



**FEB 15 2011**

Bruce Goldberg, MD, Director  
Department of Human Services  
Human Services Building  
500 Summer Street Northeast, E-15  
Salem, Oregon 97301-1097

Dear Dr. Goldberg:

This letter is being sent as a companion to the Centers for Medicare & Medicaid Services (CMS) Oregon State Plan Amendment (SPA) Transmittal Number 10-017 approval letter. This amendment updates the State plan by disallowing Medicaid reimbursement for the same Hospital Acquired Conditions (HACs) that are not reimbursed by Medicare.

Based on our review, CMS has identified additional issues that need to be addressed in order to ensure compliance with the regulations at 42 Code of Federal Regulations (CFR) 447.272 and 42 CFR 447.206, which both establish Medicaid reimbursement limits for hospital services, and also with 42 CFR 447.252(b), which mandates that Medicaid State plan reimbursement language be comprehensive. The additional unresolved issues are embodied in the three numbered paragraphs below, which were excerpted from our November 4, 2011, request for additional information (RAI). In order to make changes to the State plan language, which CMS requests in paragraph 2 below, we ask that the State also submit a SPA for our review. We welcome the opportunity to work with you and your staff to resolve these issues.

1. The Medicaid acuity adjustment in the proposed Upper Payment Limit (UPL) calculation substitutes the Medicare Diagnosis-Related Group (DRG) factors with the Medicaid DRG factors for each Medicaid discharge. Please submit a spreadsheet that shows this DRG substitution for each Medicaid discharge and, using these Medicaid DRG factors, shows the entire calculation, summed by each hospital that results in the UPL for each of the State's UPL categories. If the State chooses to use the currently approved Case Mix Index (CMI)-based Medicaid acuity UPL adjustment, instead, please consult with CMS to ensure that the CMI-based formula is applied accurately.
2. Since Oregon's ProShare payments are based on the calculation of the UPL, in order to meet the 42 CFR 447.252(b) comprehensive reimbursement language requirements, the State plan must include a narrative description of the UPL methodology. The narrative UPL description, which the State had submitted by email on October 7, 2010, in response to CMS informal question 5, describes the UPL process in sufficient detail to meet this State plan requirement. If the State opts to use this language in the State plan, it must be modified, as necessary, to agree with the State's proposed UPL calculation and also describe a UPL calculation that is wholly acceptable to CMS.

3. The State proposes to base its ProShare payments on the sum of Medicaid discharges from the prior quarter based on the Date of Service (DoS) of these discharges. How does the State intend to ensure that claim run out is adequately captured if ProShare payments are made in the month after the prior quarter ends? Since many claims with a DoS in the prior quarter will not have been processed yet by the State, CMS believes that this method will artificially inflate the UPL gap and, consequently, ProShare payments. Please submit a ProShare payment methodology for CMS to review that more accurately calculates the UPL gap. Examples of more accurate methodologies could be ProShare payments that are based on Medicare discharge claims paid in the prior quarter or a DoS method that captures claim from quarter before the prior quarter, in which it can be demonstrated that claims run out does not result in an unreasonable estimation of the UPL gap.

Please respond to this letter no later than 90 days from the date of this letter, with a corrective action plan describing how the State will resolve the issues identified above. Failure to respond timely will result in our initiation of the formal compliance process. During the 90 days, CMS is we are willing to provide any necessary technical assistance. If you have any questions, please contact me, or have your staff contact Joe Fico at (206) 615-2380 or [joseph.fico@cms.hhs.gov](mailto:joseph.fico@cms.hhs.gov).

Sincerely,

Barbara K. Richards  
Associate Regional Administrator  
Division of Medicaid and Children's Health  
Operations

cc: Judy Mohr Peterson, Administrator, Division of Medical Assistance Programs