

VIA ELECTRONIC SUBMISSION

January 31, 2020

Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services Hubert H. Humphrey Building  
200 Independence Ave., S.W.  
Washington, D.C. 20201

**Re: Comments to CMS-2393-P Medicaid Program: Medicaid Fiscal Accountability Regulation**

Dear Sir or Madam,

The Florida Health Justice Project (FHJP) is a Florida based 501c (3). Our mission is to help ensure increased access to health care and improve health equity for Florida's most vulnerable populations. As consumer advocates for low income and uninsured Floridians, we appreciate the opportunity to provide comments on the rule.

As a preliminary matter, we are gravely concerned that the rule could adversely impact the ability of the state to adequately fund its portion of the Medicaid program. Moreover, the possible impact is not at all clear. This is of grave concern as much is at stake given the size and import of adequately financing Florida's Medicaid Program.

In spite of the fact that Florida has not expanded Medicaid under the ACA and has extremely limited eligibility standards for low -income parents and individuals with disabilities, 4 million people rely on the state's Medicaid program. This includes 3 out of 7 children; 4 out of 7 nursing home residents; 1 out of 3 individuals with disabilities. <sup>1</sup>

Also, as discussed more fully below, the proposed rule also raises grave concerns regarding Florida's Low Income Pool (LIP), a program that is vital to all uninsured Floridians below 200% of the poverty level.

We urge that the rule not be finalized.

**Florida's Low Income Pool (LIP)**

Florida's LIP program provides a supplemental funding to help reimburse essential health care providers for their costs in providing services to uninsured individuals. As a state where over 30

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<sup>1</sup> <http://files.kff.org/attachment/fact-sheet-medicaid-state-FL>.

percent of the population is under 200% FPL and almost a quarter are uninsured,<sup>2</sup> this is a particularly critical program.

The state's match for the LIP program relies exclusively on intergovernmental transfers (IGTs) to the Agency for Health Care Administration (Florida's Medicaid agency) from non-Medicaid governmental entities such as counties, hospital taxing districts, municipalities, as well as hospitals operated by local governments.<sup>3</sup>

Under current law, public providers may make intergovernmental transfers (IGTs) derived from any public funds. In contrast, the proposed changes to 42 C.F.R. § 433.51(c), would limit IGTs to funding derived from state and local taxes or appropriations to teaching hospitals. As a result, this could significantly reduce the amount of potential IGTs available to finance the LIP program. That, in turn, would mean considerably less funding available overall for LIP-funded uncompensated care payments to hospitals, teaching hospitals and community health centers in Florida.

In Florida, there are no general revenue funds used to support this vital program. Counties already cannot meet the state match portion of the program. Thus, while the 1115 agreement allowing LIP to continue as a form of supplemental program and provides for a pool of over 1.5 billion annually,<sup>4</sup> Florida counties have been chronically unable to provide sufficient IGT dollars to meet the state's match. Most recently, the SFY 2019-20 LIP Model Summary has total LIP program of \$ 953,67, 607<sup>5</sup>.

Thus, any impediment on the ability of counties to raise these funds could have detrimental impact on the ability of critical safety net providers to service the hundreds of thousands of Florida residents who are low income and uninsured.

While our comments focus on Florida's LIP program, we urge that HHS withdraw the rule entirely and, instead, implement a process for analyzing the impact of proposed changes.

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<sup>2</sup> *Id.*

<sup>3</sup> See Fla. Sta. 409.903(1)(c). See also, [https://ahca.myflorida.com/Medicaid/Finance/finance/LIP-DSH/LIP/pdfs/LIP\\_IGTs.pdf](https://ahca.myflorida.com/Medicaid/Finance/finance/LIP-DSH/LIP/pdfs/LIP_IGTs.pdf)

<sup>4</sup> While Florida is eligible for a total LIP allotment of **\$1,508,385,773** Florida, which relies entirely on local counties for the state match, has been unable to raise the required matching funds from local entities. Thus the actual funds available are far less than \$1.5 billion. <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/fl/fl-mma-ca.pdf> at page 39

<sup>5</sup> [https://ahca.myflorida.com/Medicaid/Finance/finance/LIP-DSH/LIP/pdfs/19-20\\_LIP\\_Model\\_1\\_Pct\\_Minimum.pdf](https://ahca.myflorida.com/Medicaid/Finance/finance/LIP-DSH/LIP/pdfs/19-20_LIP_Model_1_Pct_Minimum.pdf)

Thank you for your consideration of these comments. If you have any questions, please feel free to contact me.

Sincerely,

*s/Miriam Harmatz*

Miriam Harmatz