

## DC Update

April 11, 2008

### House Energy and Commerce Subcommittee on Health Holds a Mark Up of HR 5613, Protecting the Medicaid Safety Net

On Wednesday, April 9, 2008 the Energy and Commerce Subcommittee on Health, chaired by Representative Frank Pallone, Jr. (D-NJ), passed out of committee a bill that would place moratoria on 7 Medicaid regulations. After opening statements concluded, Representative John Dingell (D-MI) Chairperson of the Energy and Commerce Committee offered an amendment in the nature of a substitute. Though this changes the bill, language still remains to impose moratoria on the 7 disputed Medicaid regulations; however included a couple additional provisions. Additional language was included to create an independent study of the rules as well as a report by HHS describing the rules and justification for the provisions and \$25 million will be allocated to the CMS budget for anti-fraud activities related to Medicaid. Further, offsets were included to cover the \$1.65 billion cost.

It appears this was a bi-partisan agreement reached prior to the mark up. Ranking member Joe Barton (R-TX) signaled that "I have asked the Administration and am reasonably confident that they will accede to my request that if the Manager's Amendment is ultimately presented to them that they will not veto the legislation." The full committee is expected take up the bill next week.

It is unclear whether the House will try to move this bill as a stand alone or attach to another legislative vehicle. NACBHDD will update members as new information becomes available.

### Medicaid Moratoria Legislation in the Senate

Last week, Senators John D. Rockefeller IV (D-WV), Olympia J. Snowe (R-ME) and Edward M. Kennedy (D-MA) introduced a similar Medicaid regulations moratoria bill S. 2819, the Economic Recovery in Health Care Act of 2008. The bill language includes moratoria for the same 7 Medicaid regulations as well as an additional one for the Departmental Appeals Board (DAB) proposed rule. Further, the bill addresses the August 17, 2007 Children's Health Insurance Program (CHIP) directive and provides \$12 billion for state fiscal relief, through June 30, 2009, by increasing federal Medicaid matching payments and issuing targeted grants to states. For States to qualify for the additional funding they will be subject to reduction in employment, increase in food stamps participation and an increase in the foreclosure rate.

NACBHDD will continue to update members on the status of this legislation. To contact your Representative and Senators and urge them to cosponsor the House or Senate legislation check the *Advocator* on NACBHDD's website at: <http://advocacy.networkofcare.org/nacbhdd/>

### CMS issues Home and Community Based State Plan Services Proposed Rule

On Friday, April 4, 2008 the Centers for Medicare and Medicaid Services (CMS) published a proposed rule in the *Federal Register* to implement the Home and Community Based State Plan Services. As a result of the Deficit Reduction Act of 2005, the new section, 1915(i) of the Social Security Act, is now available as an option for state Medicaid plans. This new provision allows states to provide home and community based services under a state plan instead of receiving federal financial participation for services that were previously eligible under waiver or demonstration projects. Section 1915(i) will

require States to identify a prescribed set of services, yet will not link eligibility to institutional level of care as is required for 1915(c) waivers.

Please check future DC Updates and email alerts for further information and analysis. Comments on the rule must be received by CMS no later than 5pm on June 3, 2008.

The proposed rule can be viewed at: <http://edocket.access.gpo.gov/2008/pdf/08-1084.pdf>

### **Notice of proposed rulemaking issued for the Developmental Disabilities Assistance and Bill of Rights Act of 2000**

On April 10, 2008 the Department of Health and Human Services, Administration for Children and Families, Administration on Developmental Disabilities issued a Notice of proposed rulemaking (NPRM) in the *Federal Register*. This proposed rule was issued to clarify new requirements to implement the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act of 2000).

*Summary: This rule proposes clarifications and new requirements to implement the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act of 2000). Of particular note, the proposed rule covers responsibilities of the Secretary in the area of program accountability and the indicators of progress. Under the proposal, one or more measures of progress must be used to measure the goal(s) developed for each area of emphasis. The areas of emphasis include: (1) Quality assurance activities; (2) education activities and early intervention activities; (3) child care-related activities; (4) health-related activities; (5) employment-related activities; (6) housing-related activities; (7) transportation-related activities; (8) recreation-related activities; and (9) other services available or offered to individuals in a community, including formal and informal community supports that affect their quality of life.*

Comments are due by June 9, 2008. NACBHDD will provide further information as it becomes available.

Full Text: To access the complete notice, please open this link or paste it into your browser:

<http://edocket.access.gpo.gov/2008/E8-7412.htm>

### **Second Chance Act Signed into Law**

On April 9, President Bush signed into law the Reducing Recidivism and Second Chance Act of 2007 (Second Chance Act). This important legislation provides grants to states and local governments to promote reintegration into the community for individuals who have been incarcerated. These reentry programs focus on housing, jobs, addiction treatment, mental health treatment, and services for families and children of incarcerated parents to assist in the transition of prisoners into the community.

NACBHDD will be working with other advocates to ensure appropriate funding for these important programs.