

Dated: March 29, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7-6344 Filed 4-4-07; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Minnesota State Plan Amendment 05-10

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to be held on May 30, 2007, at 233 N. Michigan Avenue, Suite 600, the Indiana Room, Chicago, IL 60601, to reconsider CMS' decision to disapprove Minnesota State plan amendment 05-10.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by (15 days after publication).

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, Lord Baltimore Drive, Mail Stop LB-23-20, Baltimore, Maryland 21244. Telephone: (410) 786-2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove Minnesota State plan amendment (SPA) 05-10 which was submitted on September 21, 2005. This SPA was disapproved on December 29, 2006.

Under this SPA, the State proposed to revise coverage and reimbursement methodology for Early and Periodic Screening, Diagnosis, and Treatment services related to children's mental health rehabilitative services and rehabilitative services pursuant to an Individualized Education Plan or Individual Family Service Plan.

The amendment was disapproved because CMS found that the amendment violated the statute for reasons set forth in the disapproval letter.

The issues to be decided at the hearing are:

- Whether the per diem (bundled) payment methodologies for mental health rehabilitative services described in Minnesota's SPA 05-10 accurately reflect true costs or reasonable fees for the services included in the bundles;

- Whether the amount or scope of services reimbursed through the bundled rate is sufficiently constant so that the proposed methodologies would be an economic and efficient method of payment;

- Whether all of the component parts of the service are delivered as recommended within the scope of practice of the physician or licensed practitioner of the healing arts;

- Whether the actual practitioners who will be furnishing services can be readily identified; and

- Whether the bundled rates provide for direct payment to the actual practitioners who provide the service.

Section 1116 of the Social Security Act and Federal regulations at 42 CFR part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. CMS is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The Notice to Minnesota Announcing an Administrative Hearing To Reconsider the Disapproval of Its SPA Reads as Follows

Ms. Christine Bronson,
Medicaid Director,
Minnesota Department of Human Services,
P.O. Box 64998,
St. Paul, MN 55164-0998

Dear Ms. Bronson: I am responding to your request for reconsideration of the decision to disapprove the Minnesota State plan amendment (SPA) 05-10, which was submitted on September 21, 2005, and disapproved on December 29, 2006.

Under this SPA, the State proposed to revise coverage and reimbursement methodology for Early and Periodic Screening, Diagnosis, and Treatment services related to children's mental health rehabilitative services and rehabilitative services pursuant to an Individualized

Education Plan or Individual Family Service Plan. The Centers for Medicare & Medicaid Services (CMS) disapproved the SPA because the State did not document that its proposed reimbursement methodology meets the conditions specified in sections 1902(a)(10), 1902(a)(30), and 1902(a)(32) of the Social Security Act (the Act).

At issue in this reconsideration is whether Minnesota has demonstrated that the bundled rate methodology proposed in SPA 05-10 is consistent with the requirements of section 1902(a)(30)(A) of the Act, which requires that States have methods and procedures to assure that payments to providers are consistent with efficiency, economy, and quality of care. A second issue is whether the State has shown that the payment methodology is for care and services that are within the scope, and meet the requirements, of section 1902(a)(10)(A) to make available "medical assistance," which is defined at section 1905(a) and implementing requirements. Also at issue is whether the proposed payment methodology complies with the direct payment requirements of section 1902(a)(32) of the Act, which precludes payment to anyone other than the individual, person, or institution providing the care and service (with specified exceptions). We discuss each of these issues in more detail below in relation to SPA 05-10.

Section 1902(a)(30)(A) of the Act requires that States have methods and procedures to assure that payments to providers are consistent with efficiency, economy, and quality of care. The per diem payment methodologies for mental health rehabilitative services described in SPA 05-10 represent bundled payment methodologies under which the State pays a single rate for one or more of a group of different services furnished to an eligible individual during a fixed period of time. The State has failed to demonstrate that its methodologies are in compliance with section 1902(a)(30)(A), in that it has not shown: that these methodologies accurately reflect true costs or reasonable fees for the services included in the bundles; and that the amount or scope of services reimbursed through the bundled rate is sufficiently constant so that the proposed methodologies would be an economic and efficient method of payment.

Section 1902(a)(10)(A) requires that State plans make available medical assistance, which is defined at section 1905(a) and in implementing regulations. For a number of categories of medical assistance, there are provider standards applicable to different types of care and services, and for rehabilitative services there is a requirement that rehabilitative services must be recommended by a physician or other licensed practitioner of the healing arts. Minnesota did not provide evidence of a method to identify that providers of the component parts of the care and services would meet all applicable provider requirements. Nor did Minnesota demonstrate a method to ensure that all of the component parts of the care and services furnished under the bundled payment methodology proposed in SPA 05-10, would

be delivered as recommended within the scope of practice of the physician or licensed practitioner of the healing arts.

