CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

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Audrey Tayse Haynes
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May 7, 2014

TO: Jackie Glaze, Associate Regional Administrator, Division of Medicaid & Children's Health Operations, Centers for Medicare & Medicaid Services (CMS)

RE: Federal Financial Participation for primary care services provided in Community Mental Health Centers (CMHCs)

Dear Ms. Glaze:

Recently, Governor Beshear signed House Bill 527 into law (See Appendix A). The law amends Kentucky Revised Statute (KRS) 210:410 to allow for Community Mental Health Centers (CMHCs) to provide primary care services by advanced practice registered nurses (APRNs), physicians and physician assistants (PAs). In addition, the law states that the state Medicaid program or managed care organization or any other entity under contract with the Kentucky Department for Medicaid Services (DMS) shall provide for Medicaid reimbursement for primary care services for these providers employed by CMHCs at the Medicare levels per Section 1202 of the Affordable Care Act (ACA), if the CMHC is in compliance with the CMS regulations under that section.

We have looked into our own state laws and regulations and have found that there is nothing that prohibits DMS from authorizing CMHCs to participate as primary care providers. We have two questions for CMS:

1) Is there any federal rule that establishes guidance as to whether or not federal financial participation (FFP) may be provided for primary care services delivered in a CMHC setting?

2) Is there any federal rule that establishes guidance as to whether or not CMHCs providing primary care are eligible for FFP at the Medicare levels under Section 1202 of the ACA?

Jackie, we are trying to transform the health care delivery system in Kentucky. The role of CMHCs is rapidly changing, as are their funding methodologies. We believe the Medicaid patients with severe mental illness and developmental disabilities have come to rely on the CMHCs for their outpatient mental health needs. By allowing the CMHCs to provide physical health services coupled with mental health services, the CMHCs have an opportunity to become the "health home" to provide integrated care for these Medicaid patients.

Sincerely,

Lawrence Kissner
Commissioner
Department for Medicaid Services
Cabinet for Health and Family Services
Commonwealth of Kentucky

cc: Neville Wise, Deputy Commissioner, Department for Medicaid Services
Lisa Lee, Deputy Commissioner, Department for Medicaid Services
Dr. John Langefeld, Medical Director, Department for Medicaid Services

AN ACT relating to community mental health centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 210.410 is amended to read as follows:

(1) The secretary of the Cabinet for Health and Family Services is hereby authorized to make state grants and other fund allocations from the Cabinet for Health and Family Services to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and intellectual disability programs which ***may provide primary care services and*** shall provide at least the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization or psychosocial rehabilitation services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Services for individuals with an intellectual disability.

(2) The services required in subsection (1)(a), (b), (c), (d), and (e) of this section***, in addition to primary care services, if provided,*** shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e), and (f)***, in addition to primary care services, if provided,*** shall be available to individuals with an intellectual disability. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section:

(a) "Advanced practice registered nurse" has the same meaning as in KRS 314.011;

(b) "Physician" has the same meaning as in KRS 311.550; and

(c) "Physician assistant" has the same meaning as in KRS 311.840.

(2) The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for primary care services provided by a licensed physician, advanced practice registered nurse, or physician assistant employed by a community mental health center established pursuant to KRS 210.370 to 210.480, if the community mental health center is in compliance with the Centers for Medicare and Medicaid Services regulations on enhanced primary care reimbursements.

(3) Primary care services provided by a physician, advanced practice registered nurse, or physician assistant in a community mental health center shall be subject to the same reimbursement rates as established by the Department for Medicaid Services for primary care providers operating in Kentucky.

(4) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.