



Region IX

Division of Medicaid & Children's Health Operations

90 Seventh Street, Suite 5-300 (5W)

San Francisco, CA 94103-6706

MAR 24 2011

Ma Theresa L. Arcangel
Health Services Administrator
Department of Public Health and Social Services
Bureau of Health Care Financing
123 Chalan Kareta
Mangilao, Guam 96913-6304

Dear Ms. Arcangel:

This letter is being sent as a companion to our approval of Guam State Plan Amendment (SPA) 10-003. This SPA expanded covered services, and updated language related to coverage in Attachments 3.1-A and 3.1-D of Guam's Medicaid State Plan, effective January 1, 2011. Our review of SPA 10-003 included an analysis of Home Health Services, as well as Physical Therapy, Occupational Therapy and Audiology Services. These services were described on the same pages as Other Practitioner's Services and Dental Services, respectively. Based on that review, it was determined that item 7(B)(c) on page 27, as well as items 11(a), 11(b) and 11(c)(B)(1) on pages 31 and 32 of Attachment 3.1-A are not in compliance with current regulations, statute and CMS guidance. Please see below for an explanation of how these provisions are out of compliance.

Durable Medical Equipment (DME) and Supplies

The State Medicaid Director's Letter released September 4, 1998 elaborated upon the ruling of the United States Court of Appeals for the Second Circuit in DeSario v. Thomas. This letter outlined the need for each state to establish a 'reasonable and meaningful' procedure for beneficiaries to request items of Medical Equipment. Such a procedure must be in compliance with 42 CFR Part 431 Subpart E, which mandates the existence of a fair hearing process to determine whether an adverse decision regarding a requested item is in compliance with the Sufficiency of amount, duration, and scope requirements of 42 CFR 440.230.

In order for Guam to be in compliance with the regulations and guidance noted above, a fair hearing process must be established and described within the Guam Medicaid State Plan.

Physical Therapy, Occupational Therapy and Audiology Services

Regulations at 42 CFR 430.10 require that the State plan be a comprehensive written statement describing the nature and scope of the State's Medicaid program and that it contain all information necessary for CMS to determine whether the plan can be approved to serve as the basis for Federal financial participation (FFP) in the State program. Accordingly, the State must comprehensively describe the coverage of

Physical Therapy, Occupational Therapy and Audiology Services, as well as the State Plan requirements for providers of these services.

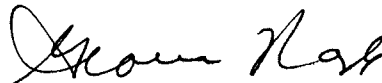
Currently, Guam's State Plan describes Guam's Physical Therapy and Occupational Therapy services as 'Provided.' These descriptions must be expanded in order to comply with the regulatory provisions of 42 CFR 440.110, which outline the requirements for Physical therapy, occupational therapy and services for individuals with speech, hearing, and language disorders.

Likewise, under its description of Speech Therapy, Audiology Services and Hearing Aids, Guam must indicate that audiology services and providers meet the requirements of 42 CFR 440.110.

Please respond to this letter within 90 days from the date of this letter with a corrective action plan describing how you will resolve the issues identified above. During the 90-day period, we are happy to provide any technical assistance that you need. State plans that are not in compliance with requirements at 42 CFR 430.10 are grounds for initiating a formal compliance process.

If you have any questions regarding this letter, please contact Tom Schenck by phone at (415) 744-3598, or by e-mail at tom.schenck@cms.hhs.gov.

Sincerely,



Gloria Nagle, Ph.D., MPA
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

cc: Mary Rydell, CMS Pacific Area Representative