

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850

RECEIVED

SEP 24 2013

DSHS ASST. SECRETARY  
AGING & DISABILITY SVCS



**Disabled and Elderly Health Programs Group**

---

SEP 18 2013

Jane Beyer, Assistant Secretary  
Washington Department of Social & Health Services  
MaryAnne Lindeblad, State Medicaid Director  
Washington State Health Care Authority  
PO Box 45502  
Olympia, WA 98504-5050

Dear Ms. Beyer and Ms. Lindeblad:

This communication is in response to your July 29 letter that raised points for clarification on the state's arrangement with its Regional Support Networks (RSNs) for the provision of Medicaid behavioral health services. This letter addresses those three points, as well as, your request to extend the submission date for CMS' requested corrective action plan.

First, you inquire whether Federal procurement rules at 45 C.F.R. § 92.36(a), which require a state to procure with federal grant funds in the same manner as non-federal funds, are applicable to Washington's situation. You appear to be making the argument that because existing Washington state law exempts client service contracts and intergovernmental agreements from competitive procurement, Federal and state funds for behavioral health services are treated in the same manner. We agree; however, compliance with those procurement rules does not obviate the need to simultaneously comply with other Federal statutes, regulations and policy guidance, including the provisions of OMB Circular A-87, as appropriate. We conclude that state law confirms that the arrangement between the state and the RSNs is an intergovernmental agreement, and as such, are subject to the requirements of OMB Circular A-87. In summary, the state has the flexibility to establish its own procurement rules, but there are federal requirements implicated by those decisions.

Second, your letter explained that the prospective rates paid to the RSNs do not build in a profit margin and the administrative component of the rate is developed from cost reports. CMS would expect to be able to review the audited cost reports used to develop the administrative component of the rate and any other rate development documentation that would support this assertion. If this is how the rates are in fact set, then perhaps there will be no change in the payments retained by the RSNs if the state maintains the intergovernmental arrangements and moves to a cost reconciliation payment model that follows the cost based principles of OMB Circular A-87.

You further assert that Washington provided a past assurance to CMS that Medicaid funds received by the RSNs were used only for Medicaid clients and Medicaid covered services. If

Jane Beyer  
MaryAnne Lindeblad  
Page 2

that assurance still applies, reconciliation to cost should not be problematic as it would verify that all funds received by the RSNs were expended on Medicaid allowable costs.

Finally, in recognition of the complexity of the analysis before us, CMS grants the state's request to extend the submission date for the corrective action plan (CAP) until December 2, 2013. We are committed to working with the Department of Social and Health Services to assure the state's ability to offer an effective mental health delivery system for Medicaid beneficiaries that meets federal program and grant expenditure requirements.

The CMS staff dedicated to this issue are available for technical assistance as you find necessary. As previously noted, please contact Carol Peverly, Associate Regional Administrator for the Division of Medicaid and Children's Health Operations in our Seattle Regional Office to arrange those conversations. Ms. Peverly can be reached at (206) 615-2515 or [carol.peverly@cms.hhs.gov](mailto:carol.peverly@cms.hhs.gov).

Sincerely,



Barbara Coulter Edwards  
Director

cc: Kevin Quigley, Secretary, Department of Social and Health Services  
Carol Peverly, ARA, CMS Seattle Regional Office  
Camille Dobson, Senior Policy Advisor for Managed Care, CMS Central Office