

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 21, 2002.

John P. Burke, III,

CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Oklahoma State Plan Amendment 99-09

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 10, 2002, at 10 a.m., in Conference Room 1113; 1301 Young Street; Dallas, Texas 75202 to reconsider our decision to disapprove Oklahoma State Plan Amendment (SPA) 99-09.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by March 19, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, C1-09-13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410) 786-2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Oklahoma's State Plan Amendment (SPA) 99-09. Oklahoma submitted SPA 99-09 on April 26, 1999.

The SPA would provide for coverage and payment of certain services as targeted case management services for children who receive medical services pursuant to an Individualized Education Program, Individualized Family Service Plan, or an Individualized Health Service Plan. Under the SPA, providers of school-based medical services would be the only qualified providers of these services, which would be diagnostic in nature, and payment would be limited to the provider of an underlying medical service.

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. The Centers for Medicare & Medicaid Services (CMS) is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency 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.

The issues are: (1) Whether the proposed covered services are in compliance with the statutory definition of case management services at section 1915(g) of the Act; (2) whether the payment rates are consistent with "efficiency, economy, and quality of care" in light of their high levels and apparent duplication of provider services already included in the basic provider payment; (3) whether the proposed restriction on payment for case management services to providers furnishing other covered medical services violates the freedom of choice requirements of section 1923(a)(23)(A) of the Act; and (4) whether the proposed payment for services required under an individualized health services plan (IHSP), for which educational programs are legally liable to pay, is consistent with requirements at section 1902(a)(25) of the Act to pursue payment from all liable third parties.

As explained in the initial disapproval determination, CMS concluded that the State had not demonstrated that the proposed covered services were within the scope of section 1915(g) of the Act. The proposed services would consist of activities such as needs assessment, service planning, service coordination and monitoring, service plan review, and crisis assistance planning and were described by the State as generally diagnostic in nature. In contrast, case management services are described at section 1915(g)

as directed at "gaining access to needed medical, social, educational, and other services." In addition, CMS found that the services described in the amendment were inherent within the services performed by medical professionals in order to properly diagnose and treat their patients, and are integral to the services routinely paid through the basic fee-for-service rate paid to the providers. In light of the fact that the rates already being paid under the Oklahoma approved plan for school-based medical services were already higher than community rates and those paid generally, CMS therefore concluded that the proposed payments were not consistent with efficiency, economy and quality of care, as required by section 1902(a)(30)(A) because they effectively were duplicate payments for services covered by the basic payment rate. Furthermore, even if one were to assume that the proposed services were distinct from services included in the basic payment rate, CMS found that the proposed limitation of such payments to the provider furnishing the underlying services was inconsistent with beneficiary freedom-of-choice of provider, as required by section 1902(a)(23)(A) of the Act. And, finally, CMS concluded that the proposed specific authority to pay for services required under an IHSP was inconsistent with Medicaid requirements to pursue liable third party payers, under section 1902(a)(25) of the Act and implementing regulations at 42 CFR 433.136. CMS noted that educational programs are legally liable to fund IHSP activities, and thus should be required to pay primary to Medicaid.

Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved Oklahoma SPA 99-09.

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

Michael Fogarty, Chief Executive Officer, Oklahoma Health Care Authority, Lincoln Plaza, 4545 North Lincoln Boulevard, Suite 124, Oklahoma City, Oklahoma 73105-3413.

Dear Mr. Fogarty:

I am responding to your request for reconsideration of the decision to disapprove Oklahoma State Plan Amendment (SPA) 99-09. Oklahoma submitted SPA 99-09 on April 26, 1999.

The issues are: (1) Whether the proposed covered services are in compliance with the statutory definition of case management services at section 1915(g) of the Social Security Act (the Act); (2) whether the payment rates are

consistent with "efficiency, economy and quality of care" in light of their high levels and apparent duplication of provider services already included in the basic provider payment; (3) whether the proposed restriction on payment for case management services to providers furnishing other covered medical services violates the freedom-of-choice requirements of section 1923(a)(23)(A) of the Act; and (4) whether the proposed payment for services required under an individualized health services plan (IHSP), for which educational programs are legally liable to pay, is consistent with requirements at section 1902(a)(25) of the Act to pursue payment from all liable third parties.

As explained in the initial disapproval determination, CMS concluded that the State had not demonstrated that the proposed covered services were within the scope of section 1915(g) of the Act. The proposed services would consist of activities such as needs assessment, service planning, service coordination and monitoring, service plan review, and crisis assistance planning and were described by the State as generally diagnostic in nature. In contrast, case management services are described at section 1915(g) as directed at "gaining access to needed medical, social educational and other services."

In addition, CMS found that the services described in the amendment were inherent within the services performed by medical professionals in order to properly diagnose and treat their patients, and are integral to the services routinely paid through the basic fee-for-service rate paid to the providers. In light of the fact that the rates already being paid under the Oklahoma approved plan for school-based medical services were already higher than community rates and those paid generally, CMS therefore concluded that the proposed payments were not consistent with efficiency, economy and quality of care, as required by section 1902(a)(30)(A) because they effectively were duplicate payments for services covered by the basic payment rate. Furthermore, even if one were to assume that the proposed services were distinct from services included in the basic payment rate, CMS found that the proposed limitation of such payments to the provider furnishing the underlying services was inconsistent with beneficiary freedom-of-choice of provider, as required by section 1902(a)(23)(A) of the Act. And, finally, CMS concluded that the proposed specific authority to pay for services required under an IHSP was inconsistent with Medicaid

requirements to pursue liable third party payers, under section 1902(a)(25) of the Act and implementing regulations at 42 CFR 433.136. CMS noted that educational programs are legally liable to fund IHSP activities, and thus should be required to pay primary to Medicaid.

Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved Oklahoma SPA 99-09.

I am scheduling a hearing on your request for reconsideration to be held April 10, 2002, at 10 a.m., in Conference Room 1113; 1301 Young Street; Dallas, Texas 75202. 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 Ms. Kathleen Scully-Hayes 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) 786-2055.

Sincerely,

Thomas A. Scully

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: February 21, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/HS-UP, EHS-UP&HSGS 2002-03]

Fiscal Year 2002 Discretionary Announcement for Head Start-University Partnerships Research Projects, Early Head Start-University Partnerships Research Projects, and Head Start Graduate Student Research Grants; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Announcement of the availability of funds and request for applications for research by university faculty or other nonprofit institutions (Priority Areas 1.01 and 1.02) and doctoral level graduate students (Priority Area 1.03) in partnership with Head Start programs.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) and Office of Planning, Research and Evaluation (OPRE) announce the availability of funds for three initiatives: Priority Area 1.01: Head Start-University Partnerships for research activities to develop and test models that use child outcomes to support continuous program improvement in local Head Start programs; Priority Area 1.02: Early Head Start-University Partnerships for research activities to support the development of infant-toddler mental health; Priority Area 1.03: Graduate Student Research Grants to support field-initiated research activities.

DATES: The closing time and date for receipt of applications is 5 p.m. (Eastern Time Zone), May 3, 2002. Applications received after 5 p.m. on the deadline date will be classified as late.

ADDRESSES: Mail applications to: Head Start Research Support Team, 1749 Old Meadow Road, Suite 600, McLean, VA 22102.

Hand delivered, courier or overnight delivery applications are accepted during the normal working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, on or prior to the established closing date.

All packages should be clearly labeled as follows:

*Application for Head Start-University Partnerships, or
Application for Early Head Start-University Partnerships, or*