



March 13, 2024

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Chiquita Brooks-LaSure  
Administrator  
The Center for Medicare and Medicaid  
Services  
7500 Security Boulevard  
Baltimore, MD 21244

**Brian Patrick Kennedy**  
Speaker Pro Tempore  
Rhode Island General  
Assembly  
President, NCSL

**Sabrina N. Lewellen**  
Deputy Director - Senate  
Assistant Secretary of the  
Senate  
Arkansas General Assembly  
Staff Chair, NCSL

**Tim Storey**  
Chief Executive Officer  
NCSL

Dear Secretary Becerra and Administrator Brooks-LaSure,

On behalf of the National Conference of State Legislatures (NCSL), the bipartisan organization representing the legislatures of our nation's states, commonwealths and territories, we write to urge you to immediately provide critically needed public health emergency-like flexibilities for state and territory Medicaid programs in the wake of the Change Healthcare cyberattack. While states have mobilized to help ensure continued access to Medicaid services and prescription medications, state budgets have limited long-term capacity to fill the gaps caused by the attack.

The disruptions to claims processing and prescription drug authorization is impacting Medicaid providers across the country but has put safety net providers and behavioral health and home and community-based services (HCBS) providers at particular risk of having to stop services due to their thin operating margins. States are availing themselves of all existing flexibilities to mitigate the disruptions, including standing down on prior authorization requirements and directing pharmacies to provide emergency refills and 30-day supplies of medication, connecting at risk individuals to one-on-one care management support, requesting that their managed care organizations make advance payments to providers and supporting providers in moving to different payment clearinghouses. However, **states and territories do not have the financial capacity to pay providers out of state funds for any extended length of time.** Additional flexibilities are needed to ensure federally qualified health centers, hospitals, nursing homes, home care providers and other HCBS services can continue to operate.

**For these reasons, we urge U.S. HHS and CMS to immediately institute public health emergency-like flexibilities for Medicaid programs that provide states with:**

- **Flexible authority from HHS and CMS to make retainer payments that qualify for federal match, can be instituted immediately and are made with recognition of the difficulty of documenting services in the near term. This approach was used during the COVID-19 public health emergency and was a particularly effective strategy for states.**
- **Flexibility to waive utilization management practices and co-payments that are embedded in their state plans.**
- **Assurances that federal audit agencies will consider the context of this urgent set of circumstances and hold programs harmless from typical documentation requirements.**

No doubt we will see more of these attacks in the future. A robust response now will provide states with a framework for maintaining critical services for the millions of people who rely on Medicaid services. We would be deeply appreciative if HHS and CMS, as our partners in Medicaid, would take immediate action on this request.

Sincerely,

A handwritten signature in blue ink that reads "Tim Storey". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tim Storey  
Chief Executive Officer  
National Conference of State Legislatures