

September 2, 2008

Mr. Kerry Weems, MBA  
Acting Administrator  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Room 314G  
Washington, DC 20201

Dear Mr. Weems:

**Re: Response to Proposed Changes to the CY2009 Hospital Outpatient PPS-CMS-1404-P Partial Hospitalization**

On behalf of the National Council for Community Behavioral Healthcare, I appreciate the opportunity to submit comments regarding CMS's proposed OPPS rates concerning APC Code 0034 – Mental Health Composite Services, APC Code 0172 – Level I Partial Hospitalization Programs, APC Code 0173 Level II Partial Hospitalization Programs and 0322, 0323, 0324, 0325 – Outpatient Psychiatric Services

The National Council is a not-for-profit association of 1,400 behavioral healthcare organizations that provide treatment and rehabilitation for mental illnesses and addictions disorders to nearly six million adults, children and families in communities across the country. Medicare's Partial Hospitalization Program (PHP) is critically important to the adults and children our members treat. We urge you to correct or clarify a number of issues to ensure that individuals with psychiatric disabilities retain access to this important Medicare-funded source of mental health services and supports.

Over the past four years, the reimbursement to this level of care has been cut. The effect of the last four year's cut has had a devastating effect on the access to treatment by individuals across the country. Further cuts threaten continued access to this cost-saving benefit for people with chronic mental illness. We are deeply concerned about the direct impact a fifth consecutive rate reduction will have on PHP and hospital outpatient services, as now access to care becomes a real issue.

The National Council has long supported partial hospitalization. Appropriately used, it is an important part of a continuum of care – keeping people out of the hospital, and enabling timely “step down” from inpatient care. The National Council was among the organizations that worked with Congress to craft the legislation that created the partial hospitalization benefit in the late 1980s. Unfortunately, more and more National Council members are walking away from this benefit as reimbursement rates continue to drop. We have received widespread reports from CMHCs throughout the country that the new rates are so low that it would be impossible to actually offer PHP services.

We are requesting that CMS refrain from going forward with the proposed CY 2009 rate cut for PHP services. Coupled with last four year's rate reductions for PHP, the proposed rate will make it difficult to cover the costs needed to provide an intensive program. Any further reduction in rates will clearly impact access to PHP services across the country.

In addition, it is important to note that what is actually done in the way of treatment for each patient in their “day of care” is in no way reflected in what is submitted in billing for each patient per day. CMHCs are required to provide certain services as regulated by Local Coverage Determination (LCD) as an intensive PHP program, but CMHCs provide many hours of other services each day. Several examples of additional services are: assisting patients in finding appropriate housing, accessing other healthcare

services, obtaining medications, working through issues with family members, accessing transportation to medical and other appointments, assisting with information and appointments in Social Security and Medicare questions, accessing food banks and food stamps, obtaining eye and dental services, and integrating highly volatile and anxious patients into the milieu without upsetting the environment, when at times they cannot tolerate the group process and need one-on-one attention.

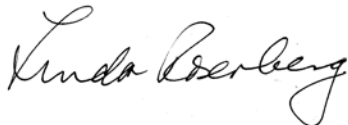
Currently, there is no way in the existing billing process to show that these events take place, as there are no billing codes that reflect these activities. For example, there are times that a patient is far too anxious to tolerate group therapy for the entire treatment day, and a staff member must offer individual attention in order to stabilize the patient. There is currently no way for a CMHC to reflect these activities, as billing cannot be submitted for that patient that treatment day. It appears that the patient was absent the entire treatment day, when, in fact, he was receiving intense and personal treatment.

Recommendations:

The National Council urges you to suspend the proposed cut and maintain the current PHP per diem rate for Level II Partial Hospitalization Services at \$205.16. Rather than decreasing the per diem rate in CY 2009, we ask CMS to allow time and resources to develop a reasonable payment methodology by working with provider and community organizations to develop a payment rate that is fair, consistent and predictable. The National Council supports a legislative amendment to remove PHP services from the APC codes, giving them independent status similar to that for Home Health services, and to establish a reasonable base rate for PHP services, such as the current CY 2008 per diem rate. Finally, we support the annual adjustment of this base rate by a conservative inflation factor, such as the Consumer Price Index (CPI).

Thank you for the opportunity to submit comments on the proposed rate cut. Please feel free to call if we can offer any assistance on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Linda Rosenberg".

Linda Rosenberg, MSW, CSW  
President and CEO