

the first day of the quarter in which a plan amendment is submitted, if the plan amendment provides for expanded Medicaid coverage or increased Medicaid payment for covered services. This plan amendment would expand coverage because the plan did not otherwise provide payment for services provided by school-based providers prior to July 1, 2000. Since this SPA would expand coverage, it could not be approved with an effective date of June 4, 1997, since that is prior to the first day of the quarter in which the SPA was submitted.

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 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 Arizona announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Phyllis Biedess, Director, Arizona Health Care Cost Containment System, 801 E. Jefferson, Phoenix, Arizona 85034.

Dear Ms. Biedess: I am responding to your request for reconsideration of the decision to disapprove Arizona State Plan Amendment (SPA) 01-013.

Arizona submitted SPA 01-013 on October 21, 2001. The issue is whether the state can provide retroactive payments to June 4, 1997, for school-based providers of services to children eligible under the Individuals with Disabilities Education Act. For the reasons stated below, the Center for Medicare & Medicaid Services (CMS) was unable to approve this amendment.

Standard appropriations language authorizes the Secretary to make payments only "for any quarter with respect to a state plan amendment in

effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter." Under this language, the Secretary is not authorized to make payments for a quarter based on a SPA submitted in a later quarter.

This statutory provision is implemented by regulations at 42 CFR 430.20 (b)(1) and (2). The regulation precludes CMS from approving an effective date prior to the first day of the quarter in which a plan amendment is submitted, if the plan amendment provides for expanded Medicaid coverage or increased Medicaid payment for covered services. This plan amendment would expand coverage because the plan did not otherwise provide payment for services provided by school-based providers prior to July 1, 2000. Since this SPA would expand coverage, it could not be approved with an effective date of June 4, 1997, since that is prior to the first day of the quarter in which the SPA was submitted.

Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved Arizona SPA 01-013. I am scheduling a hearing on your request for reconsideration to be held May 17, 2002, at 10:00 a.m., Conference Rooms 615A & 615B; 75 Hawthorne Street; San Francisco, California 94105-3901. 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.

Sincerely,
Thomas A. Scully

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)

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Applications Under the Office of Community Services' Fiscal Year 2002; Job Opportunities for Low-Income Individuals (JOLI) Program; Correction and Clarification; Program Announcement No. OCS-2002-06

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Clarification and correction.

SUMMARY: This document clarifies and corrects the notice that was published in the **Federal Register** on Thursday, February 21, 2002, Part II (67 FR 8074). It clarifies the notice by explaining that Faith-Based organizations are eligible to apply, and corrects the notice by changing the due date of applications.

FOR FURTHER INFORMATION CONTACT:

Aleatha E. Slade at (202) 401-5317, Thelma M. Woodland at (202) 401-5294, or the OCS Operation Center at 1-800-281-9519 for referral to the appropriate contact person in OCS for programmatic questions or send an e-mail to OCS@lcgnet.com.

Clarification

In the **Federal Register** issue of February 21, 2002 (67 FR 8074), page 8075, third column, Program Objectives and Requirement, Section "A. Eligible Applicants", after the end of the first paragraph, "* * * of such Code.", add the following:

Faith-Based organizations that are exempt from taxation under 501(c)(1) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code are also eligible to apply for funds under this program announcement.

Correction

In the **Federal Register** issue of February 21, 2002 (67 FR 8074), on page 8074, first column, under "Dates," end of first sentence that reads, "before April 22, 2002.", please correct to read: "before May 22, 2002. In view of the above clarification of Faith-Based organizations, the deadline is being extended an additional thirty (30) days through May 22, 2002."

Dated: April 1, 2002.

Clarence Carter,

Director, Office of Community Services.

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