



Legislation Text

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Res. No. 568

Resolution calling upon the United States Department of Health and Human Services to withdraw its proposed implementation approach for Section 1011 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, since such implementation approach would require hospitals to determine the immigration status of patients in order to be eligible for Section 1011 funds, federal money that reimburses hospitals for services provided to undocumented immigrants, and urging all hospitals in New York State to not apply for Section 1011 funds if the United States Department of Health and Human Services does not amend appropriately the proposed implementation approach.

By Council Members Quinn, Stewart, Liu, Martinez, Reyna, Palma, Monserrate, Seabrook, Nelson, The Public Advocate (Ms. Gotbaum), Clarke, James, Vann, Weprin, Reed, Barron, Rivera, Sanders Jr., Sears, Fidler, Brewer and Lopez

Whereas, On December 8, 2003, Congress passed the Medicare Prescription Drug, Improvement and Modernization Act of 2003, which included Section 1011, Federal Reimbursement of Emergency Health Services Furnished to Undocumented Aliens, which provides \$1 billion in reimbursement to eligible providers for otherwise unreimbursed emergency health services that are provided to undocumented aliens; and

Whereas, New York State stands to benefit significantly from federal reimbursement provided under Section 1011 because of its large immigrant community, and it has been estimated that \$12 million of the Section 1011 funds are to be allocated to eligible New York providers of emergency services, including hospitals, physicians, and ambulances; and

Whereas, On May 18, 2004, the House of Representatives overwhelmingly voted against H.R. 3722, the “Undocumented Alien Emergency Medical Assistance Amendments of 2004,” a bill that would have required hospitals to obtain sworn statements on patients’ immigration status and other identity-verifying information that could have included fingerprints or photographs, in order for the hospitals to receive Section 1011 funds; and

Whereas, The Department of Health and Human Services has proposed an implementation approach that would require hospitals to determine the immigration status of patients in order to receive Section 1011 federal reimbursement for the care provided; and

Whereas, By proposing such an approach, the Department of Health and Human Services is effectively circumventing Congressional dissent and attempting to implement an unpopular and potentially detrimental provision; and

Whereas, The proposed implementation approach would require hospitals to question patients' immigration status and request supporting documents to be photocopied and included in the patient's file, including passports, visas, driver's licenses, voting cards, foreign bank accounts and identification cards; and

Whereas, According to the California Healthcare Association, an organization representing 450 hospitals, determining immigration status is a burden to the providers, and it could cost hospitals more to comply with the new regulatory requirements than they will receive in federal aid; and

Whereas, Hospitals are responsible for providing emergency medical care to any individual in need of treatment, regardless of citizenship, and should not be required to take on the additional role of border patrol agents; and

Whereas, The proposed implementation approach would also deter undocumented immigrants from seeking emergency care out of fear of deportation, thereby postponing medically necessary treatment and contributing to worsening conditions that could ultimately lead to higher medical costs once treatment is finally sought; and

Whereas, Hospital officials advocate that there are other ways to reasonably infer immigrant status without imposing a burden on the hospitals and the patients that they serve, such as making a reasonable assumption that a patient is an undocumented immigrant if the patient was born in another country or has a foreign address and a missing or invalid Social Security number, or estimating a hospital's undocumented immigrant workload by using a mathematical formula; and

Whereas, New York City Mayor Michael Bloomberg issued Executive Order 41 on September 17, 2003, which safeguards the confidentiality of immigrants seeking New York City services, including their immigration status, for the purpose of ensuring that immigrants can freely access the health services and emergency room care that they need and are entitled to receive; and

Whereas, By eliminating the confidentiality of patient information, the trust that is the very foundation of an effective provider-patient relationship is eroded, which consequently decreases comprehensive communication and imposes barriers to quality care; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Department of Health and Human Services to withdraw its proposed implementation approach for Section 1011 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, since such implementation approach would require hospitals to determine the immigration status of patients in order to be eligible for Section 1011 funds, federal money that reimburses hospitals for services provided to undocumented immigrants, and urging all hospitals in New York State to not apply for Section 1011 funds if the United States Department of Health and Human Services does not amend appropriately the proposed implementation approach.

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