

March 11, 2008

Mr. Henry Waxman, Chairman  
Committee on Oversight and Government Reform  
Congress of the United States  
House of Representatives  
2157 Rayburn House Office Building  
Washington DC 20515-6143

Dear Mr. Waxman:

I am in receipt of your letter dated January 16, 2008 in which you request information pertaining to the following six federal regulation proposals: (1) cost limits for public providers ~ CMS 2258-FC; (2) payment for graduate medical education ~ CMS 2279-P; (3) payment for hospital outpatient services ~ CMS 2213-P; (4) provider taxes ~ CMS 2275-P; (5) coverage of rehabilitative services ~ CMS 2261-P; and (6) payments for costs of school administrative and transportation services ~ CMS 2287-P. Additionally, input on one interim final rule related to target case management ~ CMS-2237-IFC was also requested. Please find Vermont's analysis for each proposed change herein:

- (1) Cost Limits for Public Providers ~ CMS 2258-FC: This proposal considers the reimbursement levels of publicly owned entities and limits the amount that they can be reimbursed for services to Medicaid beneficiaries. In that Vermont has no publicly owned designated provider entity. There would therefore be no impact to the State.
- (2) Payment for Graduate Medical Education ~ CMS 2279-P: Graduate Medical Education is an allowable cost under both Medicare and Medicaid programs. If payments made for graduate medical education are disallowed, there would be a **\$300,000** annual impact on Vermont.
- (3) Payment for Hospital Outpatient Services ~ CMS 2213-P: The proposed regulations will not have a material effect on Vermont's payments to hospitals.
- (4) Provider Taxes ~ CMS 2275-P: Vermont hospitals and Intermediate Care Facilities for the Mentally Retarded (ICF-MR's) historically have been taxed at up to 6% (tax basis for hospitals is net patient revenues and audited costs of services for ICF-MRs). Limiting the ability to tax to 5.5% could result in a loss of state fund revenue of **\$6.1 million** annually.
- (5) Coverage of Rehabilitative Services ~ CMS 2261-P: Since 1988, federal law has allowed school districts to bill for special education services provided in accordance with an Individual Education Plan (IEP) for students enrolled in Medicaid. Billable services include: case management, physical therapy, occupational therapy, speech language therapy, personal care, mental health counseling, developmental and assistive therapy, vision services, rehabilitative nursing services and durable medical equipment.

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CMS has proposed a rule that would limit federal funding for services. The rule has a potential impact to Vermont school districts of approximately **\$22.5 million** in lost federal reimbursement annually. In addition, estimates from across the Agency of Human Services range from **\$183 thousand** in the Department of Disabilities, Aging, and Independent Living to **\$5 million** in the Department of Children and Families and the Department of Mental Health.

(6) Payment for Costs of School Administrative and Transportation Services ~ CMS 2287-P: For more than 15 years, CMS has allowed state agencies to reimburse schools for Medicaid related activities performed by school personnel and certain transportation costs. These activities include outreach and enrollment assistance for Medicaid, assisting families in accessing care from a primary care provider, and helping children, particularly children on Medicaid, access primary care from a dentist.

The proposed rule change would result in up to a \$3 million reduction statewide for schools. Funds are used to hire school nurses, dental hygienists, substance abuse professionals, guidance counselors and others; and fund after school programs, nutrition, and physical activity programs. Additionally, the Vermont Department of Health would see a reduction of \$450,000.

Targeted Case Management ~ CMS 2237-IFC: The federal rule includes major changes that impact the ability of states to secure federal Medicaid funding to support case management activities. Because the effective date of the proposed rule is March 3, 2008, changes affecting Vermont programs could include the following:

The top end of the preliminary analysis of potential Loss of Federal Medicaid Revenues (millions) absent congressional action is as follows:

Vermont TCM Rule Change Estimated Impact (in millions)		
SFY'08	SFY'09	SFY'10
\$3.2	\$13.7	\$14.4

Please let me know if you have any additional questions or comments with regard to these federally proposed initiatives. Thank you.

Sincerely,



Joshua Slen  
Director

cc: Minority Staff, Room B350A, Rayburn House Office Building