



The Honorable Daniel Tsai
Deputy Administrator and Director of Medicaid and CHIP Services
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

May 3, 2023

Dear Mr. Tsai:

Thank you for taking the time to meet with my team last week and thank you for the well wishes for my father's speedy recovery. He is recovering. I appreciate your spirit of collaboration, and I believe the meeting can be the genesis of finding a reasonable solution to the issues posed by the Informational Bulletin. Although we view this matter differently, we all share the goal of ensuring that the Medicaid safety net is protected. This goal is critical for the Administration, providers, and beneficiaries. Access, affordability, and accountability are central to what we all desire. For us at Saving Hospitals Saves Lives, it is imperative that we root out and erase racial inequality and systemic racism anywhere and in whatever form it exists.

As you know, there are over 90 million Medicaid beneficiaries in our nation. This population includes many minority individuals and those who live in traditionally underserved communities. The Bulletin's policies decimate the safety net and destroy access to healthcare for the most vulnerable among us. As we informed you, we believe that the safety net in over 20 states is impacted negatively by this Bulletin. Impacted states include Pennsylvania, Michigan, Wisconsin, and Arizona. Harming the safety net is not what any of us want to see happen.

We understand that from your viewpoint, the Bulletin is not a rule change but rather a notification that the provider payment financing practices are in violation of the statute. However, this is where our views differ significantly. Over the years, Health & Human Services and CMS have made several statements directly contrary to the Bulletin position.

In the various instances where CMS attempted to put forth the Bulletin position before—the proposed MFAR of 2019 and in litigation—the effort failed. Notably, CMS did not adopt MFAR because of the significant concerns shared by stakeholders. And yet, viewing a side-by-side comparison of the language from the previously proposed rule in 2019 MFAR, the language is the same.


Regardless of our respective positions, we ask again that you consider the effect of that the Informational Bulletin and the preamble to the new Medicaid Managed Care rule will have on black and brown communities across the country. The Net Effect test, written into MFAR and referenced again in the proposed rule, should not focus narrowly on financial outcome or a statistical test. The Net Effect of concern should be the human suffering caused by reduced access to care resulting from a decision. It is incumbent upon us all to promote human dignity and to protect the sanctity of life. This Bulletin, the new proposed rule, and the relevant financial tests do not accomplish these humanitarian principles.

We accept your offer to develop a study that evaluates the impact on racial equity that the Bulletin, and its outgrowth—the proposed Medicaid Managed Care rule announced mere hours after we met—seek to formalize. While we aim to conduct this study with haste, we ask that CMS renew all programs previously approved under existing statutes and regulations and halt implementation and enforcement of the Bulletin and new proposed Rule until the study is complete. We also commit to working with you to convene the group of state Medicaid administrators and other stakeholders that you mentioned to examine the Bulletin's impact. We implore CMS to consider the interim solutions.

Again, the SHSL Coalition thanks you and your staff for what may become a historic meeting and for hearing our desperate pleas on behalf of our perpetually marginalized and disenfranchised communities. We truly believe that saving our hospitals saves the lives of many that would otherwise be swallowed by the inhumanity of systems designed to save the bottom line and not those at the bottom of society. We are pleased to stand with the Administration and echo the sentiment that equity matters, and that equity begins with access. We are certain that together we will craft a solution in line with the Administration's and the SHSL Coalition's goals.

Do not hesitate to contact us for assistance or for any additional information.

Regards,


Bishop James Dixon

Founder, Saving Hospitals Saves Lives Coalition

www.SHSLCoalition.org