

## Appendix 2: State Medicaid Directors' Letter

The Centers for Medicaid and Medicare Services released a State Medicaid Directors' letter regarding the amendments made by section 2302 of the Affordable Care Act, titled "Concurrent Care for Children". A file containing the letter can be found at [www.cms.gov/smdl/downloads/SMD10018.pdf](http://www.cms.gov/smdl/downloads/SMD10018.pdf), or the text of the letter is below.

SMD # 10-018

ACA # 8

September 9, 2010

### **Re: Hospice Care for Children in Medicaid and CHIP**

Dear State Health Official:

Dear State Medicaid Director:

This letter is one of a series intended to provide guidance on the implementation of the Affordable Care Act (Pub. L. No. 111-148 as amended by the Healthcare and Education Reconciliation Act of 2010 (Pub. L. No. 111-152)), together known as the Affordable Care Act.

Specifically, this letter provides guidance to States on the implementation of section 2302 of the Affordable Care Act, entitled "Concurrent Care for Children." Section 2302 of the law amends sections 1905(o)(1) and 2110(a)(23) of the Social Security Act to remove the prohibition of receiving curative treatment upon the election of the hospice benefit by or on behalf of a Medicaid or Children's Health Insurance Program (CHIP) eligible child.

Hospice services are covered under the Medicaid and CHIP programs as an optional benefit. However, the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) provision requires Medicaid and CHIP programs operating as Medicaid expansions to provide all medically necessary services, including hospice services, to individuals under age 21. In order to qualify for the hospice service in either Medicaid or CHIP, a physician must certify that the eligible person is within the last 6 months of life.

The Affordable Care Act does not change the criteria for receiving hospice services; however, prior to enactment of the new law, curative treatment of the terminal illness ceased upon election of the hospice benefit. This new provision requires States to make hospice services available to children eligible for Medicaid and children eligible for Medicaid-expansion CHIP programs without forgoing any other service to which the child is entitled under Medicaid for treatment of the terminal condition. These services and supports may include pain and symptom management and family counseling provided by

specially-trained hospice staff. States with stand-alone CHIP programs continue to have the option to provide hospice services, but if they cover hospice services they must comply with the new requirements under the Affordable Care Act.

We believe implementation of this new provision is vitally important for children and their families seeking a blended package of curative and palliative services. This provision will increase utilization of hospice services since parents and children will no longer be required to forego curative treatment.

This provision was effective upon enactment of the Affordable Care Act on March 23, 2010

Therefore, under Medicaid, including CHIP programs operating as Medicaid expansions, we expect States will continue the provision of medically necessary curative services, even after election of the hospice benefit by or on behalf of children receiving services. States operating stand-alone CHIP programs that offer the optional hospice benefit must now provide it concurrently with medically necessary curative services.

## **Implementation**

### ***Medicaid***

The Centers for Medicare & Medicaid Services (CMS) is revising the Medicaid State plan hospice preprint page of Attachment 3.1-A and 3.1-B to reflect this new feature of the hospice benefit. Once approved, CMS will release the new preprint page for States' use. States will need to submit the revised preprint page to indicate that hospice is provided to children concurrently with curative treatment. States are not required to submit any needed revisions to their State plan coverage language until the preprint page is made available but are expected, in the interim, to be providing these services consistent with the requirements described in this guidance.

### ***CHIP***

As noted above, the Medicaid guidance also applies to CHIP programs operating as a Medicaid expansion. States with separate CHIP programs that currently cover hospice services do not need to submit a State Plan amendment (SPA) to modify this definition, but States are expected to implement these services in compliance with the Affordable Care Act. We are, however, happy to work with States that are interested in submitting SPAs to explicitly modify the definition of hospice services. States with separate CHIP programs that do not currently cover hospice services and would like to extend this benefit to children do need to submit a SPA indicating this intention and confirming that hospice services will be offered concurrently with curative treatment.

We are ready to work with States to provide assistance in implementing this new requirement, and we look forward to our continuing collaboration. If you have any questions, please contact Ms. Barbara Edwards, Director of the Disabled and Elderly Health Programs Group, at 410-786-7089, or at [Barbara.Edwards@cms.hhs.gov](mailto:Barbara.Edwards@cms.hhs.gov). If you have any questions on implementing this provision in the CHIP program, please contact Ms. Victoria Wachino, Director of the Family and Children's Health Programs Group, at 410-786-9535, or at [Victoria.Wachino@cms.hhs.gov](mailto:Victoria.Wachino@cms.hhs.gov).

Sincerely,

/s/

Cindy Mann