

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Dallas Regional Office  
1301 Young Street, Suite 833  
Dallas, Texas 75202



**DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI**

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February 6, 2015

Ms. Ruth Kennedy, Director  
Bureau of Health Services Financing  
Department of Health and Hospitals  
Post Office Box 91030  
Baton Rouge, Louisiana 70821-9030

RE: Louisiana 14-0038

Dear Ms. Kennedy:

We have reviewed the proposed amendment (SPA) to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 14-0038. Effective for services on or after October 1, 2014, this amendment proposes that private and non-state Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) may receive an add-on payment to the per diem rate for providing complex care.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act (the Act) and the regulations at 42 CFR 447 Subpart C. Before we can continue processing this amendment, we need additional or clarifying information.

The regulation at 42 CFR 447.252(b) requires that the State plan include a comprehensive description of the methods and standards used to set payment rates. Section 6002 of the State Medicaid Manual explains further that the State plan must be comprehensive enough to determine the required level of Federal Financial Participation (FFP) and to allow interested parties to understand the rate setting process and the items and services that are paid through these rates. Further, since the plan is the basis for FFP, it is important that the plan's language be clear and unambiguous. Therefore, we have the following questions/concerns regarding TN 14-0038:

**UPPER PAYMENT LIMIT (UPL)**

1. Please submit an Upper Payment Limit (UPL) Demonstration for ICF/DD as per SMD letter #13-003. In November 2013, additional guidance on the other UPLs (clinic, physician, and ICF/IID) was placed on the CMS web-site.

Please note that the State should also keep all source documentation on file for review. Please include a detailed narrative description of the methodology for calculating the upper payment limit in the funding questions. The State responded as follows:

**Response: The State requests to use the same UPL demonstration binder and calculations submitted for the recently approved SPA TN 13-43.**

Please note CMS has concerns that there may not be enough room in the UPL demonstration to allow for the additional FFP of approximately \$2.8 million for proposed plan amendments, LA 14-0038 and LA 14-0036. We reviewed the UPL demonstration calculation for SFY 2014, and it does not appear that there is enough room for the public ICF/IID and a small gap for the private ICF/IID.

Since the CMS-179 notes a positive federal impact for FFY 2015 and 2016, the State needs to provide an estimated UPL demonstration for SFY 2015.

Additionally, the State needs to provide assurance to CMS that the proposed plan amendments, LA 14-0038 and 14-0036, will not exceed the room available in their UPL demonstration. What additional monitoring efforts will the State implement to review the ICF/IID rates within the UPL?

**FUNDING QUESTIONS**

2. Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:
  - (i) a complete list of the names of entities transferring or certifying funds;
  - (ii) the operational nature of the entity (state, county, city, other);
  - (iii) the total amounts transferred or certified by each entity;
  - (iv) clarify whether the certifying or transferring entity has general taxing authority; and,
  - (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).

The State responded as follows:

**Response: The State's share is paid from the state general fund. CPEs and IGTs are not applicable.**

Please clarify if the State share is appropriated directly to the Medicaid Agency. Is the state share appropriated directly to the Sister Agency, Office for Citizen with Developmental Disabilities (OCDD) and does the Sister Agency transferred the state match funds to the Medicaid Agency?

In accordance with our guidelines to State Medicaid Directors dated January 2, 2001, if we have not received the State's response to our request for additional information within 90 days from the date of this letter, we will initiate disapproval action on the amendment.

We are requesting this additional/clarifying information under provisions of section 1915(f) of the Social Security Act (added by PL 97-35). This has the effect of stopping the 90-day clock for CMS to take action on the material. A new 90-day clock will not begin until we receive your response to this request.

Please submit your response to the following address:

Centers for Medicare and Medicaid Services  
Division of Medicaid and Children's Health Operations  
Dallas Regional Office  
Attention: Bill Brooks  
1301 Young Street, Suite 833  
Dallas, Texas 75202

If you have any questions, please contact Tamara Sampson, of my staff, at (214) 767-6431 or by e-mail at [Tamara.Sampson@cms.hhs.gov](mailto:Tamara.Sampson@cms.hhs.gov).

Sincerely,

Bill Brooks  
Associate Regional Administrator  
Division of Medicaid and Children's Health Operations