



Disaster Medicaid and CHIP “Waiver” for Katrina Evacuees Announced: Passage of Katrina Relief Bill Would Provide More Extensive Relief, Greater Funding Certainty

Summary: *There are two deals on the table, and they are substantially different. Apparently, the Administration favors state-by-state waivers to a nationwide policy. Federal and Texas officials announced late last week that they had arrived at an agreement for Texas to provide 5 months of temporary health coverage benefits through Medicaid and CHIP to many (not all) low-income Katrina evacuees, and that Texas would not have to pay for the costs of this care for evacuees. The alternative is a bi-partisan Katrina health care relief bill introduced by U.S. Senate leaders that:*

- goes significantly beyond Texas’ waiver in the number of evacuees eligible for Medicaid coverage;
- provides relief to evacuees in every state where they may have re-located (i.e., without a waiver);
- ensures that every state that receives evacuees will get the same 100% federal funding of the emergency coverage;
- provides major Medicaid matching fund relief to Louisiana, Mississippi, and Alabama;
- protects Texas and other states from a scheduled drop in federal Medicaid matching funds in 2006, worth an estimated \$40 million to Texas (Texas’ match rate drops when our average per capita income improves relative to the national average and other states’ averages);
- provides far more certainty about the manner and amount of federal funding of the health care than does the Texas waiver; and
- provides relief for Medicare beneficiaries, TANF recipients and programs, and Emergency Unemployment Compensation, none of which are addressed by the Texas Waiver.

This Policy Page describes the differences between the Texas waiver and the bipartisan relief bill, identifying the provisions of the bill that the Medicaid waiver does not address. The Policy Page also discusses possible ramifications of the waiver approach versus the relief bill.

Texas’ Waiver: the Good News, the Unanswered Questions

The Good News. The Texas waiver will allow simplified Medicaid or CHIP eligibility procedures for Katrina evacuees. For the most part, this will cover, for a one-time period of 5 months, evacuees who meet Texas’ current Medicaid or CHIP categories and income limits. A major exception is that the disaster coverage will be available to parents (with dependent children) who have incomes as high as the federal poverty line (FPL; \$1,341 per month for a family of 3 in 2005), while Texas Medicaid only covers parents up to 23% FPL (about \$308 per month for a family of 3, or even less if the parent is not working). Childless adults are not included in this Medicaid coverage, but some costs for some such adults can be paid for under an uncompensated care pool (more below).

Evacuees can get their 5 months of coverage any time between September 1, 2005 and June 30, 2006, as long as they apply by January 31, 2006. There will be no asset limits, and no premiums or co-payments required. Benefits will include what Texas Medicaid and CHIP now cover; mental health services not yet restored for adults in Texas Medicaid will be provided, but paid for through an uncompensated care pool and not treated as a Medicaid expense.

Uncompensated Care Pool: Size Unknown, Must Absorb Many Costs. An “uncompensated care pool” will also be the source of payment for any bills incurred by childless adult evacuees, who do not qualify for Medicaid

under federal law. Waiver documents provide no clue as to what upper (or lower) limits CMS will place on this pool, or what kind of funding will support it. Waiver documents do make it clear that benefits not covered by the state's usual Medicaid and CHIP plans must be funded through the pool, and this appears to include certain kinds of mental health and substance abuse benefits for adults, as well as community care benefits. Also charged against the pool will be any premium assistance programs for evacuees with access to private insurance, as well as any costs of covering pregnant women from Alabama between 134-185% FPL. Texas is to decide what income limits to apply to pool services by October 31, 2005. Waiver documents say that the pool will pay only for services delivered between 8/24/05 and 1/31/06, so it is not clear whether the pool will cover services provided between 1/31/06 and June 30, 2006.

