



November 1, 2005

The Honorable Bill Frist
United States Senate
509 Senate Hart Office
Washington, DC 20510

The Honorable Harry Reid
United States Senate
528 Senate Hart Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
United States Senate
135 Senate Hart Office Building
Washington, DC 20510

The Honorable Max Baucus
United States Senate
511 Senate Hart Office Building
Washington, DC 20510

Dear Senators Frist, Reid, Grassley and Baucus:

I am writing on behalf of the American Public Human Services Association in opposition to the case management and targeted case management (TCM) provisions of the Senate budget reconciliation bill. We commend the Senate for crafting a measure that minimizes the reductions in the Medicaid program, however, we strongly believe that the TCM changes proposed would significantly restrict critical services to people with disabilities, abused and neglected children and adults, as well as people with AIDS and those who are HIV positive.

Targeted case management is an important resource to ensure selected Medicaid beneficiaries obtain specialized services and support. Target groups states have identified for such services include, but are not limited to, children in foster care, medically fragile children, children and adults with HIV/AIDS, children with developmental disability and mental retardation, persons with mental illness (e.g., severely and emotionally disturbed children and adults), persons with traumatic brain injury, children and adults who are abused and neglected, at-risk tribal populations, persons afflicted with substance abuse disorders, and children in need of educational assistance.

While we understand that the Senate's intention was to codify the January 19, 2001 State Medicaid Director Letter which addressed when and how Medicaid can be used for targeted case management purposes with respect to children in foster care, the legislative language goes far beyond the scope of this intent.

First, the TCM definition is overly restrictive by including broad service exclusions that will restrict TCM to meet the needs of targeted populations. Additionally, states are concerned that the language in the bill is not limited to targeted case management, but would also apply broadly to all case management funded with Medicaid dollars.

Second, in an attempt to clarify case management services under Medicaid for foster care, the language would narrow the access that foster children and families would have to health navigators that are critical in meeting the needs of children that have been removed from home or are at risk of

entering foster care because they have endured traumatic situations. Case management services are necessary to maneuver and link the multiple, varying and complex needs of battered, abused and neglected children. Although states appropriately fund some case management services under Title IV-E for those foster children who are eligible based on the 1996 AFDC criteria, medical case management needed by these children is not allowable under IV-E. In addition, states use Medicaid in funding case management for foster children who are not eligible for Title IV-E. The limitations outlined in this bill with respect to this categorically Medicaid eligible population would ultimately undermine their access to medical services as they move from various placements and various medical providers.

Third, we strongly oppose the third party liability language of the bill that applies to any activity that “might be provided in any medical, social, educational or other programs.” The language would prohibit states from claiming Medicaid as reimbursement if services funded by another program, federal, state or local, exists. Furthermore, if the individual is assessed in another program, that program would be required to bare the costs of the services. This places the burden on states to serve the most vulnerable population when, in fact, other programs might not have the funding for this population. The third party liability language also seems to preclude states from using any Medicaid funds when IDEA, Title V or tribal health funds are insufficient to meet the needs of Medicaid eligible populations that fall under the purview of those statutes.

In addition, the existence of a federal program like Ryan White AIDS program, for example, would prevent states from accessing Medicaid for all HIV/AIDS populations. The existence of a capped federal block grant like SAMHSA would prohibit states from accessing Medicaid for the mentally ill—even if there were inadequate funds available in these block grants. Also, based on this language, it is unclear how states would be able to continue using TCM funds to complement the services provided to medically fragile populations supported through Home and Community Based Services waivers.

The combination of the exclusion for direct social and other services, the limitation on TCM for children receiving foster care services, the designation of any “program” as a liable third party, and the requirement to bill insurers and non-Medicaid recipients provides CMS with the complete authority to deny federal financial participation for most activities that, under current law, is now provided under Medicaid. The TCM section will dramatically alter the delivery of services for the most vulnerable Medicaid populations we serve. We urge you to strike this provision from the final bill.

Thank you for your consideration of these concerns. If you have any questions, or if I can be of further assistance, please feel free to contact me or Elaine Ryan at (202) 682-0100.

Sincerely,

A handwritten signature in black ink that reads "Jerry W. Friedman". The signature is written in a cursive style with a large, prominent initial "J".

Jerry W. Friedman
Executive Director