

**CA SPA # 09-004: Centers for Medicare and Medicaid Services (CMS) Follow-up
Coverage Comments**

- **Maintenance***

- Meeting with CMS on May 03, 2010. CMS informed the State that rehabilitative services do not include “maintenance of functioning” and that accordingly that State should remove the term “maintenance” from the proposed Rehabilitative Mental Health Services State Plan Amendments.

* CMS’ original guidance. Update will be provided at the July 30, 2010 Stakeholder Meeting.

- **Including but not limited to**

- Several services include the phrase “not limited to...” Please fully describe all components of each service.

- **Other Qualified Provider**

- Please delete the reference to “Other Qualified Provider” and the sentence following that heading on page 18. All practitioners who furnish rehabilitative services must be included in the State plan.
- In item 1 (Mental Health Services), item 3 (Day Treatment Intensive), item 4 (Day Rehabilitation), item 5 (Crisis Intervention), item 7 (Adult Residential Treatment Services), and item 8 (Crisis Residential Treatment Services), the State indicates that the services “may be provided by any person determined to be qualified to provide the service, consistent with state law.” It is our recommendation that this language be deleted and replaced with a) a summary of the agency/entity provider and/or certification qualifications (as applicable), and b) a list of the individual practitioners that may furnish the service (such as the State did for Psychiatric Health Facility Services). The reader will be able to look at the provider qualifications in the subsequent provider qualification section.
- Please delete language in the “Provider Qualifications” section that describes the services that the practitioner may furnish. The language should only include the State’s practitioner qualifications (such as requirements for education, training, experience, licensure, registration, certification, etc.)
- Why has the State included a separate section entitled, “Additional Qualifications Apply to Staff Who Function as Heads of Services as Follows.” Please integrate any additional qualifications into the applicable provider qualification discussion. If the State is trying to set forth who must work under the supervision of another practitioner and who must supervise those practitioners, then simply list those practitioners who must be under supervision and those who must supervise them.

- **Adjunctive Therapies**
- Regarding “adjunctive therapies,” we believe the services could potentially be covered under the rehabilitative services benefit. We note that the State was advised that CMS would not cover adjunctive therapies in a State plan and the State removed reference to them in the State plan. If the State wished to still pursue coverage for these services, however, we would consider allowing coverage of them. As with all rehabilitative services, the State would have to describe each of the therapies, the practitioners who will provide each of the therapies, the qualifications of each practitioner that makes them qualified to furnish these rehabilitative services, any limitations on amount, duration or scope of the services and a proper reimbursement methodology.

- **Targeted Case Management**
- Page 23 includes a limitation concerning limiting TCM reimbursement to certain medical institutions on the day of admission or for the purpose of coordinating an individual’s discharge. In addition, page 27 indicates that TCM would include discharge planning activities. It is unclear from the information provided that these limits are related to providing TCM for the purpose of transitioning individuals to the community or to discharge planning which is within the scope of services provided by medical institutions. Please clarify, in the plan, on pages 23 and 27, that reimbursement for TCM is made to community case management providers and not to medical institutions, after the individual returns to the community per the July 25, 2000, State Medicaid Director Letter, Olmstead Update #3.

- It is unclear if provider qualifications are reasonably related to the services provided, as required by section 1902(a)(23) of the Act. Please clarify the qualifications of those who provide services directly to participants and include only these qualifications in the SPA. In addition, certain Medicaid services are defined by the provider types that furnish the services, i.e., physicians services. In this example it is unclear what would be reimbursed under this plan, physician services, TCM, or both. If the qualifications listed are not basic requirements of providers of TCM, please remove these from the plan.

- The definition of services on page 5 is consistent with 42 CFR 440.169 but repetitive. Please consider omitting the second definition in the third paragraph on page 5.

Other Technical Comments

- The State’s answers indicate that Adult Residential Treatment Services and Crisis Residential Treatment Services are not provided in IMDs. Please insert an assurance in the State plan in items 7 and 8, pages 8 and 10, respectively, that these services are not provided in IMDs.

- The State's answers indicate that no FFP is claimed for Psychiatric Health Facility Services furnished in facilities with 16 or more beds for services provided to beneficiaries who are 22 to 64 years of age. Please add this assurance to the State plan in item 9, page 12.
- It is unclear from the State's answers whether the State offers psychiatric services to individuals under age 21 and over age 65, in Psychiatric Health Facilities. Please clarify if the State does offer psychiatric services to these populations in Psychiatric Health Facilities or exclusively in Psychiatric Inpatient Hospitals.
- The State has removed Psychiatric Inpatient Hospital Services pending CMS' guidance on where to place this benefit in the State plan. For individuals over age 65, please place the benefit in item 14 of the State plan and include a description of the service and the settings in which it is furnished. Please also add an assurance that the services comply with the statutory requirements at sections 1902(a)(20)(A), (B) and (C), and 1902(a)(21) of the Social Security Act (the Act) and implementing regulations at 42 CFR Part 441, Subpart C and 42 CFR 431.620. For individuals under age 21, please place the benefit in item 16 of the State plan and include a description of the service and the settings in which it is furnished. Please also add an assurance that the services comply with the statutory requirements at section 1905(a)(16) and (h) of the Act and implementing regulations at 42 CFR 440.160, 42 CFR Part 441 Subpart D, and Part 483, Subpart G governing restraint and seclusion in PRTFs.
- Under the Assurances section on page 20, please correct the citation to 42 CFR 435.1010.