Source of 100% Federal Funding Not Clear. Of key importance in last week's announcement by federal Centers for Medicare and Medicaid Services (CMS) and Texas officials was the news that Texas had a commitment from federal authorities that the state would not have to pay for the costs of this care for evacuees. However, official waiver documents and summaries from both the federal and state agencies make it clear that major questions about just how the waiver will be paid for have not yet been settled, and full federal funding of relief will very likely require legislation. Simply put, the waiver documents themselves do not promise or describe a mechanism for full federal funding. CMS fact sheets say that Texas will be "made whole for the costs of care incurred for evacuees." CMS and state summaries are careful not to characterize the full federal funding as "100% FMAP" (federal medical assistance percentages, the matching funds states get for Medicaid costs), because it is widely believed that Congress would have to approve providing 100% federal Medicaid funding. It is rumored that federal authorities have considered paying for the state's share of Katrina evacuees' Medicaid costs with some other federal funds, but federal law prohibits using federal funds to draw FMAP. In short, while it is clear that CMS officials intend to make sure that Texas is not liable for its usual 40% share of Medicaid costs, it appears that legislation may be needed to allow full funding to occur.

CHIP Funding mechanism not clear. Evacuee children with gross incomes above Texas' child Medicaid limits will be enrolled in a CHIP program. Because the official waiver documents do not address full federal funding of the waiver at all (much less explain the mechanism), it is not clear whether the evacuee CHIP costs will be charged against Texas' limited federal CHIP block grant allotment (which would reduce CHIP funds available for non-evacuee Texas children), or whether some other funding mechanism will be used.

Bipartisan Leadership Relief Bill Includes Health Measures in Hutchison-Cornyn Bill

Senate Finance Chairman Senator Grassley, and Ranking Democratic Member Senator Baucus have filed S. 1716, the bipartisan Emergency Health Care Relief Act, introduced in the Senate last week. The bill was endorsed by Majority Leader Bill Frist and Minority Leader Harry Reid, cosponsored by Senators Landrieu (LA), Cochran (MS), and Shelby (AL), and has now been endorsed by the National Governors Association. The Senate Budget Committee said in a Sept. 19 statement that the Emergency Health Care Relief Act (S. 1786) is expected to cost between \$5 billion and \$7 billion, but that the Congressional Budget Office has not scored the Medicaid proposal.

The bill echoes key health provisions advocated by Senators Hutchison and Cornyn in legislation they filed prior to the bipartisan bill. In a 9/8/2005 letter, Texas' Senators requested that the president (1) allow Texas to enroll evacuees into its Medicaid program with 100% federal reimbursement, and (2) waive current state and federal eligibility criteria to allow coverage for all evacuees for a limited amount of time. Senators Hutchison and Cornyn then filed S. 1688 on 9/12/05, which includes these requested measures. While their bill is not likely to be the vehicle for relief, it is a very important sign of support for the kind of relief that both survivors and the states affected need.

Is this just a difference in details, or is more at stake?

According to press reports, CMS Administrator Mark McClellan has spoken this week in opposition to comprehensive Disaster Relief Medicaid, favoring instead state-by-state waivers, and urging Congress to move ahead with a planned \$10 billion in federal Medicaid program spending cuts. A Republican Senate health aide was quoted characterizing the key difference between Senate legislation and the waiver approach to payment for

health care for Hurricane Katrina victims as, “get paid, (or) might get paid.” The Senate GOP aide said that Administration officials oppose the temporary expansion of Medicaid in the Grassley-Baucus bill, because they fear it will be difficult to drop the Medicaid coverage at the end of the Disaster Relief Medicaid period.

What is the best approach?

First, the federal government needs to pay the costs of Katrina. Governor Perry has wisely called on the federal government to meet its obligations. Katrina is a national responsibility and the cost should be borne by the federal government. Second, all states and all individuals need to be treated the same. By using individually negotiated waivers, some states will be treated better than others, and some individuals will get more help than others merely depending upon the state to which they were evacuated. Finally, reimbursement is more certain through legislative action than executive action, which also argues for the relief bill. We encourage you to follow these developments and speak out. Below is a side by side comparison of the details of the two approaches.

