

# Hospitals ask Congress to delay ACA Medicaid funding cuts—for the 14th time

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It has become as familiar a sight in Washington as the cherry blossoms in spring: lobbyists from the nation's hospitals descending on the Capitol to ask lawmakers to postpone billions in Medicaid funding cuts

prescribed by the Affordable Care Act—cuts industry leaders agreed to years ago.

It is unlikely the reductions will occur this year, if history is any indication. Since 2013, Congress has voted 13 times to delay them, siding with hospitals over their claims that losing the money would hinder the delivery of care.

Unless Congress acts by October, the federal government will cut \$8 billion from this year's budget—then make the same cut each year for the next three years—for a Medicaid program intended to help safety-net facilities that serve a large share of Medicaid and [uninsured patients](#). The amount budgeted varies annually, though in 2021 the program's spending totaled about \$19 billion.

Known as the Medicaid Disproportionate Share Hospital (DSH) payments program, it has drawn criticism amid evidence that a substantial amount of its funding goes to hospitals that do not primarily cater to low-income patients. According to industry groups, more than 2,500 hospitals—about 40% of the total in the United States—get the payments.

The cuts are part of a deal brokered with the hospital industry 14 years ago, as the fate of the ACA dangled in the balance. At the time, hospitals agreed to accept \$155 billion in Medicare and Medicaid funding cuts over 10 years, assuming the legislation's promise to insure more patients would improve their bottom lines. A portion of those cuts were to Medicaid DSH payments.

Despite record-high hospital profits and record-low uninsured rates in recent years, the hospital industry again says this is not a good time for cuts, pointing to the COVID-19 pandemic and the millions of people losing Medicaid coverage as a result of pandemic-era protections ending.

Current Medicaid funding covers only about 81% of hospitals' costs of caring for patients, said Jolene Calla, a vice president of The Hospital and Healthsystem Association of Pennsylvania.

Losing the Medicaid safety-net funding "would be devastating to hospitals," she said.

A bipartisan group of 231 members of the House of Representatives—a majority—have signed a letter to House leaders asking for another delay. Legislation is moving in the chamber that would delay any cuts to the Medicaid safety-net program until 2026.

The postponements show the political muscle of the hospital industry, strengthened by virtually every lawmaker's district having at least one hospital that provides care and jobs.

Hospitals have been among the biggest donors to members of Congress and have a large lobbying force.

According to the watchdog group OpenSecrets, the Greater New York Hospital Association, which represents more than 160 hospitals, gave more than \$11.8 million to congressional campaigns in the 2022 cycle. The American Hospital Association spent about \$27 million on lobbying to influence lawmakers in 2022, more than nearly any other organization.

Critics say the hospital industry—which often increases prices, sues patients for lack of payment, and pays big-dollar salaries to top executives—should hold up its side of the deal it made with Democrats, particularly the Obama administration, in 2009.

"Too many hospitals have for years been trying to have it both ways, benefitting from the ACA while trying to escape responsibilities they

have under the law," said Daniel Skinner, an associate professor of health policy at Ohio University. "They constantly deploy their political power to wiggle out of these responsibilities while trying to maintain the generally good feeling they have within communities."

On July 8, 2009, the nation's top hospital leaders stood with then-Vice President Joe Biden at a White House press conference to announce their deal to keep national health reform legislation on track after a century of failed attempts, dating as far back as Theodore Roosevelt's push for national insurance.

At the time, ACA reform efforts teetered as interest groups feuded and Democrats struggled to settle on a plan. The agreement, which followed a similar deal with the drug industry, was part of a plan by the Obama administration to preemptively negotiate with corporate interests that had blocked previous reform efforts.

The savings from the \$155 billion in [hospital](#) funding cuts would "cover health care cost reform," Biden said during the press conference. "As more people are insured, hospitals will bear less of the financial burden of caring for the uninsured and the underinsured, and we will reduce payments to cover those costs in tandem with that reduction."

President Barack Obama signed the ACA into law in March 2010. The number of uninsured, which was 48 million in 2010, fell to 28 million by 2016. By 2021, the uninsured rate fell to record lows, with about 27 million uninsured.

Hospital lobbyists argue the industry has already absorbed cuts in Medicare funding under the ACA and that the Medicaid cuts should not be implemented because uninsured rates have not dropped as low as the 5% rate predicted before the law's passage.

Though the health law has been a "godsend," it also has not met its anticipated goal of universal coverage, said Chip Kahn, the president and CEO of the Federation of American Hospitals, which represents for-profit hospitals.

Kahn, who was involved in the agreement with the Obama White House, said the ACA has fallen short of universal coverage largely because 10 states, including more populous ones like Florida and Texas, have yet to adopt Medicaid expansion.

As a result, hospitals in these states have provided more unpaid care than anticipated and need the additional Medicaid payments to cover costs, he said.

Kahn said the extra Medicaid payments also help offset shortfalls caused by Medicare and Medicaid underpaying hospitals.

The ACA called for the DSH program's cuts to be phased in, with less than \$1 billion being cut in each of the first few years. But after hospitals lobbied Congress to postpone them, the revised budget deals meant future cuts would be deeper and immediate—leading to the \$8 billion annual cuts currently slated for the coming years.

In fiscal year 2021, the most recent year for which data is available, DSH spending nationwide totaled \$18.9 billion. While those payments represent 3% of overall Medicaid spending, they account for as much as 10% of some states' Medicaid spending.

The program, intended for safety-net hospitals, has been the subject of controversy for decades.

One reason is that the money does not always go to safety-net hospitals.

A study published in Health Affairs last year found 57% of hospitals received the DSH payments in 2015. About 94% of these payments went to hospitals with either a high percentage of uninsured patients or Medicaid enrollees or higher-than-average uncompensated care.

But 6% of recipient hospitals did not meet these criteria, the study showed.

The researchers estimated that about a third of the payments went to hospitals not focused on caring for low-income populations.

Paula Chatterjee, the lead author on the study and the director of health equity research at the Leonard Davis Institute of Health Economics at the University of Pennsylvania, said hospitals aren't transparent about how they spend the extra money and that the states that receive the most money do not always have the highest rates of uninsured residents.

While the safety-net program is intended to help hospitals treating large numbers of Medicaid and uninsured patients, the formula determining how much money states get is based on historical Medicaid spending totals before limits were put in place in 1992, she said.

As a result, states like New York and New Jersey are among the largest recipients of the supplemental funding even though they have some of the lowest uninsured rates, she said.

Beth Feldpush, the senior vice president of policy and advocacy for America's Essential Hospitals, which represents 300 safety-net hospitals, said these facilities' 3% average operating margin would disappear if not for DSH money. "Members of Congress recognize there are pockets of underserved communities in most congressional districts," she said.

Chatterjee said hospitals will likely argue there is never a good time to

accept the cuts. She noted some rural and urban hospitals have closed in recent years even as other hospitals have made record profits.

"It's always hard to take money away from hospitals because they hold such symbolic meaning, and legislators know that," she said.

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