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# Washington

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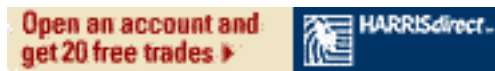
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# States Rejecting Demand to Pay for Medicare Cost

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By [ROBERT PEAR](#)

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WASHINGTON, July 3 - States are openly resisting a provision of the Medicare law that requires them to pay billions of dollars a year to the federal government to help finance the cost of the new Medicare drug benefit.

Texas is leading the charge against the requirement, which states see as more onerous than the mandates imposed on them by the 2002 education law, the No Child Left Behind Act.

Gov. Rick Perry, a Republican, has vetoed a \$444 million appropriation covering the Texas contribution for the

next two years.

In his veto message and in a letter to other governors, Mr. Perry said he objected to the federal requirement in principle and to the way it was being interpreted by the federal Medicare agency.

"For the first time," Mr. Perry said, "state governments would be expected to directly finance federal Medicare benefits with state tax dollars. In effect, states will be billed on a monthly basis for the cost of federal services."

Bush administration officials say the federal Medicare law clearly requires states to make the payments, starting in January. One purpose of the 2003 Medicare law was to relieve states of prescription drug costs for low-income elderly people. But as states do the arithmetic, many have concluded that they will lose money because they must give back most of the savings and will incur new administrative costs.

The confrontation comes as governors, state legislators, Congress and the Bush administration search for ways to rein in Medicaid costs, which have been growing 10 percent a year since 1999 - much faster than federal or state revenues. The tussle with state officials is potentially awkward for the Bush administration, which often points to the states as models for federal policy makers.

The Congressional Budget Office estimates that required state contributions to the Medicare trust fund, also known as clawback payments, will total \$124 billion from 2006 to 2015.

In New Hampshire, the state budget enacted last week stipulates that "no payments shall be made to the federal Medicare program, unless a court has determined that the provisions" of the federal law, "popularly known as the clawback, are constitutional."

In an interview, the majority leader of the New Hampshire Senate, Robert E. Clegg Jr., a Republican, said: "We are not going to pay. We are not sending the feds any money. We don't think it's constitutional for the federal government to commandeer our revenue. The federal government can print its own money. We can't."

The money owed to Medicare - \$13.5 million in the fiscal year that began Friday and \$30 million in the next year - will be deposited in New Hampshire's rainy day fund.

Barbara Coulter Edwards, the Ohio Medicaid director, praised Governor Perry's letter and said it "captures my views on the conversation we need to have with the federal government."

About seven million people are simultaneously eligible for Medicaid, the federal-state program for low-income people, and Medicare, the federally financed program for the elderly and disabled. Medicaid now covers drug costs for such "dual eligibles." On Jan. 1, Medicare will take over the responsibility.

But under the Medicare law, states must make monthly payments to the federal Treasury to help defray the cost. If a state fails to comply, the federal government can simply deduct the amount owed, plus interest, from its regular payments to the state's Medicaid program.

The legislation was pushed through Congress by President Bush and Republican leaders. But at the state level, Republicans and Democrats alike express qualms about the costs and the precedent.

In Connecticut, Lt. Gov. Kevin B. Sullivan, a Democrat, has asked the state attorney general to review the constitutionality of the clawback requirement, which he describes as "a hidden tax," a kind of "reverse revenue sharing." Mr. Sullivan said it would cost Connecticut \$160 million in the next two years.

When Medicaid recipients fill prescriptions, the federal government and the states share the costs, just as they do for other Medicaid benefits like doctors' services and hospital care. The Bush administration says states should save money under the 2003 law because the federal government will pay almost all drug costs for Medicaid recipients and most drug costs for retired state employees.

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