

February 27, 2014

Sharon L. Summers  
Planning & Policy Development Unit  
Division of Medicaid and Medical Assistance  
1901 North DuPont Highway  
P. O. Box 906  
New Castle, DE 19720-0906

**RE: DMMA Proposed “Outlier” Hospital Medicaid Reimbursement Regulation [17 DE Reg. 812 (February 1, 2014)]**

Dear Ms. Summers:

The Governor’s Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Medicaid and Medical Assistance (DMMA) proposal to reduce hospital outlier compensation. Council would like to share the following observations. As background, hospitals are eligible for an enhanced Medicaid payment for “high cost outliers” when the cost of care at discharge exceeds a certain threshold. DMMA offers the following description:

State Medicaid agencies may pay hospitals for Medicaid inpatient stays using a prospective payment system. To protect hospitals against large financial losses from extraordinarily high-cost cases, State agencies may supplement base payments with an additional payment referred to as a Medicaid inpatient hospital cost outlier payment (Medicaid outlier payment). Medicaid outlier payments are calculated using formulas that vary by State.

At 813.

In early 2009, hospitals were eligible for an outlier payment if the cost of discharge exceeded three times the hospital operating rate per discharge. If that threshold were met, the hospital would be reimbursed at the discharge rate plus 79 percent of the difference between the outlier threshold and the total cost of the case. In September, 2009, DMMA issued a proposed regulation to reduce hospital compensation for outliers to save \$4.9 million. See attached 13 DE Reg. 373 (9/1/09) (proposed) and 13 DE Reg. 656 (11/1/09) (final). The State Council for Persons with Disabilities (SCPD) submitted the attached September 29, 2009 commentary expressing “reservations” with reduced payments. SCPD noted that “the reduction in compensation provides an incentive to hospital to discharge earlier

in the recovery process and/or exercise any discretion involving treatment in favor of ‘bare bones’ or minimally adequate services.” DMMA responded that “the revised outlier methodology will not affect the quality of care to our Medicaid beneficiaries.” See 13 DE Reg. At 657. At that time, DMMA raised the threshold for eligibility from three to four times the hospital operating rate per discharge. It also lowered the compensation for this smaller class of cases from 79 percent to 70 percent of the difference between the outlier threshold and the total cost of care. Id.

This month, the Division proposes to further reduce hospital outlier compensation. Expected cost saving to the State are highlighted at 17 DE Reg. 813 and include \$1,291,034 in Federal Fiscal Year 2015 (October 1, 2014 - September 30, 2015). The new threshold for eligibility will be five times the hospital operating rate per discharge. The compensation for the resulting smaller class of eligible cases will be reduced from 70 percent to 65 percent of the difference between the outlier threshold and the total cost of care. See 17 DE Reg. 814.

Council would like to reiterate the concerns expressed in the September 29, 2009 letter from the SCPD.

Thank you for your time and consideration in reviewing our observations. Please feel free to contact me or Wendy Strauss should you have any questions.

Sincerely,

Terri A. Hancharick

TAH:kpc

CC: Mr. George Meldrum, Nemours

Attachments