



Early Intervention Family Alliance

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## Medicaid Targeted Case Management

A Notice of Proposed Rule Making regarding Case Management (Targeted Case Management) was released by the Centers for Medicaid and Medicare Services (CMS) on December 4, 2007 (<http://edocket.access.gpo.gov/2007/pdf/07-5903.pdf>). This was released as an interim final rule, for which CMS accepted comments, but was not required to respond to comments or make any changes based on comments. The rule went into effect on March 3rd, 2008. This rule was not covered by the Congressional moratorium that was passed in December 2007. It is important to note that CMS's stated reason for this set of changes is to address billing practices by some states that were other duplicate billings or fraudulently billings. As parents and taxpayers we support efforts to ensure that Medicaid billing is done without duplication or fraud, however, we are concerned with the process used to address these concerns and the unintended consequences that may result by imposing significant changes to programs without providing essential guidance and time to make changes in policies and funding of these essential services to infants and toddlers with disabilities and their families.

We want to alert you to a number of actions being taken to address these changes:

### 1. **Congressional Moratorium on Medicaid Rules:**

On March 13, 2008, Reps. John Dingell (D-MI) and Tim Murphy (R-PA) introduced H.R. 5613, the "Protecting the Medicaid Safety Net Act of 2008." The bill would impose moratoria on seven of the recent Medicaid administrative rules, including this TCM rule. The bill was referred from the House Committee on Energy and Commerce to its Subcommittee on Health on 3/14/08. Subcommittee hearings were held on 4/3/08, and on 4/9/08 it was amended by voice vote and forwarded by the Subcommittee to the Full Committee. This bill has passed the House by a vote of 349-62 on April 23, 2008. This vote is enough to ensure a 2/3 majority necessary for the House to override a Presidential veto. This is very important since the President has already promised to veto the bill if it comes to his desk.

However, passage in the Senate with a 2/3 majority is not as easy to achieve. There is concern that the Senate vote would not generate the 60 votes needed to overturn the inevitable Presidential veto.

2. In the meantime, the TCM rule is in effect as of March 3, 2008. Some states have contacted CMS regarding difficulties in implementing the new rule so quickly, and have been given 12 months in which to come into compliance with the new rule. It appears that this option is open to all states, provided they contact CMS and make a similar request.

3. Medicaid funding is an important component to the Early Intervention funding system. We would like to see improved federal coordination regarding funding, for example, across IDEA and CMS/Medicaid. The EIFA submitted comments specific to this TCM rule that stated that:
  - Many of us agree with the idea of a single case manager (but not all families agree with that idea) – HOWEVER, we are concerned about how Medicaid will ensure that the single case manager is knowledgeable about all the services that they might coordinate for, so that families don't lose access to needed services.
  - For a family, even with one case manager, what they get is still piecemeal. While one person is designated as "the" case manager, each program still has to assign someone to do their own administrative functions, which is essentially like having a whole slew of case managers, each specific to their own funding stream.
  - The bottom line is that families should be able to access and receive services in a timely fashion, and the services should be coordinated across funding streams, and this whole process shouldn't be a burden to the family. As states change their rules/implementation, they need to carefully consider how to mitigate the impact on the families.