

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers For Medicare & Medicaid Services****Notice of Hearing: Reconsideration of Disapproval of Connecticut Medicaid State Plan Amendment (SPA) 01-011B**

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 30, 2002, at 10 a.m., at the JFK Federal Building; Room 2250, Boston, Massachusetts 02203-0003, to reconsider our decision to disapprove Connecticut SPA 01-011B.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by July 30, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, C1-09-13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410)-786-2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Connecticut SPA 01-011B.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Centers for Medicare & Medicaid (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 issue is whether SPA 01-011B complies with requirements for publication of public notice and the effective date. Connecticut submitted SPA 01-011B on September 21, 2001.

The amendment would provide an update factor for inpatient hospital rates as of July 1, 2001. The State indicated in its response dated February 22, 2002, that it published a public notice on September 26, 2001. Under section 1902(a)(13)(A) of the Act, payment rates for hospital services must be established through a public process which includes notice and a reasonable opportunity for review and comment. Federal regulations at 42 CFR 447.205 state that the public notice must be published before the proposed effective date of any significant change in payment rates. The CMS interprets this advance public notice requirement to mean the notice must be published at least one calendar day prior to the proposed effective date.

Therefore, the earliest approvable effective date for this amendment is September 27, 2001. Because the State requested an effective date of July 1, 2001, CMS was unable to approve the requested amendment.

I am scheduling a hearing on your request for reconsideration to be held on August 30, 2002, at 10 a.m., at the JFK Federal Building, Room 2250, Boston, Massachusetts 02203-0003, to reconsider our decision to disapprove Connecticut SPA 01-011B.

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. 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. The presiding officer may be reached at (410) 786-2055.

Mr. Michael P. Starkowski, Deputy Commissioner, State of Connecticut, Department of Social Services, 25 Sigourney Street, Hartford, CT 06106-5033.

Dear Mr. Starkowski: I am responding to your request for reconsideration of the decision to disapprove Connecticut State Plan Amendment (SPA) 01-011B.

The issue involves publication of public notice and effective date. Connecticut submitted SPA 01-011B on September 21, 2001. The amendment would provide an update factor for inpatient hospital rates as of July 1, 2001. For the reasons stated below, the Centers for Medicare & Medicaid Services

(CMS) was unable to approve this amendment.

The issue is whether SPA 01-011B complies with requirements for publication of public notice and the effective date. Connecticut submitted SPA 01-011B on September 21, 2001. The amendment would provide an update factor for inpatient hospital rates as of July 1, 2001. The State indicated in its response dated February 22, 2002, that it published a public notice on September 26, 2001. Under section 1902(a)(13)(A), payment rates for hospital services must be established through a public process which includes notice and a reasonable opportunity for review and comment. Federal regulations at 42 CFR 447.205 state that the public notice must be published before the proposed effective date of any significant change in payment rates. The CMS interprets this advance public notice requirement to mean the notice must be published at least one calendar day prior to the proposed effective date. Therefore, the earliest approvable effective date for this amendment is September 27, 2001. Because the State requested an effective date of July 1, 2001, CMS was unable to approve the requested amendment.

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Thomas A. Scully.

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

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

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

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