



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Region 10  
2201 Sixth Avenue, MS/RX-43  
Seattle, Washington 98121

July 31, 2009

RECEIVED

Mr. William H. Hogan, Commissioner  
Department of Health and Social Services  
P.O. Box 110601  
Juneau, Alaska 99811-6601

AUG 05 2009  
Office of the Commissioner  
DHSS - Juneau

Dear Mr. Hogan:

Re: Centers for Medicare & Medicaid Services (CMS) Review of Alaska's Home and Community-Based Services (HCBS) and Personal Care Services Programs

Thank you for your letter of July 13, 2009, where you indicated your willingness to work with CMS in addressing the issues identified in our review of the State's home and community-based waivers. We appreciate your cooperation and responsiveness in addressing the concerns and we look forward to working with you and your staff in the coming months to strengthen the State's waivers and respond to the long-term care needs of Alaska's Medicaid beneficiaries. We have discussed many of the issues raised in your letter in our meetings over the past few weeks, but we wanted to provide you with a complete, written response.

In your July 13th letter, you asked for clarification on particular issues and we have provided answers to your questions below. As you and Cindy Mann discussed on July 30th, CMS is considering modifications to the moratorium, which may require further clarifications to the answers provided in this document. In response to our call on July 27, 2009, we have enclosed guidance on the necessary Immediate Actions to be completed by the State. Additionally, CMS received the July 27, 2009 letter from the Director of the Division of Seniors and Disabilities Services and appreciates the additional information and clarifications provided in that letter. We hope our responses provide you with sufficient information for moving forward. In the event you need additional clarification to address the immediate needs, please let us know and we will provide that information without delay.

Please see your requests (in italics) and our clarifying information provided below:

- 1. Does the moratorium apply to new enrollments and admissions after June 26, 2009, so that those people who were "in process" prior to June 26<sup>th</sup> (e.g., waiting for an*

*assessment, waiting for fair hearings, etc.) could still access services or are those individual also "precluded" from accessing services due to the moratorium?*

The moratorium applies to all individuals not actively enrolled and receiving services under the waivers as of the June 26<sup>th</sup> moratorium date. Those individuals for whom a financial and Level of Care determination has been completed are considered actively enrolled and the moratorium would not apply to those individuals. In addition, the moratorium should not affect activities related to updating the plans of care of current participants. The State must ensure that all participants have current plans of care, and that they receive all services required to assure their health and welfare.

- 2. It has been our practice to transfer qualifying Children with Complex Medical Conditions (CCMS) or Adults with Physical Disabilities (APD) waiver recipients to another waiver upon aging out of those programs in order to avoid disruption in services. Does the moratorium apply to individuals who are currently on waivers who, because of their age, need to be transferred to a different waiver?*

No. The moratorium does not apply to transfer of existing waiver participants to another waiver due to "aging out."

- 3. It is our understanding from a short telephone conversation with Carol Peveryly on June 30, 2009, that the backlog referenced on AA Page 14, #4, has to do with reassessments, not initial assessments. Please confirm.*

That is correct. The moratorium does not allow new enrollments into the waiver programs, beyond those permitted as described above in response to question #2. Therefore, timely completion of initial assessments, for individuals not yet enrolled, is not the priority at this time. As we've discussed, the goal is that all reassessments will be completed as soon as possible, so that the individuals receiving services through the waiver are adequately served, and the State is able to assure their health and welfare.

- 4. "Immediate Action" item #2 appears to conflict with #6 under Phase 2--Summer 2009. Is the intent to have face-to-face training after the Web training?*

CMS and the National Quality Enterprise (NQE) will work in conjunction with the State to develop timelines for delivery of the mandated trainings, to be included in the action plan. CMS will schedule a web-based training specifically for Alaska at a time convenient for the State. Timing of the training schedule should not delay the implementation of immediate actions or the development of the State's Corrective Action Plan (CAP).

