

National Alliance for Medicaid in Education, Inc.

SUMMARY OF PHONE CONFERENCE:
MEDICAID STATE PLAN AMENDMENTS (SPA)
Developed by Education and Research Committee
April 27, 2007

NOTE: The purpose of the phone conference is to increase understanding about the SPA process and the state Medicaid agency's role in that process. It is not intended to be professional consultation nor legal advice. Guidance should come from one of the 10 CMS regional offices in which your state is located.

Facilitated by Cathy Griffin, Minnesota Department of Education
Presentation by Sue Robertson, Oklahoma Health Care Authority, and
Supported by Nora Poisella, North Carolina Department of Human Services
and Liz Touhey, California Department of Health Services

I. A roll call of states was taken. Approximately 39 participants representing state Medicaid agencies, state education agencies, LEAs and vendors from the following states: Alaska, Arkansas, California, Delaware, Florida, Georgia, Kansas, Michigan, Minnesota, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Washington. (Callers that joined after roll call may not have been identified.)

II. Overview of the Medicaid State Plan Amendment process was presented. (This document can be viewed on the NAME web site.)

- A State Plan describes the nature and scope of a state's Medicaid services, and addresses provisions of the Social Security Act including statewideness, freedom of choice of providers, and the amount, duration and scope of the services to be covered. Specifying recipient groups (mandatory and optional) to whom the services will be provided, quality control and methods of setting payment rates for the services are also included. It requires CMS approval.
- A state Medicaid agency may amend its plan by submitting a State Plan Amendment (SPA) to CMS for approval. Legislative changes, changes in eligibility standards or changes in rate methodology are some reasons a state may choose to submit a SPA.
- Regional Offices (RO) have been delegated authority to approve SPAs, but increasingly the Central Office (CO) in Baltimore is involved in the process. Denials come from RO in conjunction with Central Office (CO).
- States may appeal the denial of a SPA.
- Administrative claiming does not need a SPA; it is laid out in a state's cost allocation plan (CAP).

III. Questions/Answers

The questions below were submitted to the facilitator and provided a starting point for discussion. (Similar questions are grouped together and not necessarily in the order they were discussed.) They are followed by a brief summary of the responses. The responses are based on individual State's experiences.

*1. **Question:** It is generally understood that all State Plan Amendments use the CMS Guide as a primary foundation where any modifications made in a SPA are mutually agreed upon by the DHHS and CMS prior to being authorized. However, having read through numerous OIG reports, it seems that when there is an audit of a state's Medicaid program, it is the CMS Guide that is referenced as the backdrop for most audit findings. What is the point of having a SPA if its contents are summarily dismissed in favor of using the CMS Guide as the basis for audit recoupment? (NOTE: It is assumed that this is reference to the 1997 CMS Medicaid and School Health: A Technical Assistance Guide.)*

Answer: This is hard to answer in the current political climate. CMS is exercising more oversight of all Medicaid, including school-based services (SBS). Sometimes CMS will later say a SPA was approved in error, but it doesn't necessarily mean that the state has to pay back. Audits probably rely more on the CMS Guide.

*2. **Question:** How can a state submit a successful amendment request to include services that were not contained in the original SPA? What makes a successful amendment request and are there any recent examples that have been approved by CMS?*

Answer: California had a SPA approved in 2005, which had been submitted in June 2003. Reportedly Texas, Louisiana and Wisconsin have had recent approvals but no specifics were available.

In California's experience, the guidance from CMS seemed to become more restrictive as time went on. An example related to collecting other health coverage (OHC) information to satisfy free care. Early on, California was told to collect 80% OHC information from students and bill that but later that the standard was 100%.

Interpretations of the guidance can change depending on who you talk to at CMS, such as when there are staff changes at CO or someone is brought in to deal with a specific issue.

It was clarified that technically, ROs have authority to approve a SPA and the approval letter can come from RO, but CO is giving the approvals. There may be differences in regional offices. But the RO is your buffer; it can advocate for your state and help make your case to Baltimore Central Office. One state indicated that Central Office seems more involved now than in the past—perhaps to iron out some of the disparities that exist. One suggestion was to work together with your RO long before submitting the SPA.

3. Question: If a SPA is submitted to add services for reimbursement for the LEAs, does this open up the State Plan for the LEA section only or the entire plan for all covered services?

Answer: States' experiences suggest that it can open up other parts of a state's plan. North Carolina's experience, when adding nursing services in LEAs in 1995, was that CMS then looked at community services (such as PT) for comparability. Another example was of something written on the same page of the plan being opened up during review of a SPA.

4. Question: Our original plan was submitted 10 years ago and we now want to make a change (SPA). What standards is CMS using?

Answer: Consensus of states with recent experience (Oklahoma, North Carolina, California, and Washington) indicated that CMS wants to bring you up to date to current policy. There is no penalty for withdrawing a proposed SPA. CMS may still ask questions and one responder said CMS may be more likely to look at your services through an audit. SPAs "live" forever; there is no requirement that they be revised after a certain number of years.

5. Question: If a rate methodology for LEAs is submitted, does it open all rate methodologies in the State Plan or just the LEA section?

