Monitoring Plan for Local Funds Used to Support Medicaid Payments

Scope

HHSC will collect and assess information on all financing arrangements that generate local funds transferred or certified by governmental entities as the non-federal share of Medicaid supplemental and directed payments. HHSC will implement each stage of monitoring according to a phased timeline.

Monitoring Plan

The monitoring plan consists of five steps:

1. Annual survey
2. Risk assessment
3. Additional information for selected entities
4. Deep dive reviews
5. Determination

Annual Survey

An annual survey will be conducted to obtain information from each governmental entity that transferred or certified funds as the non-federal share.

Risk Assessment

After conducting the annual survey, HHSC will conduct a risk assessment to determine which entities will be selected for further review. The risk assessment will include an evaluation of the following risk factors that, in aggregate, are used to determine the overall risk level of each entity (high, medium, or low):

- Financing Arrangement – Risk is evaluated by determining whether the relationship between the governmental entity and health care provider or entity related to a health care provider meets federal requirements. For example, there may be enhanced risk if there is indication of a hold harmless arrangement.
- Ownership – Risk is evaluated by reviewing the ownership status of the health care provider or entity related to a health care provider. There may be enhanced risk if the relationship involves a privately-owned provider or related entity.

- Annual Funds Transferred or Certified – Risk is evaluated by considering the annual amount of funds transferred or certified as the non-federal share for the health care provider or entity related to a health care provider. Risk may also be indicated by evaluating the rate of funding change, which measures the annual amount of funds for the current fiscal year compared with a prior year. A significant change (e.g., 10 percent) from the past year may indicate enhanced risk.
- Source of Non-Federal Share – Risk is evaluated by determining if local funds (i.e., state or local taxes) are used as the source of the non-federal share. Risk is enhanced and may be high if the source of funds appears to be impermissible. Impermissible sources include:
  - Private funds
  - Federal funds
  - Non-bona fide provider-related donations
  - Impermissible health care-related taxes
- Public Information – Risk is evaluated by reviewing any information shared with the public about the source or amount of funds used as the non-federal share and the financing arrangement that generates the funds. Risk may be enhanced if there is limited or no information shared with the public because lack of transparency can prevent the opportunity for public evaluation of compliance.

After conducting the risk assessment, HHSC will select a statistically significant sample of entities for further review. The number of entities selected will depend on the total number of entities surveyed and available resources.

Additional Information for Selected Entities

HHSC will request additional information and supporting documentation from the governmental entities and providers selected for further review to better understand their financing arrangement(s).

Deep Dive Reviews

After obtaining additional information and supporting documentation from the entities selected for further review, HHSC will conduct a deep dive review of each selected entity and provider to determine if the financing arrangement and source of funds for the non-federal share complies with federal and state regulations for use in the Medicaid program. Specifically, the deep dive review will involve HHSC examining supporting documentation to determine if any of the following conditions exist:

- Is the source of the non-federal share impermissible?
- Does a hold harmless practice exist?
- Does the arrangement involve care being provided to indigent patients in the community by a private provider, and was that care previously provided by a governmental entity?
- Does the arrangement involve a lease agreement between a governmental entity and private provider in which the lease payments made by the private provider are used to fund the non-federal share?

Determination

After conducting the deep dive reviews, HHSC will make a determination regarding the permissibility of accepting funds from a governmental entity. Each arrangement between a governmental entity and health care provider or entity related to a health care provider will be assigned one of the following categories:

#	Category	Description
1	**Potential Impermissible Financing Arrangement; Need Guidance from CMS**	After examination of supporting documentation from the governmental entity and health care provider or entity related to a health care provider, HHSC reasonably believes that CMS might find that the financing arrangement does not comply with federal regulations. HHSC will provide information to CMS relating to the financing arrangement. Upon receiving feedback from CMS, HHSC will re-categorize its determination as either #2 or #3.
2	**Financing Arrangement Complies with Federal Regulations**	After examination of supporting documentation from the governmental entity and health care provider or entity related to a health care provider, HHSC reasonably believes the financing arrangement complies with federal regulations.
3	**Financing Arrangement Does Not Comply with Federal Regulations**	After examination of supporting documentation from the governmental entity and health care provider or entity related to a health care provider, it is determined that the financing arrangement does not comply with federal regulations. As a result, HHSC will no longer accept funds from the governmental entity for the non-federal share. A letter will be sent to the governmental entity and provider to inform them of the determination.

Phases of implementation

HHSC will expand monitoring activities based upon provider type, volume of funds, and method of contribution.

Phase 1: Local Provider Participation Funds or other provider tax structures

Phase 2: Governmental entities transferring non-LPPF funds to support Medicaid payment programs for hospital services

Phase 3: Governmental entities transferring non-LPPF funds to support Medicaid payment programs for non-hospital services, including nursing facility services, intermediate care facility services, and other acute or long-term care services

Phase 4: Governmental entities certifying public expenditures