a purportedly state-only program despite these federal restrictions. According to the California Department of Finance's budget director, California spends \$9.5 billion annually on the healthcare costs of individuals without a satisfactory immigration status.²

In 2020, CMS discovered that California, by its own admission, had been erroneously claiming significant amounts of federal Medicaid funds for individuals without a satisfactory immigration status. As a result of this discovery, CMS initiated immediate action through the regulatory deferral process to withhold FFP from the state to prevent further overpayment of federal funding. These deferrals have covered a range of Medicaid service activities, across fee-for-service and managed care delivery systems. CMS has continued to issue deferrals on a quarterly basis while working with the state to determine actual overpayment amounts, ensure corrective action, and to collect overpaid FFP. In addition to quarterly deferrals, CMS conducted a Financial Management Review (FMR) of California's claiming of FFP relating to certain fee-for-service services provided during the review period to individuals not in a satisfactory immigration status. In September 2023, CMS issued a final FMR report that identified \$34.1 million FFP in overpayments for the review period.

¹ 8 U.S.C. § 1611(a)-(b); section 1903(v)(2) of the Social Security Act (the Act) authorizes FFP for care and services necessary to treat an "emergency medical condition," defined at section 1903(v)(3) of the Act.

² Hearing Before Assembly Budget Committee (Feb. 10, 2025) at 1:28:00-1:30:00, <https://www.assembly.ca.gov/media/assembly-budget-committee-20250210>.

The state has returned the overpayments to CMS. The report also recommended state corrective action on a variety of state internal controls and state systems issues. Finally, the Department of Health and Human Services Office of Inspector General (OIG) conducted an audit³ that identified \$52.7 million in overpaid FFP for Medicaid capitation payments made on behalf of individuals without a satisfactory immigration status and recommended additional work to recover overpayments. To date, CMS has collected over \$500 million FFP for overpayments identified outside of the review period of the FMR and OIG audit. CMS has also been working with the state on corrective action for multiple state deficiencies identified by the state, CMS, and the OIG.

Due to the significant and ongoing fiscal integrity risk on this issue, CMS intends to pursue, to the extent consistent with applicable law, corrective action and collection of any outstanding overpaid FFP. To aid in these efforts, CMS intends to conduct additional oversight activities regarding the state's claims for FFP associated with individuals without satisfactory immigration status. The activities may include an increased focus on this issue during CMS's quarterly reviews of state expenditures, an additional CMS FMR in this area, and as necessary, deferral or disallowance of FFP claimed by the state. Furthermore, CMS may undertake audits consistent with the special terms and conditions of the state's active Section 1115 demonstrations.⁴ CMS's focused reviews and audits in this area are expected to ensure prompt return of any outstanding overpaid FFP and accurate state claiming for medical services and state administrative expenditures.

If CMS determines that California is using federal money to pay for or subsidize healthcare for individuals without a satisfactory immigration status for which federal funding is prohibited by law, CMS will diligently pursue all available enforcement strategies, including, consistent with applicable law, reductions in federal financial participation and possible referrals to the Attorney General of the United States for possible lawsuit against California.

CMS remains committed to working with the state to ensure compliance on this critical fiscal integrity issue. Please contact Anne Marie Costello at AnneMarie.Costello@cms.hhs.gov should you have any questions or need assistance.

Sincerely,



Drew Snyder
Deputy Administrator and Director

³ *California Improperly Claimed \$52.7 Million in Federal Medicaid Reimbursement for Capitation Payments Made on Behalf of Noncitizens With Unsatisfactory Immigration Status*, Report number: A-09-22-02004, available at <https://oig.hhs.gov/documents/audit/9894/A-09-22-02004.pdf>

⁴ As relevant, those demonstration special terms and conditions say “[t]he state must respond to, and cooperate with, any CMS requests during an audit,” and “[a]ll data, financial reporting, and sources of non-federal share are subject to audit.” California Advancing and Innovating Medi-Cal (CalAIM) §§ 12.3(d), 18.8 (approved Jan. 17, 2025), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ca-calaim-dmnstrn-appvl-thncl-crctn-atcmnt-c-aa-01172025.pdf>; accord California Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment (BH-CONNECT) § 16.9 (approved Jan. 10, 2025), <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ca-bh-connect-01102025.pdf> (“All data, financial reporting, and sources of nonfederal share are subject to audit.”). See also 42 C.F.R. § 431.420(a)(2).

