



TCM DRA and Interim Final Rule Side By Side

The American Public Human Services Association and its affiliates, the National Association of State Medicaid Directors and the National Association of Public Child Welfare Administrators believe that the targeted case management regulation goes far beyond the authority granted to the Centers for Medicare and Medicaid Services by Congress through the Deficit Reduction Act of 2005. CMS published this rule as a Interim Final Rule with Comment Period on the *Optional State Plan Case Management Services*, in the December 4, 2007, *Federal Register* (72 FR 68077).

APHSA and NASMD recognize that CMS has the responsibility to implement important provision of the Deficit Reduction Act of 2005 (DRA) to clarify the design and delivery of Targeted Case Management services. However, APHSA and NASMD are concerned that this regulation goes far beyond the original language and intent of the DRA, mandating significant and harmful changes to long-established, CMS-approved case management programs, including Targeted Case Management, administrative case management, and even home and community based waiver programs. It will require restructuring of programs in nearly ever state, causing major disruptions and significant additional costs. More importantly, these changes may result in the loss or diminished quality of services to vulnerable Americans, including a reduction in the ability of states to assist the elderly and people with disabilities in successfully transitioning from institutional to community-based service settings.

For example, the DRA included specific provisions to spell out how costs should be allocated when child welfare workers also oversee Medicaid case management. The regulations go beyond this Congressional solution, limiting beneficiaries to one case manager and mandating that case management be billed in 15-minute increments, thereby disrupting established case management relationships for consumers and restricting the ability of states to develop the most effective reimbursement strategies for assuring on-call case management availability. In addition, the regulation eliminates the use of administrative case management, an important tool used in many states to provide targeted support services to Medicaid consumers, and dramatically restricts the timeframe in which case management services can be used to assist institutionalized populations in arranging transitions to community settings. Extending any willing provider requirements to waiver case management, and eliminating the ability of states to have case managers authorize access to services, raises considerable concern over the ability of states to be able to control the quality and appropriateness of services provided to this most vulnerable group of enrollees and disrupts the ability of states to implement effective long term care system reforms designed to improve consumer access to community options.

The overreach of this regulation is underscored by the discrepancy in cost savings between the Congressional Budget Office's initial projection of \$760 million over five years based on the DRA and CMS's expectation of savings of \$1.28 billion from this rule. The authorization that CMS received to implement the Targeted Case Management regulations through an interim final rule should only extend to the provisions that Congress spelled out in the DRA; the remainder of the changes included in the regulation should be given the full consideration through the formal rule making process. APHSA and NASMD ask that CMS remove all provisions from the interim final rule that are not expressly authorized by the DRA. In addition, APHSA and NASMD urge CMS reconsider some of the provisions regarding Targeted Case Management. Specific comments follow.

The following side by side documents each area of the TCM Interim Final Rule that extends beyond the authorization of the DRA Conference Report. Please direct any questions regarding this document to Barbara Coulter Edwards, NASMD Interim Director, at (202) 682-0100.