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DSS
Strong Families - South Dakota's Foundation and Our Future

February 15, 2008

Schneider
Medicaid

The Honorable Henry A. Waxman
Chairman
Committee on Oversight and Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Waxman:

This is in response to your recent request regarding the impact of six Medicaid regulations proposed by the Centers for Medicare and Medicaid Services (CMS). Thank you for the opportunity to provide comments on the impact, if implemented, these regulations will have upon the Medicaid program and recipients in South Dakota.

Please be assured that the State of South Dakota shares the federal government's strong commitment to protecting the fiscal integrity of the Medicaid program and we are prepared to do so through federal-state initiatives and state-specific efforts. However, we respectfully submit that CMS has proposed rules that are fundamentally flawed in their approach to reaching these goals.

In fiscal year 2007, South Dakota averaged 100,393 individuals (1 in 7 of the state's population) on Medicaid each month and served over 128,000 unduplicated recipients over the course of the year. Three of the top five poorest counties in the nation are located in South Dakota. According to the most recent Census data, there are over 72,000 American Indian residents in the state and 55% of them are on Medicaid. Eighty percent of the American Indian children have their healthcare paid for by Medicaid. These proposed regulations will add to the strain of funding the program and will result in a reduction of access to care for the neediest individuals in our state.

Cost Limits for Public Providers

This proposed regulation has no impact upon the Medicaid program as currently administered in South Dakota. There are a limited number of public owned facilities and they are reimbursed at cost or less.

At this time, there is no estimated financial impact to South Dakota.

Payment for Graduate Medical Education (GME)

This proposed regulation will impact South Dakota. There are three "teaching" hospitals in the state that receive Medicaid funded GME. The funding is appropriately allocated based upon the number of primary care residents/interns and the number of inpatient Medicaid days at each facility. The need to train and retain primary care physicians in South Dakota is critical to insure there is adequate access to care for Medicaid recipients. The rural nature of the state adds to the challenges of recruiting and retaining primary care physicians. Medicaid programs must be allowed to continue to assist in the funding of GME to insure these programs remain sustainable.

The immediate financial impact to South Dakota would be a loss of $2 million annually in federal funding. Assuming a 3% inflation factor each year, the impact over five years will be $10.6 million in federal funding.

Payment for Outpatient Hospital Services

This proposed regulation will impact South Dakota. If this rule becomes effective, South Dakota Medicaid will be required to change how outpatient hospitals are reimbursed. Currently, charges for healthcare professional services such as emergency room physicians, physical therapists and certified registered nurse anesthetists (CRNA) can be billed on the outpatient hospital claim form. This regulation would require those services be billed and reimbursed as professional claims. Administratively, this regulation will increase the number of Medicaid providers who will have to enroll and dramatically increase the number of claims adjudicated.

Small, rural hospitals have indicated this regulation could present problems with them being able to contract with healthcare professionals, such as CRNAs. In order to attract a CRNA who often serves numerous facilities, the hospitals agree to include the CRNA's services on their outpatient hospital claim. This substantially reduces the paperwork required for the CRNA who otherwise would need to have a Medicaid provider number for each facility where they provide services.

CMS did not estimate the fiscal impact of this proposed rule because of a lack of available data. South Dakota also does not have an estimated financial impact at this time. We will be working on an estimate; however, it will be a laborious process because outpatient hospital claims will have to be manually reviewed to determine the impact.

Provider Taxes

This proposed regulation has a nominal or no impact upon the Medicaid program as currently administered in South Dakota. There is only one provider tax currently enacted in South Dakota upon Intermediate Care Facilities for the Mentally Retarded (ICF-MR). As interpreted, the proposed regulation should not impact this particular provider tax.

At this time, there is no estimated financial impact to South Dakota.

Coverage of Rehabilitative Services

This proposed regulation may have a significant impact upon Medicaid in South Dakota depending upon how portions of the regulation are clarified. If the rule prevents Medicaid from

furnishing services to maintain function as an acceptable goal of a rehabilitation plan, there will be a significant impact upon those individuals who receive services through community mental health centers. In order to receive rehabilitation services, the individual's condition would have to deteriorate.

There are also concerns regarding the proposed changes in required documentation and additional clinical supervision requirements. While not impacting individuals who are receiving services, the additional administrative burden and expense will require Medicaid to provide additional reimbursement to cover the costs to the community mental health centers.

There will be a financial impact to South Dakota if this proposed rule is implemented; however, an estimated amount is not available at this time.

Payments for Costs of School Administrative and Transportation Services

This proposed regulation has significant impact upon Medicaid funding and provision of administrative services provided through school districts to over 69,000 children enrolled in South Dakota Medicaid. South Dakota has a CMS approved school district administrative claiming program and has 142 participating school districts. The program was recently reviewed by CMS auditors and no federal funds were found to be inappropriately claimed. It is unfortunate that CMS's solution to resolving inappropriate claiming by a few states is to seek elimination of this program, thereby punishing those states who are appropriately claiming federal funds.

The school setting provides a unique opportunity to enroll eligible children in the Medicaid program and to assist children who are already enrolled in Medicaid to access the benefits available to them. The Early and Periodic, Screening, Diagnostic, and Treatment (EPSDT) provision is Medicaid's comprehensive and preventative child health program for individuals under the age of 21. EPSDT direct care services include periodic health screening, vision, dental, and hearing services. South Dakota is required to inform Medicaid recipients about the EPSDT benefit, set distinct periodicity schedules for screening, dental, vision and hearing services and report EPSDT performance annually to CMS.

Early detection and treatment of health problems prevent serious long-term impairment and increase the success of treatment. The savings of future medical expenses are astronomical. School districts need to be intimately involved in the EPSDT program since they are best poised to provide Medicaid administrative outreach and service coordination to Medicaid eligible and potentially eligible children. In order to support these administrative activities, South Dakota Medicaid must be able to provide to school districts the 50% federal funding allowable for administrative services.

The immediate financial impact to South Dakota would be a loss of $5.4 million annually in federal funding. Based upon historical data and assuming an annual rate of growth in Medicaid eligible children of 1.68%, the impact over five years will be $27.9 million in federal funding.

South Dakota stands in opposition of the implementation of these proposed regulations due to the fiscal impacts upon the State and the reduction of services to Medicaid recipients that will occur as a result of the reduction in federal funding. Simply shifting costs to the state is not the approach to ensure fiscal integrity of the Medicaid program.

Again, thank you for the opportunity to provide comments on the impact upon the South Dakota Medicaid program of these proposed regulations. Estimated fiscal impacts for the hospital outpatient services and rehabilitative services proposed regulations will be forwarded to your attention if they are able to be determined.

We would be happy to provide you with additional information on our comments. Please contact me at (605) 773-3495 if we can be of further assistance.

Sincerely,

Larry Iversen
Medicaid Director

cc: Deborah K. Bowman, Secretary, Department of Social Services