5. *Does the State need to amend the State Plan to simply reference the use of the PCAT for the Personal Care Services or is more detail about how the PCAT is used required with the State Plan?*

The State's use of the PCAT in the delivery of Medicaid Personal Care Services (PCS), in and of itself, does not require a modification of the State Plan, as the Plan refers to a screening tool. However, information provided to CMS by the State as recently as July 31, 2009, refers to the "Personal Care Assistant (PCA) Waiver program." As the State has not requested and CMS has not approved Medicaid waiver authority for a PCA program in Alaska, our understanding is that the system of delivery and provision of PCS services to Medicaid beneficiaries in Alaska is subject to your current State Plan.

Medically necessary services provided to Medicaid beneficiaries must be delivered in accordance with the approved Alaska Medicaid State Plan. We will work with you to determine if Alaska is providing PCS through the PCA program consistent with the currently approved state plan, or whether a waiver or other authority is required, in which case the State would need to formally request approval from CMS to receive that authority. CMS is available to discuss the Alaska PCA program further, and to provide technical assistance in determining the options available for the State in the delivery of PCS services.

Thank you for working in collaboration with CMS to resolve these issues as quickly as possible to achieve the State's and CMS' goal of protecting and enhancing the health and welfare of the State's waiver beneficiaries. If you need additional information, please contact me.

Sincerely,



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

Enclosure

cc: Patrick Hefley, Deputy Commissioner, Family, Community & Integrated Services  
William Streur, Deputy Commissioner, Medicaid and Health Care Policy  
Rebecca Hilgendorf, Director, Senior and Disability Services  
Cindy Mann, CMS, Director of the Center for Medicaid & State Operations  
Jackie Garner, CMS, Medicaid Consortium Administrator  
Terry Pratt, CMS, Acting Group Director, Disabled and Elderly Health Programs  
Suzie Bosstick, CMS, Director, Division of Community & Institutional Services

**IMMEDIATE ACTIONS NECESSARY**  
**ON ALASKA HCBS WAIVERS**

Issue/ Item	Deliverables	Due Dates
<b>Corrective Action Plan</b>		
Corrective Action Plan	1. State to submit Corrective Action Plan to CMS for review and approval.	September 3, 2009
<b>Reassessments</b>		
Elimination of backlogs of reassessments for HCBS waiver enrollees	1. Written weekly status updates on backlog and completed reassessments specified by waiver. 2. Once all backlogged reassessments are completed, the State will track and monitor assessments and reassessments as part of their QI Strategy.	1. Status updates submitted no later than close of business on Thursday preceding each Monday's weekly progress meeting. 2. Backlog elimination completed by September 3, 2009 (in accordance with commitment from State on July 27, 2009 call).
State must have data substantiating reported statistics available for CMS review upon request.		
<b>Fair Hearings</b>		
Fair Hearing Information	1. Provide CMS with a report in chart format listing the fair hearings filed between 7/1/2008 to 6/30/2009. This chart should separate the data by waiver and should include the following information: 1. Nature/Issue of Appeal (e.g., eligibility denial, reduction in services, termination of services, etc.) 2. Nature of Disposition (e.g., SMA decision upheld or overturned or otherwise settled). 3. Description of	September 3, 2009

Issue/ Item	Deliverables	Due Dates
	<p>the methods undertaken to address remediation and systems improvement.</p> <p>2. As outstanding fair hearings are adjudicated, provide CMS with dispositions during weekly status updates (in writing).</p>	
<p>State must have data substantiating reported statistics available for CMS review upon request.</p>		
<p><b>Mortality Reviews</b></p>		
<p>Review all death certificates for the outstanding 227 deaths and report causes in the aggregate</p>	<p>1. Provide a report of the deaths and causes, in the aggregate, by waiver.</p> <p>2. Identify trends from initial review. Include details on any deaths that require referral to law enforcement.</p>	<p>September 3, 2009</p>
<p>State must have data substantiating reported statistics available for CMS review upon request.</p>		