

Why GAO Did This Study

The Medicaid program is typically the payer of last resort. The Bipartisan Budget Act of 2018 changed the Medicaid third-party liability payment requirements for prenatal care services, pediatric preventive services, and services provided to CSE beneficiaries. Before the act, in the case of these three services, states were generally required to pay providers for services delivered to Medicaid beneficiaries and then obtain any payments from liable third parties.

The Bipartisan Budget Act of 2018 also included a provision for GAO to study the potential effects of these changes. In this report, GAO (1) describes the status of selected states' implementation of Medicaid third-party liability changes; (2) evaluates CMS's implementation and oversight of the Medicaid third-party liability changes; and (3) describes stakeholders' views of the possible effects of these changes on providers and beneficiaries. GAO conducted interviews with state Medicaid agencies and provider associations in nine selected states, which were selected by taking into consideration Medicaid spending and stakeholder recommendations, among other factors. GAO also conducted interviews with national experts in Medicaid, national organizations representing beneficiaries and providers, and officials from CMS.

What GAO Recommends

GAO is recommending that CMS (1) ensure that its guidance to states on third-party liability requirements reflects current law, and (2) determine the extent to which state Medicaid programs are meeting federal third-party liability requirements. The Department of Health and Human Services concurred with these recommendations.

MEDICAID PAYMENT

CMS Has Not Overseen States' Implementation of Changes to Third-Party Liability

What GAO Found

Medicaid officials in the nine selected states GAO reviewed described being in various stages of implementing third-party liability changes as required by law. These changes affect whether health care providers must seek payment from a liable third party, such as private insurance, before the state Medicaid agency pays for services. The changes apply to prenatal care services, pediatric preventive services, and services for children subject to child support enforcement (CSE beneficiaries). At the time of GAO's review,

- Officials from four of the nine selected states reported having fully implemented the changes for prenatal care services, which were required to be implemented starting in February 2018. Officials from the remaining five states were discussing the changes internally, researching how to implement the changes in their Medicaid payment systems, or waiting for additional guidance from the Centers for Medicare & Medicaid Services (CMS), the federal agency responsible for overseeing states' Medicaid programs.
- None of the nine states had implemented the changes to pediatric preventive services and services for CSE beneficiaries, which must be implemented starting in October 2019. Officials from six states told GAO that they were in the early stages of exploring how they would make the changes, while the remaining three states had not developed such plans.

GAO found that guidance issued by CMS in June 2018 to assist states in implementing the third-party liability changes contains information inconsistent with the law. For example, CMS's guidance incorrectly informs states that providers do not need to seek third-party payments before the state pays for some prenatal services. In addition, CMS has not determined the extent to which states are meeting third-party liability requirements. CMS officials stated that they expect states to comply with current law for Medicaid third-party liability and that they do not verify whether states have implemented the required third-party liability changes unless the agency is made aware of non-compliance. However, this approach is inconsistent with CMS's Medicaid oversight responsibilities, including its responsibility to ensure federal funds are appropriately spent.

Medicaid experts and other stakeholders told GAO that the third-party liability changes could affect some health care providers in ways that could result in decreased beneficiary access to care, because some providers might be less willing to see Medicaid patients. According to stakeholders, this could occur for two primary reasons.

1. The changes may increase administrative requirements for providers by requiring them to identify sources of coverage, obtain insurance information, and submit claims to third-party insurers before submitting them to Medicaid.
2. The changes may result in providers waiting longer to receive Medicaid payment for certain services to the extent that states require providers to seek third-party payments before paying the providers' claims.