

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
150 S. Independence Mall West  
Suite 216, The Public Ledger Building  
Philadelphia, Pennsylvania 19106-3499



**Region III/Division of Medicaid and Children's Health Operations**

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SWIFT: #051520134036

**MAY 24 2013**

Charles J. Milligan Jr.  
Deputy Secretary  
Health Care Financing  
MD Department of Health and Mental Hygiene  
201 West Preston Street, Room 525  
Baltimore, MD 21201

Dear Mr. Milligan:

This letter is being sent as a companion to our approval of Maryland's State Plan Amendment (SPA) 13-02 which reimburses certain providers at the statewide rate which reflects the Medicare mean value over all counties for Evaluation and Management codes 99201-99499 for dates of services between January 1, 2013 and December 30, 2014. In addition, the State will pay the federally calculated VFC vaccine administration charge. While we are proceeding with approval of MD SPA 13-02, this letter follows up on matters noted which were not in compliance with current Federal regulation, so that we can work with you to resolve the issues listed below.

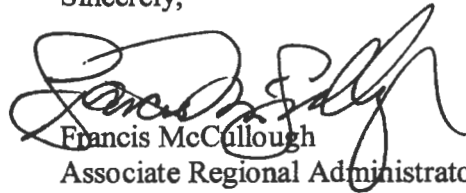
Section 1902(a) of the Social Security Act (the Act) requires that States have a State Plan for medical assistance that meets certain Federal requirements that set out a framework for the State program. Implementing regulations at 42 CFR 430.10 require that the State Plan be a comprehensive written statement describing the nature and scope of the State's Medicaid Program and that it contain all information necessary for the Centers for Medicare & Medicaid Services (CMS) to determine whether the plan can be approved to serve as the basis for Federal financial participation (FFP) in the State program. During our review of the SPA, CMS performed an analysis of the coverage and reimbursement pages related to this SPA, and found that additional clarification is necessary.

In reviewing the State Plan pages, CMS found companion page issues related to: (1) the State's Attachment 3.1A Page 8B, where the State offers a pre-print identifying the medical and remedial services provided to the categorically needy population. Under the pre-print pages, "certified pediatric or family nurse practitioner's services" are identified under "item 20.h." On page 31 G-a of Attachment 3.1A, however, the State describes its limitation to the aforementioned services under "item 23.h." Please make the necessary technical corrections to the State Plan pages. (2) The State can incorporate the Medicare standard in the Medicaid medical necessity criteria, but cannot rely solely on Medicare's decision. Determinations of medical necessity are the responsibility of the State. Therefore, the State needs to remove the language regarding Medicare from number 9 on Page 31G-2 of Attachment 3.1A. The State must remove relevant language to all applicable pages, including 3.1B.

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. A State Plan that is not in compliance with requirements at 42 CFR 430.10 and 42 CFR 440.167 is grounds for initiating a formal compliance process.

If you have any questions regarding this letter, please contact Lieutenant Commander Andrea Cunningham at (215) 861-4325. We look forward to working with you on these issues.

Sincerely,



Francis McCullough  
Associate Regional Administrator