



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

Center for Medicaid and State Operations

7500 Security Boulevard

Baltimore, MD 21244-1850

May 6, 1998

Dear State Medicaid Director:

This letter is a follow up to the State Medicaid Director's (SMD) letter that was issued on March 25, 1998 (#17 in the series of letters on managed care) providing guidance on the implementation of the Balanced Budget Act of 1997(BBA). That letter explained the impact of the BBA's limited exemption from new managed care requirements for waiver programs under section 1115 and 1915(b) of the Act. This is the eighteenth in the series of letters on the BBA's managed care provisions. (See the Enclosure to this letter for a list of managed care letters already issued.)

Section 4710(c) of the BBA provides that none of the provisions contained in sections 4701 through 4710 of the BBA will affect the terms and conditions of any approved waiver under section 1915(b) or 1115 of the Act, as the waiver stood on the date of the BBA enactment (August 5, 1997).

The March 25 letter contained guidance to be used in reviewing each current waiver programs with regard to each provision in sections 4701 through 4710 (in consultation with the HCFA Regional Office) to determine whether and to what extent specific BBA provisions apply to the State's waiver programs. Since that letter was issued, a number of questions have been raised as to whether a State which operates a managed care program under a section 1915(b) or 1115 waiver would be exempt from the prudent layperson's definition of emergency medical condition contained in section 4704(a) of the BBA.

The primary factor in determining whether a particular BBA provision applies to a waiver is whether that provision is specifically addressed in State documentation approved by HCFA. The use of a prudent layperson's definition of emergency medical condition was cited as an example of a BBA provision which would have to be implemented, in the response to Questions #2 in the enclosure to the March 25 letter. States which did not previously apply a prudent layperson concept to their definition of an emergency medical condition in their section 1915(b) or section 1115 waiver programs would have to implement this provision with respect to all contracts entered into or renewed on or after October 1, 1997.

Although the answer in the March 25 letter was written in the context of a response to a question on 1915(b) waivers, it was intended that the rule be applied to all waiver programs. If you have any questions regarding this provisions, please contact Bruce Johnson in the Center for Medicaid and State Operations, on (410) 786-0615.

Sincerely,

/s/

Sally Richardson

Director

Center for Medicaid and State Operations

Enclosure

cc: Lee Partridge, American Public Welfare Association Jennifer Baxendell, National Governors' Association
Joy Wilson, National Conference of State Legislators All HCFA Regional Administrators All HCFA Associate
Regional Administrators for Medicaid and State Operations HCFA Press Office

Enclosure

BBA MANAGED CARE STATE LETTERS

Section Subject Date Issued

4701 SPA Option for Managed Care 12/17/97

4704(a) Specification of Benefits 12/17/97

4707(a) Marketing Restrictions 12/30/97

4704(a) Miscellaneous Managed Care Provisions 12/30/97

4704(b) 4706 4707(a) 4707(c) 4708(b) 4708(c) 4708(d)

4701 Choice, MCE Definition, Repeal of 75/25, and Approval Threshold 1/14/98

4703

4708(a)

4705 External Quality Review 1/20/98

4704(a) Mental Health Parity 1/20/98

4701(a) Enrollment, Termination, and Default Assignment 1/21/98

4702 PCCM Services Without Waiver 1/21/98

4707(a) Sanctions for Noncompliance 2/20/98

4701(a) Provision of Information & Effective Dates 2/20/98

4710(a)

4704(a) Emergency Services 2/20/98

4704(a) Grievance Procedure 2/20/98

4707(a) Prohibiting Affiliations with Debarred Individuals 2/20/98

4704(a) Anti-discrimination of Providers and Anti-Gag Rule 2/20/98

4707(a) Marketing Restrictions 2/20/98

4710(c) Application to Waivers 3/25/98