DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

Toby Douglas
Director of Health Care Programs
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

OCT 27 2011

Dear Mr. Douglas:

I am responding to the pending request for reconsideration of the decision to disapprove the California State plan amendments (SPAs) 08-009A; 08-009B1; 08-009B2; 08-009D, which were submitted on September 30, 2008, and SPA 08-019, which was submitted on December 31, 2008. The SPAs proposed to reduce the reimbursement rates for certain services furnished under the approved State plan.

On November 18, 2010, the Centers for Medicare & Medicaid Services (CMS) disapproved these amendments because the State did not provide sufficient information concerning the impact of the proposed reimbursement reductions on beneficiary access to services as required by section 1902(a)(30)(A) of the Social Security Act (the Act). Section 1902(a)(30)(A) of the Act requires that care and services are available to Medicaid beneficiaries at least to the extent that care and services are available to the general population in the geographic area. In addition, CMS was concerned that, given the time that had elapsed since the above SPAs had been submitted, the cumulative effect of approval of and subsequent implementation of these reimbursement reductions would exacerbate beneficiary access concerns. On November 19, 2010, the State requested that CMS reconsider the disapproval of the above amendments.

On March 25, 2011, the State submitted documentation to support a demonstration of compliance with section 1902(a)(30)(A) of the Act, as it specifically relates to reimbursement rates that are sufficient to enlist enough providers so that care and services are available at least to the extent that care and services are available to the general population in the geographic area. From March 25, 2011, through approximately September 30, 2011, CMS has been working with the State to refine the information initially submitted and, as a result of this collaborative process, the State was able to provide metrics that adequately demonstrated beneficiary access. In general, these metrics included data which provided:

- Total number of providers by type and geographic location and participating Medi-Cal providers by type and geographic area
- Total number of Medi-Cal beneficiaries by eligibility type
- Utilization of services by eligibility type over time
- Analysis of benchmark service utilization where available

Data concerning these metrics were submitted for State Fiscal Years (SFYs) 2008, 2009 and 2010.

Based on the analysis described above, the State has requested that CMS approve SPAs 08-009A, 08-009B1, 08-009D. As part of the reconsideration of the above SPAs, the State has modified the SPAs to reflect that the reductions prior to 2011 will only be authorized under the plan in those years, and for those periods, during which the State actually implemented the reduction. This targeting addresses the issue we had raised earlier of retroactively implementing rate cuts which might potentially affect current access. As noted in our original letter denying the 2008 SPAs, recoupment of retroactive reductions might create access problems going forward. The amendments to the 2008 State plan largely resolve this concern for periods prior to 2011.

Because the State implemented some reductions, CMS was able to study the correlation between the reduction to the reimbursement of those services and the change in the above metrics from SFY 2008 – SFY 2010. Based on this analysis, including a period of rate reductions, CMS was able to conclude that the implementation of the above reimbursement reductions complied with section 1902(a)(30)(A) of the Act so that care and services are available at least to the extent that care and services are available to the general population in the geographic area. As modified, the SPAs also implement payment reductions for certain services in 2011. The retroactive implementation of rate cuts for a short time in 2011 is of far less concern than the retroactive implementation of rate cuts for several years. Nevertheless, the State demonstrated beneficiary access for SFY 2010, and also submitted a monitoring plan as part of SPA 08-009B1 by which beneficiary access will be monitored on a service-by-service basis for all the services at issue in these three SPAs. We believe that the proposed monitoring process will allow California to ensure that payment rates for 2011 are consistent with section 1902(a)(30)(A) of the Act or to promptly take corrective action if the rates prove to be insufficient. The State will monitor predetermined metrics on a quarterly or annual basis in order to ensure that beneficiary access is comparable to services available to the general population in the geographic area.

In light of the data CMS reviewed, the monitoring plan, and our consideration of stakeholder input, we have determined that these amendments comply with section 1902(a)(30)(A) of the Act and all other applicable requirements of the Act, therefore, SPAs 08-009A; 08-009B1; 08-009D have been approved, effective July 1, 2008. This approval does not affect SPA 08-009B-2 and SPA 08-019. The State has chosen not to pursue the reductions proposed via SPA 08-009B-2, therefore, we understand that the State will withdraw its formal request for reconsideration of this amendment. With regard to SPA 08-019, the State incorporated the reductions initially proposed via SPA 08-019 into the reductions proposed via SPA 08-009A, therefore, we understand that the State will also withdraw its formal request for reconsideration of SPA 08-019. The revised approved plan pages and the HCFA-179 are enclosed.

If you have any questions, please have your staff contact Dianne Heffron at (410) 786-3247.

Sincerely,

Donald M. Berwick, M.D.

Enclosures