

October 19, 2001

Thomas A. Scully
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

Dear Administrator Scully:

We, the undersigned members of the National Organizations Responding to AIDS (NORA) coalition, submit the following comments regarding the revised Medicaid managed care Notice of Proposed Rule Making released on August 19, 2001. While we strongly support the full and immediate implementation of the Medicaid managed care regulations that were originally released on January 19, 2001, we urge you to take these comments into consideration.

NORA is a coalition comprised of over 175 health, labor, religious, professional, and advocacy groups that represent a broad consensus on HIV- and AIDS-related policy, legislation, and funding. Medicaid is invaluable to people living with HIV/AIDS. This program provides health insurance to 55% of the adults living with HIV/AIDS in this country and 90% of the children living with HIV/AIDS.

All of the provisions in the Medicaid managed care regulation are important to people living with HIV/AIDS. We have chosen, however, to highlight three of the revised provisions of the regulation that we believe are most deleterious for people living with HIV/AIDS: the weakening of a screening and assessment requirement for people with special health care needs in managed care plans; the deleted reference to the HIV clinical guidelines; and the deletion of continuity of care provisions related to persons with special health care needs.

The state responsibility to identify enrollees with special health care needs, followed by the managed care plan's responsibility to provide initial and on-going screening, assessment, and treatment plans for identified people with special health care needs is essential to ensuring that people with disabilities, including people with HIV/AIDS, receive proper care. We are deeply troubled that HHS proposes to eliminate all minimum standards for Medicaid enrollees at-risk of having special health care needs. The January 2001 final rule required states to identify to the MCO enrollees at risk of having special health care needs, including enrollees under 2 and over 65, pregnant women, and persons at-risk for special health care needs, including persons receiving SSI, children in Title IV-E foster care, enrollees in state-established risk-adjusted, higher-cost payment categories, and any other category of individuals identified by CMS (HCFA). It is inappropriate to permit states to exercise discretion in this area because of states' failure to develop systems to adequately identify these types of beneficiaries.

We are also deeply troubled by the deletion of all timeliness standards for conducting screenings and the deletion of the requirement that health

plans screen all enrollees for special health care needs. Under the January 2001 final rule, MCOs are required to screen all persons identified by the state within 30 days of enrollment for the presence of special health care needs. Persons found, through screening, to have a special health care need must be given a comprehensive health assessment within 30 days of the screening. Further, MCOs are required to screen all other enrollees within 90 days and develop procedures for identifying persons who develop special health care needs after enrolling in an MCO. These requirements are not onerous, and allow the state broad discretion in developing standards and methodologies for screening enrollees -- especially since health plans are receiving payment from the date of enrollment. A state's screening procedure could be as simple as mailing all new enrollees a postcard questionnaire or contacting new enrollees by telephone. It is not possible to manage an enrollee's care if the health plan has not contacted the enrollee to determine if they have any health care needs that require management.

We were particularly dismayed to see the deletion of the reference to The Guidelines for the Use of Antiretroviral Agents in HIV-Infected Adults and Adolescents and the Guidelines for the use of Antiretroviral Agents in Pediatric HIV Infection. Medicaid managed care providers need to be aware of the most recent information on the proper medical care of people living with HIV/AIDS. The changing nature of HIV disease requires that people living with HIV/AIDS and their doctors are aware of and rely on the guidelines to ensure optimal HIV care and ultimately, longer life. These practice guidelines, supported and endorsed by the U.S. Department of Health and Human Services, provide much-needed information to providers regarding the appropriate care of people living with HIV/AIDS. The deletion of these guidelines serves no purpose other than to call into question the validity of their findings.

Additionally, we were disheartened to see the weakening of the continuity of care provisions. While we support the requirement that the state must ensure continued access to services when a contract is terminated or an enrollee is disenrolled, the provision offers incomplete protection to beneficiaries because it does not require the state to notify enrollees how to access services during a transition. This is especially critical for enrollees with HIV/AIDS and other special health care needs. At a minimum, CMS should require the state to have a mechanism for informing beneficiaries of their rights to continued services and how to access those services; preventing any interruptions in the delivery of on-going or previously authorized services; and ensuring an individual's ability to access services for which a need arises during a transition period for the following groups of enrollees: children and adults receiving SSI benefits, children in foster care, enrollees over age 65, pregnant women, persons in state-established, risk-adjusted, high-cost payment categories, and any other identifiable groups of beneficiaries with on-going health care needs.

NORA is very concerned that people with special health care needs will be - in the best case scenario -- unaware of their right to continuity of care services or - in the worst case scenario - unable to access services during these transitions.

The Medicaid program is a critical safety net for low-income children and adults with disabilities, including many people living with HIV/AIDS. Congress took steps in the Balanced Budget Act of 1997 to ensure that Medicaid beneficiaries, especially those individuals with special health

care needs, had access to comprehensive consumer protections. Regrettably, the majority of revisions reflected in the August 19, 2001 proposed rule seem aimed at eliminating requirements that protect those with the greatest health care needs. We believe that the January 2001 final regulations provided meaningful patient protections for Medicaid beneficiaries. We would like to see those regulations implemented, specifically those provisions that as discussed above have a profound impact on people living with HIV/AIDS, as soon as possible.

Sincerely,

AIDS Action
AIDS Alliance for Children, Youth & Families
AIDS Project Los Angeles
American Association for World Health
American Dental Education Association
American Psychological Association
American Public Health Association
Committee of Ten Thousand
Communities Advocating Emergency AIDS Relief (CAEAR) Coalition
Gay Men's Health Crisis
Harlem Directors Group
HIV Quality Care Network
HIV/AIDS Dietetic Practice Group, American Dietetic Association
Human Rights Campaign
Legal Action Center
National Association for Victims of Transfusion-Acquired AIDS
National Association of People with AIDS
National Association of Social Workers
National Catholic AIDS Network
National Episcopal AIDS Coalition
National Minority AIDS Council
National Network for Youth
National Youth Advocacy Coalition
Partnership for the Homeless
Presbyterian Church (USA), Washington Office
San Francisco AIDS Foundation
Sexuality Information and Education Council of the United States
Title II Community AIDS National Network
Treatment Action Group (TAG)

cc: Chairman W.J. Billy Tauzin, House Energy and Commerce Committee
Ranking Member John Dingell, House Energy and Commerce Committee
Chairman Max Baucus, Senate Finance Committee
Ranking Member Charles Grassley, Senate Finance Committee

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