



March 26, 2008

The Honorable John D. Dingell
Chairman, Energy and Commerce Committee
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Timothy F. Murphy
U.S. House of Representatives
322 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Dingell and Congressman Murphy:

On behalf of Mental Health America (MHA), I commend you for introducing the “Protecting the Medicaid Safety Net Act of 2008” (H.R. 5613) to delay implementation of a host of ill-advised and harmful regulatory changes that would dramatically reduce Medicaid coverage of services and supports needed by many of our most vulnerable citizens, including individuals with mental illnesses.

Since the founding of our organization almost 100 years ago, we have been particularly focused on improving the system of services for people with severe mental illnesses. Thus, we are extremely alarmed by several of the regulations recently issued by the Centers for Medicare and Medicaid Services (CMS) that would drastically limit reimbursement for rehabilitative services, case management, and school-based services. These service categories are particularly important for enabling adults and children with mental health conditions to receive care in their homes and communities instead of in costly institutions.

The rehabilitative services option in Medicaid is used by nearly every state to provide services and supports for individuals with mental illnesses, and nearly three-fourths of Medicaid beneficiaries receiving rehab services are people with mental health needs. This service category enables states to offer a range of community-based services that foster an individual’s rehabilitation and recovery far more effectively than services offered in traditional clinical settings. However, the recent regulatory changes would significantly limit Medicaid coverage of these services by establishing a vague new standard prohibiting reimbursement through the rehab option if a service could be funded through another program. This standard is inconsistent with the third party liability test reiterated by Congress in the Deficit Reduction Act as the trigger for when reimbursement will be limited due to the responsibility of other payers. This proposed regulation also would significantly alter long-standing policy in dismissing maintenance of function as a reimbursable goal of rehabilitation along with reduction of disability and restoration of function. In addition, the regulation would prohibit Medicaid reimbursement for therapeutic foster care which is a widely-used, evidence-based mental health service provided as an alternative to institutional care to children who need to be removed from their home environment (sometimes temporarily) and furnished intensive mental health services.

The recent regulation on case management services also includes numerous troubling policy changes including a dramatic cut in services for individuals transitioning into their communities

from institutions. A new prohibition on child welfare workers and child welfare agency contractors receiving Medicaid reimbursement for case management services would fragment case management services and create additional barriers to care for these children who are least able to overcome administrative obstacles. This regulation also prohibits payment for case management services if another program *could* pay, again in conflict with the third party liability standard. A new limit of one case manager per beneficiary will undoubtedly reduce access to services for individuals with multiple serious conditions who need to navigate several different systems of care. This regulation also unduly limits reimbursement for case management in school settings for children with disabilities and imposes an unworkable new documentation requirement.

We are also concerned about regulatory changes that would severely limit Medicaid reimbursement for school-based administrative activities and transportation services. Millions of school-aged children struggle with mental health disorders, and serious mental illnesses often arise during the teenage years. Schools provide a critical link to care for children in need. School personnel help children access mental health services by facilitating application and enrollment for health care coverage through Medicaid, by monitoring the care these children receive, and by coordinating that care sometimes through multiple agencies. This regulation would radically reduce the assistance schools could provide these children.

We realize the need to improve the efficiency and effectiveness of Medicaid services for persons with disabilities generally and for persons with mental illnesses specifically. However, the approaches suggested in these regulations are regressive and will further fragment services ultimately frustrating our citizen's ability to recover.

We thank you for introducing legislation to delay these regulations and stand ready, along with our nationwide network of over 300 state and local affiliates, made up of advocates, consumers of mental health care, family members of consumers, providers of mental health services, and other concerned citizens, to support your efforts to preserve Medicaid coverage of rehabilitative services, case management and school-based services.

Sincerely,

A handwritten signature in black ink, appearing to read 'David L. Shern', with a long horizontal flourish extending to the right.

David L. Shern, Ph.D.
President and CEO