Comparison Between Texas Medicaid Waiver and Bipartisan Emergency Health Care Relief Act For Those Affected by Hurricane Katrina

	White House Waiver Approach and the Texas Waiver	Bipartisan Senate Bill
<i>Who Gets Help Among Katrina Survivors*</i>		
Eligibility Rules and Enrollment Procedures	<p>Texas</p> <p>Coverage up to suggested eligibility rules:</p> <ul style="list-style-type: none"> • Children up to age 19 if the family’s income is at or below 200 percent of the Federal Poverty Level (FPL). • Parents of these children if the family’s income is at or below 100 percent of the FPL. • Pregnant women up to 185 percent of the FPL. • Individuals with disabilities and low-income individuals in need of long-term care up to 300 percent of the Supplementary Security Income (SSI) level. <p>As compared to Senate agreement:</p> <ul style="list-style-type: none"> • no coverage for childless adults at any income level (even if impoverished), unless elderly or disabled • no coverage for pregnant women between 185% and 200% of FPL; • no coverage for people with disabilities receiving SSDI benefits with incomes between 100 and 200% of FPL. 	<p>Nationwide Disaster Relief Medicaid (DRM)</p> <ul style="list-style-type: none"> • Children up to age 19 if the family’s income is at or below 200 percent of the Federal Poverty Level (FPL). • Parents and childless adults with incomes below 100% of poverty • Pregnant women up to 200% percent of the FPL • Any person who meets the regular Medicaid eligibility standards in the “host state.” Includes individuals with disabilities and low-income elderly in need of long-term care up to 300 percent of the Supplementary Security Income (SSI) level. • Social Security Disability Insurance (SSDI) recipients with income up to 200% of poverty.
Resource Test	Texas: None	None
Duration of Coverage, Transition at end of DRM period	<p>Texas: No More Than 5 Months</p> <ul style="list-style-type: none"> • Neither Texas nor the home state is obligated to automatically re-evaluate evacuees’ eligibility for “regular Medicaid” before the end of their 5-month coverage. • Texas’ waiver states that evacuees must re-apply after 5 months if they wish to transition to “regular Medicaid” after the disaster period. 	<p>5 months, with President’s option to extend to 10 Months</p> <ul style="list-style-type: none"> • States must notify evacuees of the end date for coverage; • State must provide 60 days presumptive eligibility for regular Medicaid for evacuees applying for regular Medicaid after the DRM coverage expires; • Maternity DRM must continue thru 60 days postpartum, regardless of when the basic DRM period ends; • After the disaster period, Katrina Survivors MUST be helped to apply for coverage for regular Medicaid, and report transition rates to CMS.

