

FOR FURTHER INFORMATION CONTACT: Greg Case at (202) 357-3442 or greg.case@aoa.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology. AoA plans to submit to the Office of Management and Budget for approval *Program Announcement and Grant Application Instructions Template for the Older Americans Act Title IV Discretionary Grants Program*. The Program Announcement and Application Instructions provide the requirements and instructions for the submission of an application for funding opportunities of the Administration on Aging under Title IV of the Older Americans Act. Through its Title IV Program, the Administration on Aging (AoA) supports projects for the purpose of developing and testing new knowledge and program innovations with the potential for contributing to the well-being of older Americans. The Program Announcement template may be found on the AoA Web site at <http://www.aoa.gov/doingbus/doingbus.asp>.

AoA estimates the burden of this collection of information as follows:

Frequency: The number of program announcements published is dependent upon the budget authorization for each Fiscal Year. AoA publishes an average of 10 to 15 program announcements per year.

Respondents: States, public agencies, private nonprofit agencies, institutions of higher education, and organizations including tribal organizations.

Estimated Number of Responses: 300 annually.

Total Estimated Burden Hours: 14,400.

Dated: October 12, 2006.

Josefina G. Carbonell,

Assistant Secretary for Aging.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of New York State Plan Amendment 05-49

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to be held on November 22, 2006, at 26 Federal Plaza, Room 38-110a, New York, NY, 10278, to reconsider CMS' decision to disapprove New York State plan amendment 05-49.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by November 2, 2006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, Lord Baltimore Drive, Mail Stop LB-23-20, Baltimore, Maryland 21244. Telephone: (410) 786-2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove New York State plan amendment (SPA) 05-49 which was submitted on September 29, 2005. This SPA was disapproved on June 21, 2006.

Under SPA 05-49, New York proposed to extend previously approved provisions that provide funding to home care agencies for the purpose of maintaining or subsidizing health insurance coverage for employed home care workers.

The amendment was disapproved because it did not comport with the requirements of sections 1902(a)(4), 1902(a)(10)(A), 1902(a)(30)(A), and 1905(a) of the Social Security Act (the Act) and implementing regulations.

The issues in this reconsideration are whether:

(1) The proposed payments are for services to eligible individuals within the scope of the eligibility provisions of section 1902(a)(10) of the Act, as applied consistent with the limitations in the definition of medical assistance at section 1905(a) of the Act;

(2) The proposed payments are for services that are within the scope of covered medical assistance, as set forth in section 1905(a) of the Act and incorporated by section 1902(a)(10) of the Act;

(3) It is necessary for the proper and efficient operation of the plan for the State to include in the State plan a provision to provider costs that are not within the statutory definition of medical assistance; and

(4) The proposed payments are consistent with efficiency and economy as required by section 1902(a)(30)(A) of the Act.

We discuss these issues in more detail below, as set forth in the initial disapproval decision. The proposed payments under SPA 05-49 are not for a group or category of individuals who are eligible under the statute under either section 1902(a)(10) of the Act nor as medical assistance for a covered benefit under 1905(a) of the Act. The proposed methodology would directly compensate home health and personal care employers for health insurance costs.

Under the Medicaid statute, Federal funding is only available for medical assistance for Individuals eligible under the approved State plan. Section 1902(a)(10) of the Act lists mandatory and optional groups of individuals who may be eligible for medical assistance. Section 1902(a)(10) of the Act must be read in concert with section 1905(a) of the Act, which defines medical assistance benefits (including additional specification of the categories of eligible individuals).

For the same reasons, SPA 05-49 is not consistent with the requirements of section 1902(a)(4) of the Act. Section 1902(a)(4) of the Act requires that State Medicaid plans provide for methods of administration that are found by the Secretary to be necessary for the proper and efficient operation of the plan. It is not considered necessary for the proper and efficient operation of the plan for the State to include in the State plan a provision which would pay for provider

costs furnished to eligible individuals that are not within the statutory definition of medical assistance. It will result in State claims for FFP in expenditures as medical assistance which are not within the statutory definition of medical assistance.

