

FACT SHEET

CENTERS FOR MEDICARE AND MEDICAID SERVICES ANNOUNCES POLICY OF SHARING MEDICAID DATA WITH DEPARTMENT OF HOMELAND SECURITY

BACKGROUND

The Centers for Medicare and Medicaid Services (CMS), on November 25, 2025, announced a [policy of sharing CMS data with the Department of Homeland Security \(DHS\)](#) for immigration enforcement purposes. The official policy follows a much-criticized transfer of Medicaid data from California, Illinois and Washington to DHS on June 13, 2025, and a July 2025 data sharing agreement between CMS and Immigration and Customs Enforcement (ICE). Twenty-two states are currently suing the Department of Health and Human Services (HHS) to permanently bar the agency from sharing CMS data with ICE for immigration enforcement, arguing it will result in unenrollment, higher costs for states, and higher rates of morbidity and mortality. Nevertheless, the new announcement appears to reflect an undeterred Administration with plans to systematically use personal health record data from Medicaid for immigration enforcement purposes. This fact sheet provides an overview of the policy, the data at risk, and current legal challenges.

CMS DATA AT RISK

Medicaid is jointly funded by the states and the federal government. The program generates a considerable amount of personal data, and data is routinely exchanged between the states and the federal government. For example, participating states are required to participate in an income and eligibility verification system, requiring exchange of identifiable personal data between the states and federal government to verify immigration status. CMS also requires participating states to submit data to CMS's [main Medicaid dataset](#), which includes unique identifiers, addresses, records of health claims and diagnoses. States also submit data to CMS for quality reviews and audits.

The federal government has in the past broadly communicated a policy of not using Medicaid information to pursue immigration enforcement actions, including in the 2013 ICE Memorandum [Clarification of Existing Practices Related to Certain Health Care Information](#). The new policy rescinds the 2013 policy memorandum.

LEGAL AUTHORITY

CMS points to several federal statutes, including the Homeland Security Act of 2002, enacted after 9/11, which, it asserts, grants DHS access to information “relating to matters under the responsibility of the

Secretary [of Homeland Security] that may be collected... by any agency.” It further relies on the Immigration and Nationality Act of 1952, enacted during the McCarthy era, which, it contends, grants access to information in government records as to “the identity and location of aliens” to “immigration authorities.”

The reason for the anticipated data sharing, according to the CMS announcement, is to further Administration policies, set out in several executive orders, including “faithfully executing immigration laws,” “secur[ing] the borders,” “ensuring... no taxpayer-funded benefits go to unqualified aliens,” and “elimination of waste, fraud, and abuse.” More plainly, the announcement notes CMS data “is useful for immigration enforcement.”

INFORMATION TO BE SHARED

According to the announcement, ICE “contemplates requesting... biographical, contact and location information...” and “other information on a case-by-case basis.” CMS states it will share only the minimum necessary information, but with the large and complicated caveat that the minimum will be determined by “giving due consideration to the information requested by ICE, the federal laws that govern the provision of information to DHS and the CMS information requested, the capabilities of CMS systems, and the CMS resources available to respond to ICE information requests.”

ANTICIPATING ADVERSE RULINGS

As though in anticipation of court rulings finding the new policy illegal, CMS makes the blanket statement that “in the event a court finds ICE does not have a right to access a specific type of data [CMS] intends that the provision of specific categories of data to be severable from each other.”

The announcement also seeks to preemptively overcome arguments as to states, providers, beneficiaries and others reasonably relying on the previous CMS assurances that it would use Medicaid data only for program administration and not immigration enforcement. The announcement broadly dismisses these reliance interests, asserting “federal laws have long apprised the regulated public that immigration authorities have access to broad swaths of information possessed by other federal agencies.” More bluntly, CMS states the “value of this information to immigration and criminal law enforcement operations outweighs any relevant reliance interests.”

NO NOTICE AND COMMENT PERIOD

The new policy to share personal CMS health records with DHS will not be subject to a notice and comment period, the announcement makes clear, reasoning the sea change “is, at the most, a policy statement.” The lack of notice and comment period is consistent with an [earlier policy statement](#) by the new Administration that it would abandon the Richardson Waiver, under which HHS had previously committed to a notice and comment period for nearly all rules.

ONGOING LEGAL CHALLENGE

The Administration’s now-overt policy of sharing CMS data with DHS for immigration enforcement is already the subject of a legal challenge. [California and twenty-one other states have sued the Administration](#) seeking an injunction permanently stopping HHS from sharing personally identifiable Medicaid data with DHS and the so-called Department of Government Efficiency (DOGE). These states say the Administration’s use of Medicaid data will cause residents of their states to avoid enrolling in health care programs for which they

are eligible out of fear their information will be used to initiate immigration enforcement actions against them and will lead to higher costs to the states, and higher morbidity and mortality.

LEGAL ARGUMENTS

The plaintiff states assert the Administration's actions are contrary to law, and arbitrary and capricious, amongst other claims.

The states argue several statutes prohibit CMS from sharing personal health data with DHS, including the Social Security Act. That law, they argue, states "[n]o disclosure... of any file, record, report, or other paper, or any information [...] shall be made except as the head of the applicable agency may by regulations prescribe and except as otherwise provided by Federal law." They contend HHS has not issued regulations authorizing "unfettered transfer of Medicaid data" and federal law does not provide for such disclosure. They further maintain the action violates HIPAA and other laws.

The plaintiffs further argue all of the named states have relied on previous CMS rules and practices protecting data privacy and security of CMS data, and an understanding that this data would only be used to administer the Medicaid program. The plaintiff states claim this policy has also been communicated to the public, with CMS promising to "keep... personal information safe with the highest level of privacy protections possible, including only sharing information with people who need to know." They also argue "CMS further assures the public that it will 'tell you before we collect any personal information we need to run our health care programs and only use it for that purpose.'"

PRELIMINARY INJUNCTION

In an August 12, 2025 order, the U.S. District Court for the Northern District of California found "CMS appears to have granted ICE unfettered access to all information about all Medicaid patients in the United States, whether citizens or noncitizens." It further found HHS had not engaged in reasoned decision making before making such a huge policy shift, and [issued a preliminary injunction](#) temporarily barring the Administration from using the plaintiff states' Medicaid data for immigration enforcement purposes. The preliminary injunction applies only to the plaintiffs. The case is ongoing.

CONCLUSION

The notice from HHS announcing it will share Medicaid participant and applicant data for immigration enforcement reflects a practice that has already been evident since at least June of this year. Nevertheless, its formalization as an official policy confirms the pendulum swing away from an at-least-12-year-old ICE policy prohibiting the use of such information in immigration enforcement actions. Twenty-two states argue the misuse of Medicaid data will result in individuals not enrolling in health care services leading to higher morbidity and mortality. Foregoing needed care on such a scale owing to fear and anxiety is an entirely logical result of the change in policy, which will undoubtedly negatively impact the public health. The lawsuit challenging the Administration's Medicaid data-sharing practices has so far resulted in a preliminary injunction temporarily halting the actions of the Administration with respect to data from the plaintiff states; and the litigation continues.

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