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Advocates continue to report that states are not conducting automatic *ex parte* redeterminations of Medicaid eligibility upon notification that an SSI recipient has lost SSI cash assistance. For example, in Alabama, when DA&A based SSI recipients were terminated from the SSI program, effective January 1, 1997, the state also terminated them from the Medicaid program. In North Carolina, Medicaid termination notices are sent to beneficiaries on the same day that the state is notified of an SSI termination.

Over the past several months, NHeLP and NSCLC have repeatedly alerted HCFA and SSA that states were not following appropriate procedures to redetermine the Medicaid eligibility of recipients losing cash assistance. We have now met twice with HCFA and SSA officials to discuss these concerns in detail. As a result, HCFA has agreed to provide states with further policy guidance and instructions regarding the redetermination process. This memo summarizes our understanding of what HCFA will do in the next several weeks.

Issue: States are reluctant to rely on SSA and other data for purposes of conducting *ex parte* redeterminations of Medicaid eligibility because SSA data is not deemed accurate, up to date or reliable. Instead, states are requiring beneficiaries to provide documentation and appear for face to face interviews as if they were new applicants.

Response: Within two weeks, HCFA will send a letter to State Medicaid Directors advising them that they need not hold back using SDX data for fear of being penalized for Medicaid Eligibility Quality Control (MEQC) errors. The letter will reiterate existing HCFA policy (State Medicaid Manual Sec. 7264) that provides that states will not be penalized for any MEQC errors if they rely on primary source federal agency data for conducting *ex parte* redeterminations provided there is no other current data available (in the existing file).

Issue: We requested that HCFA include examples in the letter to make clear that under certain circumstances beneficiaries losing SSI can be administratively "switched" to other Medicaid eligibility categories.

Response: HCFA agrees that, under certain circumstances, beneficiaries can be switched administratively (e.g. qualified aliens living in states providing Medicaid to individuals who meet SSI income and resource criteria but who do not receive cash). HCFA will consider including examples in the letter but does not want to delay issuing the letter.

Issue: States, either due to ignorance or indifference, are not conducting automatic, ex parte Medicaid eligibility redeterminations.

Response: HCFA will issue a second letter to State Medicaid Directors to provide additional guidance on the redetermination process. The letter will be stronger than the February 6, 1997 letter and will clarify that states may not drop recipients from the rolls prior to conducting a redetermination and if, as a result of the redetermination, the recipient is found ineligible, the State must provide pre-termination notice and all other due process rights. The letter will also make clear that states must use all available information on hand (including SDX data) to the maximum extent possible before contacting the beneficiary. States will also be told that it is unacceptable to advise recipients that their Medicaid benefits are being terminated or to make recipients reapply for benefits.

Additionally, the American Public Welfare Association (APWA) will develop a Best Practices guide on redeterminations for state Medicaid agencies. APWA will share the draft manual with NHeLP and NSCLC for comments. If you have suggestions for the guide or know of a state that is doing something right - let us know ASAP!

Issue: Medicaid rules require that states redetermine eligibility at least every twelve months. Consequently, the increase in agency workloads occasioned by the welfare law will be replayed every year.

Response: HCFA will advise states that they can stagger subsequent redeterminations to avoid everyone having to come back at the same time, provided the redeterminations occur within the 12 month time frame required by law.

Issue: The State Medicaid Manual currently provides that if an individual receiving

Medicaid based upon disability is determined by SSA not to be disabled under the SSI disability standard, and he or she is not eligible for Medicaid on some other basis, such a recipient is nonetheless entitled to receive continued Medicaid coverage if he or she timely appeals the SSA disability determination; Medicaid payments continue through the Appeals Council level. State Medicaid Manual 3272.2. This provision however only applies in situations where a state has made its own disability determination, State Medicaid Manual 3272. The February 6, 1997 State Medicaid Directors' letter advises that Medicaid payments must continue for any recipient who has appealed the SSI termination. The difference between the State Medicaid Manual and the February 6, 1997 letter is causing confusion. States are reluctant to provide continuing Medicaid during the appeals process to beneficiaries not covered by the State Medicaid Manual Provision. Will HCFA change the State Manual?

Response: HCFA is not planning to change the State Medicaid Manual because the process is too lengthy and cumbersome. Instead, HCFA will advise State Medicaid Directors that guidance issued in letter form reflects the current policy of the agency.

Issue: States (e.g. Florida) are planning to issue notices in English-only. Due process requires that States provide adequate notice. As a general rule, notice is not adequate if it cannot be understood.

Response: HCFA will check with their legal department and decide whether states will be required to send notices in languages other than English. HCFA (central office) will direct its Regional Offices people to work with Florida to get notices out in Spanish and Creole.

Issue: State MA and TANF workers are unfamiliar with the SDX. They do not understand what information is on it or how to read it.

Response: SSA and HCFA will look at need for training. In the mean time, Part 8 of the SSA Program Operations Manual (POMS) explains the SDX fields and codes. In addition, SSA has provided NHeLP and NSCLC with a list of all SDX fields and codes. We will disseminate and make them available upon request (at cost) to any one interested.

A final note: We shared with HCFA California's latest draft notice to DAA beneficiaries regarding

the redetermination of Medicaid eligibility subsequent to being dropped from the SSI program. HCFA agreed that the notice repeats many of the same problems that we had previously identified and promised to follow-up by contacting state officials. In light of HCFA's plans to issue further guidance, we were anxious to forestall the mailing of yet another illegal notice. We need to continue to monitor this situation (and others). Please be sure to keep us posted regarding developments in your state.

We impressed upon HCFA the limited resources of advocacy groups around the country and how many beneficiaries are affected who will not have an advocate to walk them through their state system. To continue the dialogue identifying problems, HCFA urges all of us to communicate with its Regional Offices. HCFA agreed to provide us with a list of Regional Office contacts for our use which we will disseminate widely upon receipt.