

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Notice of Hearing: Reconsideration of Disapproval of Minnesota State Plan Amendment (SPA) 98-10

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 9, 1999; 10:00 a.m.; Twenty-First floor; 105 W. Adams Street; Chicago, Illinois 60603 to reconsider our decision to disapprove Minnesota State Plan Amendment (SPA) 98-10.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Stanley Katz, Hearings Officer, HCFA, C1-09-13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410)-786-2661

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider HCFA's decision to disapprove Minnesota State Plan Amendment 98-10 submitted March 30, 1998.

Section 1116 of the Social Security Act (the Act) and 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. These requirements are made applicable under Title XIX. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to the State that informs the State of the time and place of the hearing and the issues to be considered. If we subsequently notify the State 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.

Minnesota submitted this State Plan Amendment (SPA) on March 30, 1998. The issue is whether the State's

proposal to adopt several less restrictive Medicaid financial eligibility methodologies for the group of low income families with children under section 1931 of the Social Security Act comports with the requirements of section 1902(a)(17) of the Act that a state use reasonable standards which are comparable for all groups in determining eligibility for and the amount of medical assistance.

Specifically, the State proposed to disregard earned income and resources used to determine a grant under the Temporary Assistance for Needy Families (TANF) program. If these proposals mean that the types of income and resources which TANF would count will be disregarded in determining the eligibility of all individuals under Section 1931, HCFA would have no objections. However, HCFA understands that the intent of these provisions was to disregard the earned income and resources only in situations in which the family receives a TANF grant. Given this understanding, these proposed disregards are not in accordance with Federal law. HCFA concluded that these provisions violate the requirement in Section 1902(a)(17).

Section 1931(b)(2)(C) of the Act permits a State to use less restrictive income and resource methodologies in determining eligibility than it used under its Aid to Families with Dependent Children (AFDC) State plan in effect on July 16, 1996. Nevertheless, HCFA believes this language must be read in context of other title XIX requirements rather than in a vacuum. Therefore, the requirements of section 1902(a)(17) apply. This section requires States to have reasonable standards for determining eligibility for Medicaid assistance which are "comparable for all groups." A disregard which treats the same types of income or the same amounts of resources differently whether or not an individual participates in the TANF program, does not result in comparable treatment of income and resources for all individuals under the 1931 group. If two individuals have identical amounts of income from the same source, that income would be counted in determining the eligibility of an individual who applied only for Medicaid but would be disregarded if the individual received a TANF grant in addition to applying for Medicaid. This does not comport with the comparability requirements of Section 1902(a)(17). Therefore, the proposal to disregard earned income used in determining a TANF grant and to disregard resources used in determining a TANF grant was disapproved by

HCFA. The deficiencies described above left HCFA no choice but to recommend disapproval of Minnesota SPA 98-10.

The notice to Minnesota announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mary B. Kennedy, State Medicaid Director, Assistant Commissioner Health Care Administration, Minnesota Department of Health Services, 444 Lafayette Road North, Saint Paul, Minnesota 55155.

Dear Ms. Kennedy: I am responding to your request for reconsideration of the decision to disapprove Minnesota State Plan Amendment (SPA) 98-10. The issue is the State's proposal to adopt several less restrictive methodologies for the group of low income families with children eligible under Section 1931 of the Social Security Act.

Specifically, the State proposed to disregard earned income and resources used in determining a grant under the Temporary Assistance for Needy Families (TANF) program. If these proposals mean that the types of income and resources which TANF would count will be disregarded in determining the eligibility of all individuals under section 1931, HCFA would have no objections. However, HCFA understands that the intent of these provisions is to disregard the earned income and the resources only in situations in which the family receives a TANF grant. Given this understanding, these proposed disregards are not in accordance with Federal law. These provisions violate the requirement in section 1902(a)(17) that all individuals in a group be subject to comparable standards for determining eligibility.

Section 1931(b)(2)(C) of the Act permits a State to use less restrictive income and resource methodologies in determining eligibility than it used under its Aid to Families with Dependent Children (AFDC) State plan in effect on July 16, 1996. Nevertheless, this language must be read in context of other title XIX requirements rather than in a vacuum. The comparability requirements of Section 1902(a)(17) must apply. This section requires States to have reasonable standards for determining eligibility for Medicaid assistance which are "comparable for all groups." A disregard which treats the same types of income or the same amounts of resources differently whether or not an individual participates in the TANF program, does not result in comparable treatment of income and resources for all individuals under the 1931 group. If two individuals have identical amounts of income from the same source, that income would be counted in determining the eligibility of an individual who applied only for Medicaid but would be disregarded if the individual received a TANF grant in addition to applying for Medicaid. This does not comport with the comparability requirements of section 1902(a)(17). Therefore, the proposal to disregard earned income used in determining a TANF grant and to disregard resources used in determining a TANF grant was disapproved by HCFA. The deficiencies described above left HCFA no choice but to

recommend disapproval of Minnesota SPA 98-10.

