Department of Health & Human Services
Centers for Medicare & Medicaid Services
61 Forsyth St., Suite 4T20
Atlanta, Georgia 30303-8909

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

January 31, 2011

Robert L. Robinson, D.B.A.
Executive Director
Division of Medicaid
Suite 1000, Walter Sillers Building
550 High Street
Jackson, Mississippi 39201

Attention: Virginia McCardle

Dear Dr. Robinson:

This letter is being sent as a companion to our approval of Mississippi State Plan Amendment (SPA) 10-032 which was filed to increase the availability of covered physical, occupational, and/or speech-language pathology services and provide for these services in a more cost efficient manner. During our review of MS 10-32, we noted that MS' State Plan financial page for these services does not meet comprehensiveness requirements. Based on that review, it was determined that attachment 4.19B, page 11 is not consistent with the following Medicaid statutory and regulatory requirements. Therefore, we would like to offer our continuing assistance with your efforts.

**Statutory and Regulatory Requirements**

Section 1902(a) of 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 containing all information necessary for CMS to determine whether the plan can be approved as a basis for Federal Financial Participation (FFP) in the State program. In addition, section 1902(a)(30)(A) of the Act requires that States have methods and procedures in place to assure that payments to providers are consistent with efficiency, economy, and quality of care. To be comprehensive, payment methodologies should be understandable, clear, and unambiguous. In addition, because the plan is the basis for FFP, it is important that the plan language provide an auditable basis for determining whether payment is appropriate.

**Comprehensiveness of the State Plan**

The current approved State plan for Mississippi does not identify the payment rate for physical, occupational, and/or speech-language pathology services, nor does it identify a methodology for determining the payment rate. The State indicates that it uses a fee schedule, but does not include the fee schedule itself, nor does it identify how providers and auditors can locate the applicable fee schedule and the period for which the fee schedule is in effect.

In order to comply with the above mentioned statutes and regulation, the State must amend its approved State plan to include information to comprehensively describe its payment rates for

these services. The State should insert language such as the following into each of the reimbursement provisions for Physical Therapy, Occupational therapy, Speech Therapy (attachment 4.19-B, page 11, items a, b, c, respectively).

**"Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of *(ex. case management for persons with chronic mental illness)*. The agency's fee schedule rate was set as of *(insert date here)* and is effective for services provided on or after that date. All rates are published *(ex. on the agency's website)*."**

**Cost Identification Process**

The current plan indicates that the Department of Education will be reimbursed at cost for these services, however, it does not describe those costs nor does it provide a comprehensive description of the cost identification process. Please submit a State plan amendment that complies with federal statute, regulation and policies by comprehensively describing the cost identification process. In addition, the State may need to publish public notice of any change in methods and standards, in accordance with 42 CFR 447.205, prior to the effective date of the SPA.

To assist you in ensuring compliance with current regulations and policy related to these provisions, we are describing in an attachment to this letter information the State should include to describe the cost process indicated on page 11 of attachment 4.19-B. The attachment is intended to help the State consider its options and understand the information necessary to support the current State plan reimbursement methodology.

Within 90 days of the date of this letter, the State is required to submit a State plan amendment that resolves the issues, or a corrective action plan to resolve the issues, whichever is appropriate. During the 90-day period, we are happy to provide any technical assistance that the State requires necessary. State plans that are not in compliance with requirements referenced above are grounds for initiating a formal compliance process.

If you have any questions or need any further assistance, please contact Yvette Moore at (404) 562-7327.

Sincerely,

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Dr. Robert Robinson
Attachment 1

**Reimbursement at Cost**

CMS has approved methodologies that annually reconcile interim payment rates to actual Medicaid cost for states that use CPEs, IGTs, or Medicaid State appropriated funding. The State Plan must include detailed language outlining how cost is identified. Attachment 4.19-B Plan language should include: a list of the services reimbursed at cost, reference to a CMS approved time study protocol and cost report format, a description of how the interim payments are derived, how the interim and final payments are reconciled, and timeframes for submission, reconciliation and settlement of the cost reports.

Direct costs include the actual salaries and actual benefits of Medicaid qualified providers and costs related to contracted employees. Indirect costs are identified by the Cognizant agency indirect cost rate or may be identified directly. A State can choose not to pay providers up to cost but must recover any overpayment if the plan requires payment up to or at cost. Any aggregate overpayment must be reflected as an adjustment to a State's reported Medicaid expenditures (CMS-64). To maintain efficiency and economy, reconciliation and settlement must be completed within two years of the end of the rate year. This timeframe meets the requirements of 45 CFR 95.7.