Furthermore, section 1902(a)(30)(A) of the Act requires that State plan payment rates must be consistent with efficiency, economy, and quality of care. The payments that would be made under SPA 05-49 are for care or services that are not within the scope of medical assistance, and are not furnished to Medicaid-eligible individuals. Instead, the SPA would authorize a pool of funding, to subsidize health insurance that would be furnished to home health and personal care workers. The proposed payments would not be payment for identifiable covered Medicaid services, as defined under section 1905(a)(30)(A) of the Act.

Section 1116 of the Act and Federal regulations at 42 CFR part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. CMS is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to New York announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Gregor N. Macmillan, Director, State of New York, Department of Health, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, NY 12237.

Dear Mr. Macmillan:

I am responding to your request for reconsideration of the decision to disapprove New York State plan amendment (SPA) 05-49, which was submitted on September 29, 2005, and disapproved on June 21, 2006. Under SPA 05-49, New York was proposing to provide supplemental funding to home care agencies for the purpose of maintaining

or subsidizing health insurance coverage for employed home care workers.

The amendment was disapproved because it did not comport with the requirements of section 1902(a)(4), 1902(a)(10)(A), 1902(a)(30)(A), and 1905(a) of the Social Security Act (the Act) and implementing regulations.

The issues in this reconsideration are whether:

(1) The proposed payments are for services to eligible individuals within the scope of the eligibility provisions of section 1902(a)(10) of the Act, as applied consistent with the limitations in the definition of medical assistance at section 1905(a) of the Act;

(2) The proposed payments are for services that are within the scope of covered medical assistance, as set forth in section 1905(a) of the Act and incorporated by section 1902(a)(10) of the Act;

(3) It is necessary for the proper and efficient operation of the plan for the State to include in the State plan a provision to provider costs that are not within the statutory definition of medical assistance; and

(4) The proposed payments are consistent with efficiency and economy as required by section 1902(a)(30)(A) of the Act.

We discuss these issues in more detail below, as set forth in the initial disapproval decision.

The proposed payments under SPA 05-49 are not for a group or category of individuals who are eligible under the statute under either section 1902(a)(10) of the Act nor as medical assistance for a covered benefit under 1905(a) of the Act. The proposed methodology would directly compensate home health and personal care employers for health insurance costs. Under the Medicaid statute, Federal funding is only available for medical assistance for individuals eligible under the approved State plan. Section 1902(a)(10) of the Act lists mandatory and optional groups of individuals who may be eligible for medical assistance. Section 1902(a)(10) must be read in concert with section 1905(a) of the Act, which defines medical assistance benefits (including additional specification of the categories of eligible individuals). For the same reasons, SPA 05-49 is not consistent with the requirements of section 1902(a)(4) of the Act. Section 1902(a)(4) of the Act requires that State Medicaid plans provide for methods of administration that are found by the Secretary to be necessary for the proper and efficient operation of the plan. It is not considered necessary for the proper and efficient operation of the plan for the State to include in the State plan a provision which would pay for provider costs furnished to eligible individuals that are not within the statutory definition of medical assistance. It will result in State claims for Federal financial participation in expenditures as medical assistance which are not within the statutory definition of medical assistance.

Furthermore, section 1902(a)(30)(A) of the Act requires that State plan payment rates must be consistent with efficiency, economy, and quality of care. The payments that would be made under SPA 05-49 are for care or

services that are not within the scope of medical assistance, and are not furnished to Medicaid-eligible individuals. Instead, the SPA would authorize a pool of funding, to subsidize health insurance that would be furnished to home health and personal care workers. The proposed payments would not be payment for identifiable covered Medicaid services, as defined under section 1905(a)(30)(A) of the Act.

I am scheduling a hearing on your request for reconsideration to be held on November 22, 2006, at 26 Federal Plaza, Room 38-110a, New York, NY, 10278, to reconsider the decision to disapprove SPA 05-49. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer at (410) 786-2055. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing.

Sincerely,

Mark B. McClellan, M.D., PhD

Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: September 29, 2006.

Mark B. McClellan,
Administrator.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Minnesota State Plan Amendment 05-015B

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing to be held on December 4, 2006, at 233 N. Michigan Avenue, Suite 600, the Illinois Room, Chicago, IL 60601, to reconsider CMS' decision to disapprove Minnesota State plan amendment 05-015B.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by November 2, 2006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding