



DEPARTMENT OF HEALTH & HUMAN SERVICES



Re: DMCH: BPW

Region II
Federal Building
26 Federal Plaza
New York, NY 10278

August 17, 2011

Jason A. Helgeson
State Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health
Empire State Plaza
Corning Tower, Room 1466
Albany, New York 12237

Re: **NY SPA #11-53**

Dear Commissioner Helgeson:

This letter is being sent in conjunction with the Centers for Medicare & Medicaid Services (CMS) approval of New York State Plan Amendment (SPA) #11-53, which amendment eliminates the separate payment rates for nursing services provided to patients diagnosed with Acquired Immune Deficiency Syndrome.

In reviewing SPA #11-53, CMS staff performed a program analysis of the corresponding services and a reimbursement analysis related to the services impacted by the provisions of SPA #11-53. These analyses revealed coverage issues, set out below, which the State needs to address through a State plan amendment in order to meet the requirements of Section 1902 of the Social Security Act.

In response to the State's request, CMS has agreed that the State may respond to these issues in the context of responding to the SPA 10-38 companion letter issues. To this end, CMS welcomes the opportunity to work with you and your staff and to provide any technical assistance to resolve the issues below.

Coverage Issues for SPA #11-53:

1. Please describe an "AIDS home care program" and a "long term home health care program" and indicate whether either of these programs are part of a hospital, nursing facility or Intermediate Care Facility.
2. Please confirm that the "telehealth services" is simply a different service delivery mode for part-time/intermittent nursing services and not a cluster of services separate and apart from part-time/intermittent nursing services under the home health services benefit. If this articulation is correct, please reflect this understanding in the description of "telehealth

services”. Also, if there are limitations on the amount, duration or scope of part-time/intermittent nursing services, please explain whether “telehealth services” count in the calculation of any limitation on amount or duration. For example, if the visits by a nurse are limited to 12 in a year, would a single “telehealth services” encounter be considered a “visit”?

3. We are enclosing a copy of the CMS (formerly HCFA) September 4, 1998 guidance regarding the circumstances under which a State may use a list to determine coverage of medical equipment to be sure that the State is aware of it. In keeping with that guidance, please explain whether the State has a process by which beneficiaries may request medical equipment, supplies and appliances not on the State’s approved list and, if so, whether the process includes notice of the right to a fair hearing if the request is denied.
4. If the State allows assistants or aides, such as Physical Therapy Assistants, to furnish therapies, please add each type of provider to the State plan along with a brief description of how each is required to work “under the direction of” the qualified therapist.
5. Does the State require that each Physical Therapist be a graduate of a program of physical therapy approved by the Commission on Accreditation in Physical Therapy Education (CAPTE)? If not, please explain whether the State permits a graduate of an unaccredited institution to be licensed and, if so, the process by which the State determines whether the applicant’s education is comparable to one received at a CAPTE-accredited institution.

If you have any questions or wish to discuss this SPA further, please contact Shing Jew or Barbara Waugh of this office. Mr. Jew may be reached at (212) 616-2426 and Ms. Waugh at (212) 616-2366.

Sincerely,

/s/

Michael Melendez
Associate Regional Administrator
Division of Medicaid and Children’s Health

Enclosure

cc: J. Ulberg
G. Critelli
S. Fuentes
J. Guhl
R. Holligan
S. Jew
K. Knuth
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M. Schervish
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