

# A CHECKLIST FOR STATE LEGISLATORS ON THE DEFICIT REDUCTION ACT

## NEW OPTIONS FOR BENEFIT PACKAGES

- ✓ Does your State want to redesign its Medicaid benefits?
  - ❑ If so, can your State use alternative benefit packages to update its Medicaid program?
- ✓ Is your State interested in consumer-directed healthcare?
  - ❑ If so, can your State use alternative benefit packages to implement consumer-directed healthcare?
- ✓ Are legislative changes needed to the Medicaid program to implement new benefit packages?
  - ❑ Changes to eligibility?
  - ❑ Changes to benefits?
  - ❑ Changes to services?
  - ❑ Changes to delivery system?
- ✓ Does your State have an 1115 demonstration or other waiver program like a 1915(b) or 1915(c)?
  - ❑ If yes, will a new amendment to the State Medicaid Plan be necessary to align with benchmark plans?

## NEW OPTIONS FOR PREMIUM & COST SHARING

- ✓ Does your State want to redesign its Medicaid cost-sharing and/or its premiums?
  - ❑ If so, can your State use the new options for premiums & cost sharing to impose alternative premiums and cost sharing upon certain Medicaid recipients?
  - ❑ Does your State require legislative changes to implement alternative premiums and/or cost sharing?
  - ❑ Does your State want to impose cost-sharing for the use of non-emergency services in the ER?

## REBALANCING LONG TERM CARE

- ✓ Does your State already participate in the long-term care partnership?
  - ✓ If not, does your State want to encourage its residents to proactively plan for their long-term care?
    - ❑ If so, consider participating in the long-term care partnership with insurers and the insured.
- ✓ Does your State need to establish a workgroup including the State legislators, State Medicaid Director, State Insurance Commissioner, and/or State Budget officer regarding the Partnership?
- ✓ Does your State need to establish a workgroup with State health policy officials, insurers, advocates, consumers and other interest groups to establish procedural and policy guidelines that are consistent with the DRA, State law and NAIC rules?
- ✓ If your State wants to participate in the long-term care partnership,
  - ❑ Does your State have an approved State Plan Amendment (SPA) to exclude in the eligibility determination and estate recovery, the amount of long term care benefits paid under a qualified long term care insurance policy?
  - ❑ If your State does not have an approved SPA, your State Medicaid agency must submit a SPA that specifies that benefits paid under a qualified long term care insurance policy will be disregarded in both the eligibility determination and in the estate recovery process.

TRANSFER OF ASSETS	DOCUMENTATION OF CITIZENSHIP	CONSUMER DIRECTED HEALTHCARE—HEALTH OPPORTUNITY ACCOUNTS
<ul style="list-style-type: none"> <li>✓ Mandatory: Has your State Medicaid agency submitted a State Plan Amendment (SPA) that will apply the new transfer of assets rules and home equity cap that are effective February 8, 2006?</li> <li>✓ Has your State altered the application for Medicaid coverage of long-term care expenses to include a disclosure of annuities and language which names the State as a remainder beneficiary?</li> <li>✓ Does your State require legislative changes to apply transfer of assets policy to: <ul style="list-style-type: none"> <li><input type="checkbox"/> Treatment of loans?</li> <li><input type="checkbox"/> Promissory notes?</li> <li><input type="checkbox"/> Mortgages?</li> <li><input type="checkbox"/> Life estates?</li> <li><input type="checkbox"/> Annuities?</li> </ul> </li> <li>✓ Has your State implemented the undue hardship provisions mandated by the DRA that allow for the waiver of a penalty period?</li> </ul>	<ul style="list-style-type: none"> <li>✓ Mandatory: Does your State need legislative changes to the Medicaid eligibility laws necessary to implement the new documentation of citizenship requirements?</li> <li>✓ Will your State perform outreach to beneficiaries informing them of the new requirements?</li> <li>✓ Is your State Medicaid Agency providing training on the new rules to eligibility workers?</li> <li>✓ Has your State pursued using data matches to confirm eligibility and reduce costs?</li> </ul>	<ul style="list-style-type: none"> <li>✓ Does your State want to pursue consumer-directed healthcare? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, consider participating in the ten State demonstration program sponsored by CMS scheduled to begin January 1, 2007.</li> </ul> </li> <li>✓ Are legislative changes needed to the Medicaid program to implement Health Opportunity Accounts?</li> <li>✓ Does your State Medicaid program need to apply for an 1115 waiver or State Plan Amendment to implement HOAs?</li> <li>✓ Will your State do outreach informing beneficiaries of the new options?</li> </ul>

<h2 style="text-align: center;">PURSUING PAYMENTS FROM THIRD PARTIES</h2>	<h2 style="text-align: center;">FIGHTING MEDICAID FRAUD AND ABUSE</h2>	<h2 style="text-align: center;">HOME &amp; COMMUNITY BASED SERVICES</h2>
<ul style="list-style-type: none"> <li>✓ <b>Mandatory:</b> Does your State’s definition of third parties and health insurers include: <ul style="list-style-type: none"> <li><input type="checkbox"/> Employers’ self-funded health plans;</li> <li><input type="checkbox"/> Third party administrators (TPA);</li> <li><input type="checkbox"/> Pharmacy benefit managers (PBM); and</li> <li><input type="checkbox"/> Other parties that are, by statute, contract or agreement legally responsible for payment of a claim for health care item or services?</li> </ul> </li>   <li>✓ Does your State need legislative changes to require health insurers to provide eligibility and coverage information to the State?</li>   <li>✓ Does your State law require third parties to accept the State’s right of recovery?</li>   <li>✓ Does your State law require third parties to respond to inquiries by the State regarding claims for up to three years after the date of service?</li>   <li>✓ Does your State law prohibit third parties from denying a claim submitted timely by the State on the basis of the date of submission, claim format, or a failure to present proper documentation at the point-of-sale?</li>   <li>✓ Does your State law require third parties to allow up to six years from the time the State submits a claim to reach a settlement?</li> </ul>	<ul style="list-style-type: none"> <li>✓ Does your State want to target Medicaid fraud and abuse, while increasing the State share of fraud and abuse recoveries by 10 percentage points? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, your state will need to enact a False Claims Act that is closely modeled on the Federal version of the law and deemed compliant by the U.S. Department of Health and Human Services, Office of the Inspector General.</li> </ul> </li>   <li>✓ Does your state want the fraud and abuse deterrent of a State False Claims Act? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, your State will need to have a False Claims Act that is closely modeled on the federal version of the law.</li> </ul> </li>   <li>✓ Does your State want to require reinvesting recoveries in its Medicaid program? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, your State can opt to do so under these new rules.</li> </ul> </li>   <li>✓ Does your state want to suppress nursing home abuse and other quality of care inadequacies? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, a State False Claims Act can help accomplish this.</li> </ul> </li>   <li>✓ Does your state already have a False Claims Act that will meet the federal requirements? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, your State does not need to pass new legislation. The existing legislation must to be reviewed by the U.S. Department of Health and Human Services, Office of the Inspector General. If not, your State will need to pass its own version of a state False Claims Act and have it reviewed by the U.S. Department of Health and Human Services.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ Does your State wish to use State Plan Amendments rather than waivers to provide long-term care services to certain populations? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, consider the new Home &amp; Community Based Services option.</li> </ul> </li>   <li>✓ Does your State want to move away from providing services through institutions by exploring the new Home &amp; Community Based Services option? <ul style="list-style-type: none"> <li><input type="checkbox"/> If so, what populations might be served (States can go up to 150% FPL)?</li> </ul> </li> </ul>