Timing	Texas Coverage may begin as of August 24, 2005.	Immediate States can begin to provide coverage as soon as the law is enacted, no state plan amendment or waiver needed
What Type of Coverage Is Provided to Katrina Survivors		
General Benefits	Texas <ul style="list-style-type: none"> Adults and children will receive standard Texas Medicaid or CHIP benefits. (Note: federal waiver template allows other states to offer less than current Medicaid benefits.) Waiver allows additional mental health benefits and home and community-based care; Texas HHSC materials list not-yet-restored MH professional services, Outpatient substance abuse treatment for adults, and Inpatient psychiatric care for adults Payment for these services will depend on funding from within the uncompensated care pool. 	Must Be <u>At Least</u> State's Benefits <ul style="list-style-type: none"> At a minimum, state's Medicaid benefits rules apply. Can also provide (and receive federal Medicaid matching payments for) (1) additional mental health services (Rx, assessments, substance abuse treatment, psychotherapy, rehab, inpatient care, family counseling), (2) care coordination services, & (3) home and community-based services
Benefits for Children	Texas <ul style="list-style-type: none"> Some children will be in CHIP, based on gross incomes above Texas Medicaid limits. This includes children who would be in Medicaid if they were back in Louisiana, which covers children to 200% FPL in Medicaid. Texas CHIP benefit limits apply.** 	Comprehensive Medicaid benefits for all children <200% FPL.
Federal Funding of DRM Services for Katrina Survivors		
Mechanism	Texas Unknown. Press release states that that "Texas will be made whole." However, there is no clear source of or mechanism for providing federal funding to the state. (Note: under waiver template, other states might not get this deal, could vary by state .)	Guaranteed 100% Federal Medicaid Payments Authorized by Congress with no need for state applications. Direct administrative costs of DRM are also reimbursed at 100% federal share.
Timing	Texas Waiver requires state to report all its expenditures to CMS on routine quarterly reports, but does not promise 100% federal funding or describe source of or mechanism for providing the promised 100% federal funding to the state.	Immediate: Federal matching funds to be made available on the usual quarterly expenditure reporting schedule, through special reports to CMS.
Funding for Uncompensated Care for Health Providers		
Mechanism	Texas <ul style="list-style-type: none"> Pool established but amount of funds and mechanism for payment to providers not specified. Pool would potentially reimburse providers for services to uninsured evacuees (including childless adults and pregnant women from Alabama with incomes between 134% and 185% of FPL), and for services not currently covered by Texas Medicaid or SCHIP programs (adult mental health, community-based long term care). Pool can also be used to help Katrina survivors pay for continued private health insurance coverage. Costs charged to pool must be incurred between August 24, 2005 and January 31, 2006. 	National Approach <ul style="list-style-type: none"> Congress would create an \$800 million pool ("Disaster Relief Fund") for FY 2005 to fund uncompensated care, and to help Katrina survivors (and affected employers) pay for continued private health insurance coverage. Also, increases Medicare bad debt payments to hospitals in affected areas during the DRM period, and relaxes some hospital reporting requirements temporarily

<i>Additional Federal Financing for States Directly and Indirectly Affected by Katrina</i>		
Change in Federal Medicaid and CHIP Matching Rates	None: Texas is projected to lose \$40 million due to the scheduled reduction in its FMAP for FY 2006 (state matching rates change based on how their average per capita income compares to other states' and the national average).	(1) 100% Medicaid federal funding for LA, MS, affected AL counties through 2006 (2) Cancellation of Reduction in Rates for All States for FY 2006
<i>Protections for Medicare Beneficiaries in Directly Affected States</i>		
Changes in timeline	Texas Waiver : None	<ul style="list-style-type: none"> • Delays Part B Late Enrollment Penalty in Affected States, • Requires Administration Plan for Drug Transition for Medicaid-Medicare Dual Eligibles
<i>Additional Federal Financing for States' TANF Costs</i>		
Federal funding of TANF costs; Time Limits extended	Texas Waiver: None	<ul style="list-style-type: none"> • States that provide TANF assistance to evacuees may draw on federal TANF contingency fund for those costs; • LA, MS and AL have immediate access to that fund • Emergency Katrina Relief TANF will not count against lifetime TANF limits
<i>Emergency Unemployment Compensation</i>		
	Texas Waiver: None	<ul style="list-style-type: none"> • Immediately extends unemployment benefits for LA, MS, and AL residents and evacuees who have exhausted UI benefits • Provides for full federal funding of this extension

Sources: unpublished material from George Washington University and Georgetown University; CMS and THHSC documents.

* A "Katrina survivor" is in both plans a person who lives/lived in affected counties/parishes; the Senate bill includes people who lost their jobs in affected counties/parishes

** According to the waiver, cost sharing for children under SCHIP would not be imposed. Other SCHIP benefit limits would apply.

For more information about this *Policy Page* contact Anne Dunkelberg at: dunkelberg@cphp.org, or (512) 320-0222 X102.

You are encouraged to copy and distribute this edition of

THE POLICY PAGE

CPPP is a 501(c)(3) nonprofit, nonpartisan policy research organization. Consider a donation to the center--visit <https://secure.groundspring.org/dn/index.php?aid=5521>