



For Immediate Release
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Contact: Carol Guthrie
(202) 224-4515

REID, BAUCUS WANT TO KEEP VITAL SERVICES FOR VULNERABLE MEDICAID BENEFICIARIES

*Majority Leader, Finance Chairman write HHS to protest rules that restrict desperately
needed case management services*

Washington, DC – Senate Majority Leader Harry Reid (D-Nev.) and Senate Finance Committee Chairman Max Baucus (D-Mont.) today urged the Department of Health and Human Services (HHS) to revise a rule that would restrict the Targeted Case Management (TCM) services available to Medicaid beneficiaries. In a letter to HHS Secretary Mike Leavitt, the senators expressed concern that the rule would prevent at-risk beneficiaries, such as children in foster care, from accessing necessary medical, social, educational, and other case management services by limiting the number of, and preventing access to, the most qualified health care providers. The senators said that this rule would impose restrictions well beyond the intent of Congress in the Deficit Reduction Act of 2005 (DRA).

“I am concerned that this initiative will restrict much needed services and create unnecessary harm to Nevada’s most vulnerable,” said Reid. **“The last thing we should do is cut important services for children who need them. I will continue working to ensure that the state can continue to provide Nevadans with the services they need.”**

“Targeted Case Management services are essential because they ensure that vulnerable folks with serious health challenges get the care they need,” said Baucus. **“We can’t jeopardize services that get patients access to the care and specialists who can help them the most. I’ll continue working to preserve these vital services, and fighting to keep the most vulnerable members of our communities healthy and well.”**

Baucus hand-delivered the letter to Secretary Leavitt in a previously scheduled meeting yesterday evening. The text of the Senators’ letter follows here.

February 4, 2008

The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Leavitt:

We are writing to express our concern regarding the interim final rule on the Medicaid state Targeted Case Management (TCM) option (CMS-2237-IFC) published by the Centers for Medicare and Medicaid Services (CMS) on December 4, 2007. Specifically, we believe that the policy issued by CMS to implement the statutory reforms to TCM included in Section 6052 of the Deficit Reduction Act of 2005 (DRA) extends far beyond the scope of Congress' intent and will result in needless harm to beneficiaries with disabilities or chronic health conditions.

TCM services are a critical component of the Medicaid benefit offered to carefully-selected members of the most vulnerable populations in our communities. This new rule will likely adversely impact the provision of these services. As such, we respectfully request that you rescind or delay the interim final rule and replace it with a policy that more accurately reflects the congressional intent of Section 6052.

Section 6052 was enacted to clarify what services qualify as appropriate TCM eligible for Medicaid payment. Section 1915(g) of the Social Security Act allows states to provide certain case management services to select individuals as a benefit under the Medicaid program. These services, which are aimed at assisting eligible individuals to "gain access to needed medical social, educational and other services," are targeted at specific types of Medicaid-eligible individuals, such as children in foster care programs. While states are required to provide case planning to all children in foster care programs, there was some ambiguity as to which of these services were appropriately classified as TCM services under the Medicaid program. In order to address this confusion, Congress enacted a precise definition of TCM in the DRA.

As Senator Charles E. Grassley explained in his April 5, 2006, letter to you describing the intent of Section 6052, it is clear that certain TCM services provided to beneficiaries should be considered allowable Medicaid expenses. The DRA specifically articulates these Medicaid-reimbursable activities as (1) assessment of service needs; (2) development of a specific care plan; and (3) referral to help an individual obtain needed services and monitoring. We believe that the language included in the interim final rule restricts services that may be appropriately classified within these three categories of services and, therefore, contravenes the intent of Section 6052.

We are concerned that the interim final rule imposes a number of restrictions on TCM services that were not intended in the language of the DRA and limits states' flexibility to provide and pay for case management services in the way that would work best for beneficiaries. For instance, the rule prohibits bundled or capitated methodologies related

to the state TCM option and requires that TCM services be documented in 15 minute increments. Because recipients of TCM tend to have substantial and complex needs, many states opt for bundled rates to coordinate services in a manner that is more efficient and clinically effective. This rule would significantly impact states' ability to continue to utilize these preferred payment arrangements. CMS provided little justification for this requirement, and it is unclear what correlation such a restriction has to the language of Section 6052. Rather, this appears to be an administrative preference that will likely adversely impact TCM services and deny the benefits of such services to Medicaid beneficiaries.

Another example is the rule's requirement that case management services be furnished by a single Medicaid case management provider. Given that many of the people eligible for TCM under Medicaid typically display a wide range of health, social service and rehabilitation needs, it may not be possible for one single provider to address all of a beneficiary's issues. Furthermore, such an arrangement may not allow the beneficiary to get assistance from the provider most qualified to address a particular need and, in many cases, would cause an upheaval of the case management models states currently utilize. The language enacted in Section 6052 did not intend such a requirement, and it is questionable what net benefit a single provider restriction would offer to the Medicaid program or its beneficiaries.

Congress has long recognized the important role case management services provide for select Medicaid beneficiaries, a fact acknowledged by the decision to clarify, rather than eliminate, TCM services in the DRA. We believe there are numerous provisions in the interim final rule that do not reflect the spirit of the DRA provisions and, more importantly, could adversely impact the availability of high-quality case management services under the Medicaid program. We strongly encourage you to rescind or delay CMS-2237-IFC and consider a policy that accurately implements the reforms Congress articulated in the DRA.

Thank you for your attention to this important issue, and we look forward to working with you to implement a more appropriate TCM policy.

Sincerely,

Harry Reid
Majority Leader

Max Baucus
Chairman

Committee on Finance