

Dated: October 12, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Occupational Health and Safety Research, Program Announcement (PA) 04038

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Occupational Health and Safety Research, Program Announcement (PA) 04038.

Times and Dates: 7 p.m.-7:30 p.m., November 4, 2004 (Open); 7:30 p.m.-9 p.m., November 4, 2004 (Closed); 8 a.m.-5 p.m., November 5, 2004 (Closed).

Place: Courtyard by Marriott Louisville Downtown, 100 South Second Street, Louisville, KY 40202, phone (502) 562-0200.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include a site visit and the review, discussion, and evaluation of an application received in response to Program Announcement Number 04038.

Contact Person for More Information: Chuck Rafferty, Ph.D., Research Grants Program Officer, Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE., MS-E74, Atlanta, GA 30333, Telephone (404) 498-2530.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 12, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of California's Medicaid State Plan Amendment 03-028B

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on California's Medicaid State Plan Amendment (SPA) 03-28B to be held on December 2, 2004, 10 a.m., 75 Hawthorne Street; 4th Floor Conference Room, San Francisco, California 94105-3901 to reconsider our decision to disapprove SPA 03-028B.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by November 2, 2004.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove California's Medicaid State Plan Amendment (SPA) 03-28B.

California submitted SPA 03-28B on September 18, 2003. In this SPA, California proposed to provide targeted case management (TCM) services in several counties for two populations: persons on probation, and individuals with a public guardian. By letter dated July 6, 2004, the Centers for Medicare & Medicaid Services (CMS) disapproved the SPA.

At issue in this reconsideration is whether SPA 03-28B is consistent with the requirements contained in sections 1902(a)(10) and 1902(a)(23), of the Social Security Act (the Act), as described in more detail below. In general, CMS found that the SPA had three fundamental problems: (1) The proposed TCM services duplicate services that are integral components of the State's adult probation program and the State's public guardian program; (2) the amendment would result in charges to Medicaid for services available

without charge to individuals on probation; and (3) the provider qualifications limit providers of services for these groups to the probation officers employed by the county probation departments and to court-appointed guardians under county public guardian agencies.

More specifically, at issue is whether the SPA complies with the requirement in section 1902(a)(10) of the Act which authorizes State Medicaid plans to provide for "medical assistance." In the definition of that term, at section 1905(a)(19) of the Act, case management services are authorized "as defined in section 1915 (g)(2)." That section defines case management as services that assist beneficiaries in gaining access to needed services. The Congressional Conference committee report accompanying Pub. L. 99-272, which added section 1915(g) to the Act, emphasized that payment for case management services must not duplicate payments made to public agencies or private entities under other program authorities for the same purpose. CMS uses the term "duplication of required coverage to refer to this situation. In this instance, Medicaid payment for services provided by the adult probation program and the public guardian program would duplicate payments under other programs that are the responsibility of the State government. Because the congressional definition of Medicaid TCM excluded duplicate coverage, CMS determined that the proposed case management services are not within the scope of the definition of "medical assistance" that is authorized to be included in a State Medicaid plan by section 1902(a)(10).

The CMS' reading of the term "medical assistance" to exclude "duplication of required coverage" is also consistent with the language of section 8435 of Pub. L. 100-647, which states that the Medicaid case management benefit is not to be construed as to require the Secretary of Health and Human Services to make payment for case management services that are provided without charge to the users of such services. Approval of SPA 03-028B would be contrary to this provision, because the proposed adult population services are available without charge.

In addition, at issue is whether the proposed SPA is consistent with the requirements at section 1902(a)(23) of the Act that a state plan must provide that beneficiaries may obtain services from any qualified entity or person who undertakes to provide such services. The proposed SPA restricts providers of