Furthermore, the information provided by the State did not demonstrate compliance with section 1902(a)(32) of the Act, requiring direct payment to the provider of care or services. Under the State's bundled payment methodology, the entities which would receive the proposed bundled rates for mental health rehabilitation services are not themselves providers of the service; they are not billing agents for such providers; nor are they recognized types of health care providers under Federal law. The underlying services represent different types of individual services that are furnished by individual practitioners. The State has failed to show that the proposed payment methodology is within one of the statutory exceptions as implemented by Federal regulations at 42 CFR 447.10. Indeed, the State has not shown that, under its proposed payment methodology, the actual practitioners furnishing services can even be readily identified. Thus, the State has not demonstrated that the use of bundled rates will comply with the requirement for direct payment to the actual practitioners who provide care or service.

I am scheduling a hearing on your request for reconsideration to be held on May 30, 2007, at 233 N. Michigan Avenue, Suite 600, the Indiana Room, 5th Floor, Chicago, IL, 60601, to reconsider the decision to disapprove SPA 05-10. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed by Federal regulations at 42 CFR Part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer at (410) 786-2055. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing.

Sincerely,

Leslie V. Norwalk, Esq.,
Acting Administrator.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); (42 CFR section 430.18).

(Catalog of Federal Domestic Assistance program No. 13.714, Medicaid Assistance Program)

Dated: March 30, 2007.

Leslie V. Norwalk,
Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-6312 Filed 4-4-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1270-RCN]

RIN 0938-AN14

Medicare Program; Competitive Acquisition for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies; Extension of Timeline for Publication of Final Rule

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Extension of timeline for publication of final rule.

SUMMARY: This notice announces an extension of the timeline for publication of a Medicare final rule in accordance with section 1871(a)(3)(B) of the Social Security Act, which allows us to extend the timeline for publication of the final rule.

EFFECTIVE DATE: This notice is effective on March 30, 2007.

FURTHER INFORMATION CONTACT: Ralph Goldberg, (410) 786-4870.

SUPPLEMENTARY INFORMATION: In the May 1, 2006 *Federal Register* (71 FR 25654), we published a proposed rule that would have implemented competitive bidding programs for certain covered items of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) throughout the United States in accordance with sections 1847(a) and (b) of the Social Security Act (the Act). These programs would change the way that Medicare pays for these items under Part B of the Medicare program by utilizing bids submitted by DMEPOS suppliers to establish applicable payment amounts.

Section 1871(a)(3)(A) of the Act requires us to establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation. In accordance with section 1871(a)(3)(B) of the Act, the timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but may not be longer than 3 years except under exceptional circumstances. In addition, in accordance with section 1871(a)(3)(B) of the Act, the Secretary may extend the initial targeted publication date of the final regulation, if the Secretary, no later than the regulation's previously established proposed publication date, causes to have published a notice with the new target date, and such notice

includes a brief explanation of the justification for the variation.

We announced in the December 2006 Unified Agenda (December 11, 2006, 71 FR 72734) that we would issue the final rule in March 2007. However, we are not able to meet the announced publication target date due to the number of extensive comments received on the proposed rule and interagency coordination. We received over 2,000 timely comments on the proposed rule. The commenters presented extremely complex policy and legal issues, which require extensive consultation and analysis.

This final rule also is extremely complex because it will establish an entirely new program that will affect the DMEPOS industry as well as Medicare beneficiaries who use DMEPOS. This final rule will establish a new concept for Medicare payment for DMEPOS, which necessitates the development of new regulations and a competitive bidding process in addition to extensive payment system changes.

This notice extends the timeline for publication of the final rule until April 30, 2007.

Authority: Section 1871 of the Social Security Act (42 U.S.C. 201395hh). (Catalog of Federal Domestic Assistance Program No. 093.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 30, 2007.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. 07-1658 Filed 3-30-07; 4:01 pm]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Public Education Study on Public Knowledge of Abstinence and Abstinence Education

OMB No.: New Collection.

Description: In support of the goal to prevent unwed childbearing, pregnancy, and sexually transmitted diseases, Congress has recently authorized funding increases to support abstinence education.

To learn more about the public's views, the Administration for Children and Families (ACF) will conduct a public opinion survey of a nationally representative sample of adolescents (age 12 to 18) and their parents to examine current attitudes on abstinence and knowledge of abstinence education. The survey data will be used to inform current and future public education