

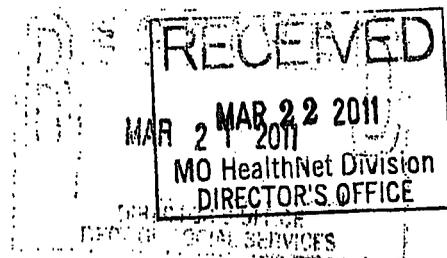


DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator  
Washington, DC 20201

MAR 17 2011



Mr. Ronald J. Levy  
Director  
Missouri Department of Social Services  
Broadway State Office Building  
P.O. Box 1527  
Jefferson City, MO 65102-1527

Dear Mr. Levy:

I am responding to your request to approve the State of Missouri's Medicaid State plan amendment (SPA) 10-13, received by the Centers for Medicare & Medicaid Services (CMS) on September 29, 2010. In this amendment, Missouri proposes limitations on personal care services that would differ for individuals residing in a residential care facility (RCF) or an assisted living facility (ALF) from the limitations on individuals residing in other settings. For the reasons set forth below, I am unable to approve SPA 10-13 as submitted, because it does not comply with the requirements of sections 1902(a)(10)(B) and 1902(a)(10)(C) of the Social Security Act (the Act) and implementing regulations at 42 CFR 440.240.

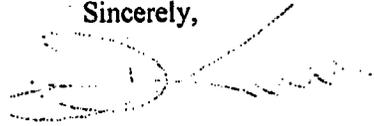
Sections 1902(a)(10)(B) and 1902(a)(10)(C) of the Act, and regulations at 42 CFR 440.240, establish requirements for "comparability." Comparability requires that services available to any categorically needy recipient are not less in amount, duration, and scope than services available to other categorically needy recipients or to any medically needy recipient (with some delineated exceptions not applicable here). In addition, the same amount, duration, and scope of services must be available for each recipient within a medically needy eligibility group. The new limitations on personal care services proposed by the State would apply differently for individuals who reside in RCFs or ALFs than for individuals who reside in a private residence or other community settings. Missouri did not explain how this different treatment was consistent with ensuring comparability of the amount, duration, and scope for recipients. As a result, I cannot conclude that the proposed SPA complies with the requirements of sections 1902(a)(10)(B) and 1902(a)(10)(C) of the Act and regulations at 42 CFR 440.240.

For this reason, and after consulting with the Secretary as required by Federal regulations at 42 CFR 430.15(c), I am unable to approve this SPA. If you are dissatisfied with this determination, you may petition for reconsideration within 60 days of receipt of this letter in accordance with the procedures set forth at 42 CFR 430.18. Your request for reconsideration may be sent to Ms. Cynthia Hentz, Centers for Medicare & Medicaid Services, Center for Medicaid, CHIP and Survey & Certification, 7500 Security Boulevard, Mail Stop S2-26-21, Baltimore, MD 21244-1850.

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If you have any questions or wish to discuss this determination further, please contact James Scott, Associate Regional Administrator, Division of Medicaid and Children's Health Operations, Centers for Medicare & Medicaid Services, CMS Region VII, Richard Bolling Federal Building, 601 East 12<sup>th</sup> Street, Room 235, Kansas City, MO 64106, (816) 426-6417.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald M. Berwick", with a stylized flourish extending from the end.

Donald M. Berwick, M.D.