U.S. RULE LIMITS EMERGENCY CARE FOR IMMIGRANTS

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Body

The federal government has told New York State health officials that chemotherapy, which had been covered for illegal ***immigrants*** under a government-financed program for ***emergency*** medical ***care***, does not qualify for coverage. The decision sets the stage for a battle between the state and federal governments over how medical ***emergencies*** are defined.

The change comes amid a fierce national debate on providing medical ***care*** to ***immigrants***, with New York State officials and critics saying this latest move is one more indication of the Bush administration'**s** efforts to exclude the uninsured from public health services.

State officials in New York and other states have found themselves caught in the middle. The New York dispute, focusing on illegal ***immigrants*** with cancer -- a marginal group of unknown size among the more than 500,000 people living in New York illegally -- has become a flash point for health officials and advocates for ***immigrants*** in recent weeks.

Under a ***limited*** provision of Medicaid, the national health program for the poor, the federal government permits ***emergency*** coverage for illegal ***immigrants*** and other noncitizens. But the Bush administration has been more closely scrutinizing and increasingly denying state claims for federal payment for some ***emergency*** services, Medicaid experts said.

Last month, federal officials, concluding an audit that began in 2004 and was not challenged by the state until now, told New York State that they would no longer provide matching funds for chemotherapy under the ***emergency*** program. Yesterday, state officials sent a letter to the federal Medicaid agency protesting the change, saying that doctors, not the federal government, should determine when chemotherapy is needed.

Federal health officials declined to discuss chemotherapy or the New York claims. But Dennis Smith, director of the Center for Medicaid and State Operations at the federal Centers for Medicare and Medicaid Services, said in a statement, "Longstanding interpretations by the agency have been that ***emergency*** Medicaid benefits are to cover ***emergencies***."

The federal statute that defines an ***emergency*** under Medicaid makes it clear that routine ***care*** for illegal ***immigrants*** and nonresidents, including foreign students and visitors, is not covered. But the only procedures it specifically excludes from reimbursement are organ transplants, leaving to the states the task of further defining an ***emergency***. States and courts have grappled with the question for years, yielding no clear definition.

Some states have maintained that any time a patient is able to schedule an appointment -- as opposed to showing up at an ***emergency*** room -- the condition would not be considered an ***emergency***. Others, including New York, have defined an ***emergency*** as any condition that could become an ***emergency*** or lead to death without treatment.

"There are clearly situations that we consider ***emergencies*** where we need to give people chemotherapy," Richard F. Daines, the New York State health commissioner, said in an interview late yesterday. "To say they don't qualify is self-defeating in that those situations will eventually become ***emergencies***."

Dr. Daines said that for every effort in the state to use Medicaid "creatively" to cover the uninsured, "the Bush administration, at every chance, is pushing it back."

The state estimated that the federal government denied $60 million in matching funds for ***emergency*** Medicaid from 2001 to 2006, including $11.1 million for chemotherapy. Medicaid costs are typically split evenly between the state and the federal government.

It is unclear how many other states are providing chemotherapy to illegal ***immigrants***, because all ***emergency*** services are generally lumped together in state Medicaid reports. But others have also been challenged on ***emergency*** Medicaid claims.

In Washington State, where illegal ***immigrants*** are entitled to Medicaid coverage for a month or more after treatment in an ***emergency***, officials said a federal audit of their ***emergency*** Medicaid claims was under way, and the state has asked the federal government to provide a definition of ***emergency*** services.

"The awkward position state Medicaid programs are in is trying to figure out what kinds of medical ***care*** should be available for ***emergency*** conditions," said Douglas Porter, assistant secretary for the Washington Health and Recovery Services Administration.

Washington and other states have also fought the federal government over Medicaid for infants born to illegal ***immigrants***, an issue reflected in the ferocious debate over the national children'***s*** health insurance program.

In the wake of stricter federal ***rules***, New York, New Jersey, Connecticut and 20 other states have extended full Medicaid coverage, using only state money, to some ***immigrants*** who do not qualify for federal aid. Under federal law, proof of citizenship is required for full Medicaid coverage, but not for ***emergency*** coverage.

But some states with growing ***immigrant*** populations, like Georgia and Arizona, have themselves moved to ***limit*** coverage under ***emergency*** Medicaid, leading to intense opposition from ***immigrant*** health advocates.

Advocates for breast cancer patients said they were particularly concerned about the denial of coverage after lobbying the federal government for years to provide breast cancer screening to uninsured women. Under a program offered to underinsured and uninsured women, the Centers for Disease Control and Prevention provides free or low-cost screening.

"To allow women to be diagnosed with breast cancer and then create an obstacle for them to get treatment is a horrendous policy," said Donna Lawrence, executive director of Susan G. Komen for the Cure in New York.

In New York City, cancer kills 15,000 residents a year. It is the second leading cause of death among both the native- and the foreign-born, according to a 2006 survey by the city'***s*** health department, with lung, breast and colon cancer the top killers.

The state had initially accepted the federal finding that New York was not entitled to federal reimbursement for chemotherapy under the ***emergency*** Medicaid program. But until last month, state health officials had not informed medical providers that the treatment would no longer be covered by either state or federal funds.

That provoked a pitched outcry from ***immigrant*** health advocates over the last few weeks, and state health officials reversed their position this week, saying Medicaid should cover the treatment.

State officials said they were challenging the federal decision on the grounds that chemotherapy treatment qualifies as an ***emergency*** under the federal government'***s*** own ***rules***. Certain conditions, including diseases of the brain, spinal cord and bone marrow disease, could require immediate chemotherapy.

The state's letter also said that chemotherapy can be used to "cure cancer, control cancer and/or ease cancer symptoms," and that if that the measures typically used to treat cancer were not available to patients, their health could be in serious jeopardy -- one of the federal criteria in determining an ***emergency***.

The cost of ***emergency*** Medicaid is still a relatively small portion of state Medicaid budgets, experts said, and a majority of the money is spent on ***care*** for pregnant women, labor and delivery. But the demand for it rising quickly as the ***immigrant*** population balloons.

Health advocates say that many illegal ***immigrants*** who need and qualify for ***emergency care*** are afraid to seek help, and that ***emergency*** Medicaid is underused.

A recent study of ***emergency*** Medicaid services in North Carolina found that spending, largely devoted to pregnant women, increased by 28 percent from 2001 to 2004; still, the ***emergency*** costs accounted for less than 1 percent of total Medicaid expenditures.

New York City public hospitals, which serve 400,000 uninsured patients a year, among them illegal ***immigrants***, would continue to provide the cancer treatment no matter what, said officials from the Health and Hospitals Corporation. But if there is no reimbursement from Medicaid, they said, they will have to look elsewhere for financial support.

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Graphic

CHART: Cancer Deaths: Each year about 15,000 people in New York City die of cancer, which is the second leading cause of death among both ***U.S.***-born and foreign-born New Yorkers.(Source: New York City Department of Health and Mental Hygiene)(pg. A11)

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