



Memorandum

Date

Refer to: FME-42

From Director
Medicaid Bureau

Subject Section 6403 of the Omnibus Budget Reconciliation Act of
1989 -- INFORMATION

To Regional Administrator
Region VIII Denver
Attention: Division of Medicaid

This is in response to your memorandum requesting policy clarification of several issues raised by the State of Montana.

Montana's first question is whether the State is allowed to impose limitations on services provided to EPSDT children, if these limitations are currently approved under their State plan. We concur with your response to the State. Section 1905(r)(5) of the Social Security Act requires States to provide "such other health care diagnostic services, treatment, and other measures . . . to correct or ameliorate defects and physical and mental illnesses and conditions discovered by screening services, whether or not such services are covered under the State plan." Therefore, even though Montana currently limits the number of hours on psychologist services and physical therapy services for EPSDT children under the age of 21, they would no longer be able to do this if the service or treatment beyond the limits were determined to be medically necessary. As you indicated, the State may establish a prior authorization process for diagnostic and treatment services.

In their second question, Montana asks if it must provide to EPSDT screened children the full range of Medicaid services that are allowed under Federal regulations, even if they do not currently provide the services under the State plan. Again, section 1905(r)(5) makes clear that all services or treatments which are "medically necessary" to correct or lessen health problems detected or suspected by the screening services must be provided to individuals under age 21.

Although section 1905(h) specifies that this benefit is to be provided in psychiatric hospitals, section 1755 of the Omnibus Budget Reconciliation Act of 1990 amended this section to provide authority for the Secretary to specify other inpatient settings in regulations. This amendment was effective as if included in the enactment of the Deficit Reduction Act of 1984 and had the effect of legitimizing our current regulations, which specify that this benefit can be provided in

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Page 2 - Regional Administrator, Denver

"psychiatric facilities" if the facility or program in the facility is accredited by the **JCAH(O)**.

Under the authority provided by this amendment, we are in the process of developing revised regulations on this benefit **that** will remove the requirement for accreditation by the **JCAH(O)** and will clearly define the settings that may be used for this benefit and the standards that will be required for these settings. In the meantime, we have now decided that the psych under 21 benefit may be provided by any psychiatric facility or an inpatient program in a psychiatric facility, either of which is accredited by the Joint Commission on Accreditation of Health Care Organizations, as required in 42 CFR 441.151.

I hope this information is helpful. If you have any other questions please contact Cindy **Ruff** on FTS 646-5141.

Christine Nye

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