Answer: California's and Washington's experiences are that it did not open up all rate methodologies. Washington was told by CMS that if school services were under Rehab in the plan, for example, it opened up Rehab services but not their entire state plan.

Michigan's experience was a little different when it submitted a SPA to add new SBS. CMS used this request to also look at how school-based services were reimbursed and then wanted the services under Rehab to be put under EPSDT. Some pressure was put on the state to make these changes related to coverage and reimbursement methodology, and the process has taken three years. MI is not sure whether its new (cost-based) rates will be higher or not.

6. Question: CMS, at the NAME Conference, spoke about doing statewide random moment time studies to calculate fees/rates for specific services. How are cost pools established? How is the sample pulled?

Answer: North Carolina, in the process of setting it up, was sent the Louisiana model (which has been approved) by CMS. There's a time survey piece specific to direct services - direct service staff are in one cost pool, separate from administrative services. Besides the two mutually exclusive cost pools, must have confidence level of 95% precision \pm 5% overall.

There are several ways to do a Random Moment Time Study (RMTS). Not all staff have to be put in one pool. CMS has to approve time survey methodology. You need to spell out the sampling process and how you're going to validate it.

One LEA shared information about its recent pilot web-based RMTS. A benefit of using a coder is you don't have to train all people in the time study.

Michigan has recently gotten approval for an RMTS methodology using a statewide coder for its Administrative Outreach. The manual can be viewed at <http://michigan.gov/mdch>, click on "Providers", click on "Medicaid Provider Manual", and click on "School Based Administrative Policy". (Print just that chapter.) This (RMTS) methodology is being expanded for Michigan's fee-for-service (FFS) program – there will be separate cost pools for the services being added.

7. Question: I have heard other states mention that they were required to "sunset" their state plan for school-based services. Can CMS require states to do this if there is no part of the state plan that is open?

Answer: California had a similar experience but with targeted case management (TCM). Of six TCM SPAs submitted, they were told to sunset four. Georgia submitted a SPA for rate change only; CMS sun-setted portion of the plan.

8. Question: Has anyone submitted a SPA to CMS for the intergovernmental transfer (IGT) method instead of certified public expenditure (CPE)?

Answer: CPE- California and North Carolina
IGT – Washington

A couple states have been told by CMS that they would have to meet the same documentation standards for CPE and IGT. A question was raised whether a settle up was required with IGT. States have been told that

regardless if using IGT, state and districts have to document that payments do not exceed costs.

9. Question: In my state, the admin claiming was handled through a change to the cost allocation plan (CAP). There's nothing in the state plan about this. Rates for school-based services are not delineated in the state plan—they are paid the same way using the same methodology as private providers. So can the direct services cost claiming be accomplished through a change to the CAP rather than a SPA?

Answer: One state's understanding is that you can do a subset of that CAP. Another's understanding was that services have to be in the State Plan.

Michigan just submitted a SPA for FFS coverage and new methodology but had to submit an explanation of how it was doing the RMTS. CMS didn't want to see the method in the SPA, but did want a written description of the methodology. MI has not yet received approval.

10. Question: Can an approved time study methodology for Admin Program be used for direct services methodology?

Answer: Current understanding is that you can use your methodology, if approved, but may need to do a little tweaking to have it relate to direct services. It was suggested that you ask CMS; it may depend on how old the methodology is.

IV. Open Discussion

Relationships and Communication between Medicaid and Education: Washington is amending its state plan for SBS at the direction of CMS as a result of an audit. A challenge has been to help Education understand that certain changes are federally (not State) driven. This has created some stress in the relationships between State Medicaid, State Education and school districts. Someone shared from the Education perspective that it is hard to see the rationale for some of CMS' directives.

There were several examples given of the ways communication is being facilitated between stakeholders. California's Medicaid agency deals with local educational consortiums (LECs) as the State education agency is not very involved. Information is shared with LEAs through a direct service advisory group and an admin claiming advisory group. North Carolina has someone in the State Education agency and an advisory group of LEAs. Oklahoma, who previously had a good relationship with the Education Department (who withdrew its support following denial of a SPA for TCM) is again trying to set up a workgroup of LEAs. Michigan Medicaid is involved with the Education Department, LEAs and Superintendent's Office.

A suggestion was made that if you can't get the support of the Department of Ed, try to engage other (educationally-related) groups, such as the state special ed directors, the association of school administrators or school business officers.

A couple LEAs shared their appreciation for the opportunity and benefits of working with the state (Medicaid or Education).

Phone Conference Evaluations:

The ER committee has not yet figured out how to do evaluations of the phone conference format. Please e-mail any suggestions to Cathy Griffin at Cathy.Griffin@state.mn.us , Nora Poisella at nora.poisells@ncmail.net or Barbara Neely at bneely@mesd.k12.or.us.

Suggestions also welcome for future phone conference topics. One suggestion made during the call was cost studies for the FFS population.

2007 Conference Presentations:

It was also suggested that cost studies would be a good topic for a NAME Conference presentation. Send any presentation proposals to Jane Reagan at ReaganJ@michigan.gov. 2007 Conference information, including the Invitation to Participate, is on the NAME website. [Hyperlink here please to the call.](#)

MM

5/1/07

Revised CG 5/10/07