



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
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Medicaid Director

April 26, 2011

Donald Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS 2337-P
P.O. Box 8016
Baltimore, MD 21244-8016

Re: Comments on Proposed Rule: Medicaid Program; Community First Choice Option

Dear Dr. Berwick:

The Commonwealth of Massachusetts appreciates the opportunity to submit comments and clarifying questions on the proposed rule regarding the Community First Choice Option.

Eligibility (§ 441.510)

1. Will states have discretion in determining functional eligibility?
2. Can a state impose the same functional eligibility requirements that exist for a state's personal care services state plan program?
3. Are individuals who participate in managed care eligible for the service?

Required Services (§ 442.520)

1. Please clarify "health related tasks". Do health related tasks include medication administration and other paramedical tasks such as g-tube feeds, ostomy care, wound care, etc?
2. In a self-directed program, personal care workers are employed by the consumer and the consumer, as the employer, is fully responsible for training and supervising the personal care worker. Please clarify if CMS intends for "health related tasks" to be furnished by personal care workers who are employed by the consumer when the PCA is supervised solely by the consumer and there is no nurse involvement.
3. How is assistance with medications accounted for?

Setting (§ 441.530)

1. We recommend that (e) in this section be deleted as individuals in these settings are currently eligible to receive home and community based services and supports.

Assessment of Need (§ 441.535)

1. We recommend that states be granted the discretion to determine the qualifications of persons who may conduct functional assessments.
2. Some of the core elements in an assessment of need should include an assessment of the individual's ability to perform ADLs and IADLs without assistance, and an assessment of the individual's ability to self-direct his/her services. States should be permitted to have the assessment reflect, and be consistent with, the state's functional eligibility criteria for the service.
3. Does CMS intend for an individual to have a right to appeal the assessment?

Service Plan (§ 441.540)

1. Does CMS intend for an individual to have the right to appeal the service plan?
2. Who has final approval of the service plan?

Service Models (§ 441.545)

1. Can an individual's representative (person who assists the individual to self direct and manage their services) be paid as part of the service plan?

Support System (§ 441.555)

1. Can the agency who provides a support system also be the financial management entity?

Provider Qualifications (§ 441.565)

1. How does CMS define "qualified"?
2. Is the personal care attendant considered to be the provider? If so, are the providers subject to screening requirements under § 455.000?

State Assurances (§ 441.570)

1. How does CMS anticipate that states will ensure compliance with occupational health and safety requirements since the individuals who hire the attendants will be in their individual homes?

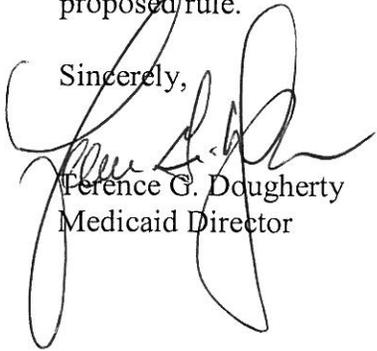
ICRs regarding assessment of need (§ 441.535)

1. We are concerned that one hour to perform a face to face assessment is an underestimation of the amount of time required to conduct an assessment. Initial and re-assessments may take different amounts of time. An initial assessment may take at least three hours, given that the individual is not known to the assessor. A re-assessment may take at least two hours. Additionally, individuals who conduct assessments will also have travel time, and need time to write-up their assessments. The cost of an assessment may also depend on the qualifications of the person who conducts the assessment.

2. We are concerned that two hours for service plan development is an underestimation of the amount of time required. Up to five hours may be needed to meet the requirements of developing a person-centered plan and the associated administrative tasks.

Massachusetts appreciates the opportunity to comment and submit questions on this proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terence G. Dougherty', is written over the typed name and title.

Terence G. Dougherty
Medicaid Director