



Schneider
Medicaid

State of New Jersey

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February 20, 2008

The Honorable Henry Waxman
Chairman
Committee on Oversight & Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman:

I write in response to your letter dated January 16, 2008, regarding the House Committee on Oversight and Government Reform's investigation of the Administration's regulatory actions on Medicaid.

The six regulations you reference in your letter will have a significant negative impact on the State of New Jersey and its Medicaid program. Below is New Jersey's analysis on the fiscal impact of the proposed rules.

Public Provider Cost Limit Regulation

This regulation imposes new restrictions on payment to providers operated by units of government and clarifies that those entities involved in the financing of the non-federal share of Medicaid payments must be a unit of government. In addition, the regulation calls for extensive reporting requirements, which will create a significant administrative burden on the State. The proposal estimates to reduce federal Medicaid payments by \$120 million in FY 2008 and \$3.87 billion over five years. New Jersey could see a reduction in payments of \$3 million in FY 2008 and \$96.7 million over 5 years.

Payment for Hospital Outpatient Services and Payments for Graduate Medical Education (GME)

This regulation proposes cost limits on payments to governmental providers and restrictions on Medicaid Graduate Medical Education payments. It also limits the definition of outpatient hospital services and puts a restriction for upper payment limit methodologies for private outpatient hospital clinics. GME payments are made in lump sums to our teaching hospitals and are an important source of revenue for the teaching hospitals in New Jersey. New Jersey continues to struggle with

retaining medical graduates in the State. GME supports this effort. Because the Administration did not provide an estimate on the fiscal impact for Hospital Outpatient Services, I have not provided an estimate of the reduction in payments to New Jersey. The Administration estimates that the change to GME will reduce the federal Medicaid payments by \$140 million in FY 2008 and \$460 million over five years. **New Jersey could see a reduction in payments of \$3.5 million in FY 2008 and \$11.5 million over five years.**

Provider Tax

This regulation includes more stringent language in applying the hold-harmless test. CMS will have broader flexibility in identifying the relationship between provider taxes and payment amounts. The provider reimbursement related to collected taxes will no longer be allowable; this is an important source of revenue for New Jersey's long term care facilities and in turn could affect the care our Medicaid beneficiaries are receiving. The proposal estimates to reduce the federal Medicaid payments by \$85 million in FY 2008 and \$115 million from 2009-2011. **New Jersey could see a reduction in payments of \$2.1 million in FY 2008 and \$8.4 million from 2009-2011.**

Coverage of Rehabilitative Services

This regulation clarifies the definition of rehabilitative services and seeks to determine the difference between habilitative services and rehabilitative services. The proposed rule dramatically narrows the scope of services that New Jersey could provide under rehabilitative provisions thus limiting the number of children and adults who will be able to receive much needed rehabilitative services, putting Medicaid beneficiaries at risk. The proposal estimates to reduce the federal Medicaid payments by \$180 million in FY 2008 and \$2.2 billion over five years. **New Jersey could see a reduction in payments of \$4.5 million in FY 2008 and \$55 million over 5 years.**

Payments for Costs of School Administration and Transportation Services

This regulation proposes to eliminate funding for administrative activities performed by school employees or contractors or anyone under the control of a public or private educational institution and for transportation from home to school and back for school-age children with individualized education plans. In New Jersey, the administrative activities performed by school employees and transportation services are vital in ensuring access to Medicaid services for our low income children. The proposal estimates to reduce the federal Medicaid payments by \$635 million in FY 2009 and \$3.6 billion over five years. **New Jersey could see a reduction in payments of \$15.8 million in FY 2009 and \$90 million over 5 years.**

Targeted Case Management

This interim final rule implements restrictions so that states would no longer receive Medicaid reimbursement for case management services. The interim final rule, based upon a provision of the Deficit Reduction Act of 2005 (DRA), goes beyond the authority afforded to the Centers for Medicare and Medicaid Services (CMS). This rule has the potential to increase state expenditures and is therefore in conflict with the intent of the DRA. Case management is a vital component of New Jersey's quality plan required by CMS. The proposal estimates to reduce the federal Medicaid payments by \$1.28 billion between FY 2008 and FY 2012. **New Jersey could see a reduction in payments of \$95.7 million between FY 2008 and FY 2012.**

I am very concerned that changes to the Medicaid program proposed by CMS are outside the scope of the agency's authority. These unilateral changes undermine the ability of states to craft Medicaid programs to best meet the needs of their residents in most need of public assistance.

Thank you for the opportunity to comment privately on these administrative actions regarding Medicaid and the possible resulting impacts on the State of New Jersey. Please do not hesitate to contact me if you or staff has further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde H. Henderson, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Clyde H. Henderson, III, Esq.
Director, Washington Office
State of New Jersey