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Department of Health and Family Services

February 14, 2008

Representative Henry Waxman  
Chairman, Committee on Oversight and Government Reform  
House of Representatives  
Congress of the United States  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Chairman Waxman:

This letter responds to your request for information from the Wisconsin Medicaid program regarding an investigation that the Committee on Oversight and Government Reform is conducting on the Administration's regulatory actions on Medicaid. Your request pertains to the following seven regulations proposed during the past year; cost limits for public providers, payments for graduate medical education, payments for hospital outpatient services, provider taxes, coverage of rehabilitative services, payments for costs of school administrative and transportation services, and payments for targeted case management. You requested an analysis of the expected reduction in federal Medicaid funds to the State over each of the next five years, and an estimate of the effect of this reduction on Medicaid applicants and beneficiaries.

Cost Limits for Public Providers. The State estimates that the proposed rule could cause a loss of at least \$3 million in federal funds per year, resulting in a loss of \$15 million over five years, but the loss could be significantly higher depending on the interpretation of the rule. It is expected that funding for county governments would be most directly affected by this provision.

Payments for Graduate Medical Education. The proposed rule limiting expenditures for Graduate Medical Education would result in a loss of approximately \$10 million in federal funds per year, totaling approximately \$50 million over five years. This loss of funding would critically harm the State's medical education programs.

Payments for Outpatient Hospital Services. The proposed rule would limit the scope of services included in the definition of outpatient hospital services, and revise the private outpatient hospital and clinic upper payment limits, but no specific guidance has been given as to how the proposed rule might be interpreted. As a result, it is difficult to assess the effect the proposed rule might have on Wisconsin's hospitals. The way the rule might be interpreted would greatly affect the possible loss of federal funds. If 10% of overall outpatient expenditures were affected, it would lead to a loss of approximately \$8.9 million in federal funds per year, totaling approximately \$44.5 million over five years. This reduction in federal funding could lead to reduced access to needed outpatient hospital services for Medicaid beneficiaries.

Provider Taxes. The proposed rule in this area is not predicted to adversely affect federal funds received by Wisconsin Medicaid.

Coverage of Rehabilitative Services. It is difficult to assess the financial impact that this proposed rule would have as the impact would be dependent on how the rule was interpreted. It is possible that a significant loss of federal funds could occur depending on the interpretation of the rule. Depending on the interpretation of the “intrinsic elements” of other programs, funding for Medicaid mental health and substance abuse benefits could be affected. The primary concern regarding this proposed rule is that it could significantly decrease access to mental health and substance abuse services. This is of particular concern since much of Wisconsin is already a federally-declared psychiatric shortage area.

Payments for Costs of School Administrative and Transportation Services. The State estimates that the proposed rule would result in a loss of approximately \$10.8 million in federal funds per year, or \$54 million over five years, impacting both the State and local school districts.

Payments for Targeted Case Management. The rule impacts services to foster children, elders, people with disabilities, people with chronic mental illness, and children needing early intervention and care. The disallowance of claims for case management activities performed by child welfare workers will result in the loss of \$15 million per year, or \$75 million over five years, in federal revenue used to support child protective services in Milwaukee County, federally-mandated initiatives to improve the quality of the child welfare system, and the statewide child welfare case management system. By forbidding Medicaid claiming for child welfare case managers, the rule requires that services be provided by a case manager outside of the foster care system who is not aware of the unique needs of his/her clients. This is counter to the best interests of this vulnerable population in addition to creating an onerous administrative burden for the State.

In addition, the rule will likely endanger some portion of the \$77.6 million claimed annually for case management under Wisconsin’s Family Care program for the elderly and people with disabilities, other home and community-based waiver programs, the Birth to 3 program, and programs serving people with mental illness and other populations. The precise impact of the provisions is unclear and will hinge on how the Centers for Medicare and Medicaid Services ultimately interprets the rule’s provisions. As a result, states do not know if they can rely on case management revenue in the future.

The impact of these rules is of great concern to the State, our providers, and our beneficiaries and their representatives. We are very concerned that the combined impact of these rules will significantly impact Medicaid revenues and beneficiaries’ access to services. We support any efforts to institute a moratorium on these rules because of their detrimental effect to the State’s safety net health care programs.

Sincerely,



Jason A. Helgerson  
Medicaid Director

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