I am scheduling a hearing on your request for reconsideration to be held on June 9, 1999 on the Twenty-First Floor; 105 W. Adams Street; Chicago, Illinois 60603. 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 at 42 CFR, part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the presiding officer. 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. The presiding officer may be reached at (410)-786-2661.

Sincerely,

Nancy-Ann Min DeParle,
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: April 22, 1999.

Nancy Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99-10610 Filed 4-27-99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA-1073-N]

Medicare Program; May 13, 1999, Meeting of the Competitive Pricing Advisory Committee

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Competitive Pricing Advisory Committee (the CPAC) on May 13, 1999. Section 4012 of the Balanced Budget Act of 1997 requires the Secretary of the Department of Health and Human Services (the Secretary) to create the CPAC. The CPAC meets periodically and makes recommendations to the Secretary, including the designation of areas for inclusion in the Medicare+Choice competitive pricing demonstration project and suggests appropriate research designs for implementing the project. This meeting is open to the public.

DATES: The meeting is scheduled for May 13, 1999, from 10 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Ramada Hotel at the Metropolitan Airport in Detroit, 8270 Wickham Road, Romulus, Michigan 48174, (734) 729-6300.

FOR FURTHER INFORMATION CONTACT:

Sharon Arnold, Ph.D., Executive Director, Competitive Pricing Advisory Committee, Health Care Financing Administration, 7500 Security Boulevard C4-14-17, Baltimore, Maryland 21244-1850, (410) 786-6451.

SUPPLEMENTARY INFORMATION: Section 4011 of the Balanced Budget Act of 1997, (BBA) (Public Law 105-33) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. Section 4012(a) of the BBA requires the Secretary to appoint a Competitive Pricing Advisory Committee (the CPAC) to meet periodically and make recommendations to the Secretary concerning the designation of areas for inclusion in the project and appropriate research designs for implementing the project. In previous meetings, the CPAC designated the Kansas City metropolitan area and Maricopa County in Arizona as demonstration sites.

Section 4012(b) of the BBA requires the Secretary to appoint an Area Advisory Committee (AAC) in each demonstration site included in the project to advise the Secretary on the implementation of the demonstration. The Kansas City metropolitan area AAC met on March 26, 1999, and April 8, 1999. The Maricopa County AAC met on March 31, 1999. Additional meetings are scheduled for the Kansas City metropolitan area AAC on April 22, 1999, and May 12, 1999, and for the Maricopa County AAC on April 20, 1999, and May 20, 1999.

The CPAC consists of 15 individuals who are independent actuaries; experts in competitive pricing and the administration of the Federal Employees Health Benefit Program; and representatives of health plans, insurers, employers, unions, and beneficiaries. In accordance with section 4012(a)(5) of the BBA, the CPAC will terminate on December 31, 2004.

The CPAC held meetings on May 7, 1998, June 24 and 25, 1998, September 23 and 24, 1998, October 28, 1998, and January 6, 1999. The CPAC members are: James Cubbin, Executive Director, General Motors Health Care Initiative;

Robert Berenson, M.D., Director, Center for Health Plans and Providers, HCFA; John Bertko, CEO and Senior Actuary, PM-Squared Inc.; Dave Durenberger, Senior Health Policy Fellow, University of St. Thomas and Founder of Public Policy Partners; Gary Goldstein, M.D., CEO, The Oschner Clinic; Samuel Havens, Healthcare Consultant and Chairman of Health Scope/United; Margaret Jordan, President and CEO, The Margaret Jordan Group; Chip Kahn, CEO, The Health Insurance Association of America; Cleve Killingsworth, President, Health Alliance Plan; Nancy Kichak, Director, Office of Actuaries, Office of Personnel Management; Len Nichols, Principal Research Associate, The Urban Institute; Robert Reischauer, Senior Fellow, The Brookings Institute; John Rother, Director, Legislation and Public Policy, American Association of Retired Persons; Andrew Stern, President, Service Employees International Union, AFL-CIO; and Jay Wolfson, Director, The Florida Information Center, University of South Florida. The Chairperson of the CPAC is James Cubbin and the Co-Chairperson is Robert Berenson, M.D.

The agenda for May 13, 1999, CPAC meeting will include—

- A discussion of a letter to the Congress requesting a change in the demonstration's budget neutrality provision; and
- An update and discussion of decisions made by the two local AACs. This will include a discussion and decision on a request from the Maricopa County AAC to delay the demonstration for one year and a discussion and decision on a request from the Kansas City metropolitan area AAC to permit an additional year to consider alternative methods of risk adjustment.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact Sharon Arnold, CPAC Executive Director, by 12 noon, May 6, 1999, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director no later than 12 noon, May 11, 1999. Anyone who is not scheduled to speak may submit written comments to the Executive Director by 12 noon, May 11, 1999.

The meeting is open to the public, but attendance is limited to the space available.

(Section 4012 of the Balanced Budget Act of 1997, Public Law 105-33 (42 U.S.C.1395w-23 note) and section 10(a) of Public Law 92-463 (5 U.S.C. App.2, section 10(a))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital