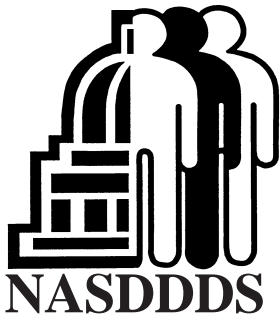

PERSPECTIVES

Serving the Nation's DD Community for More Than 30 Years...

March 2008
Vol. 15, No. 3

Deep Medicaid Cuts in Bush Budget Less Drastic Than Expected

President Bush has released a fiscal year 2009 budget request that will total more than $3 trillion and include a large reduction in Medicare spending, along with significant, though less drastic than expected, cuts to Medicaid. The budget request would decrease Medicare spending by $178 billion over five years as part of a $200 billion reduction in entitlement program spending. The overall FY 2009 Budget request for the Centers for Medicare & Medicaid Services (CMS) is $711.2 billion in mandatory and discretionary outlays, a net increase of $32.7 billion over the FY 2008 level.

The budget request would reduce Medicare spending growth to 5% from 7.2% currently and would reduce by one-third the estimated unfunded obligation for the program over 75 years. Under the budget request, most of the reduction in Medicare spending would result from

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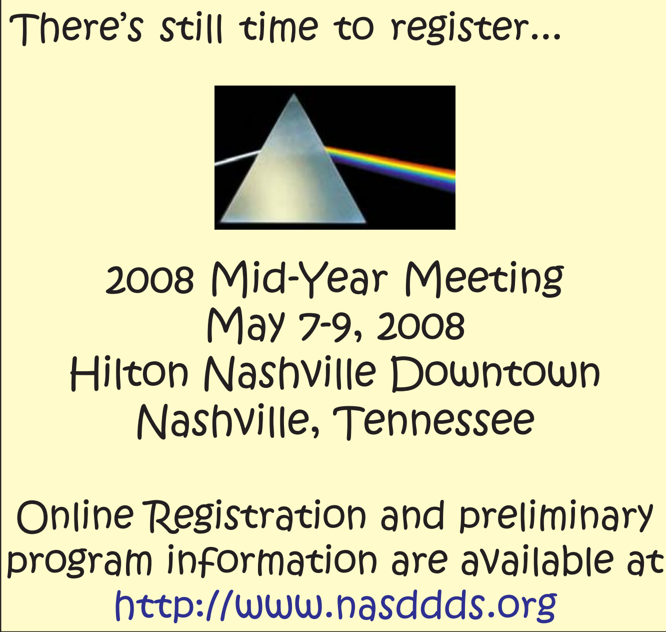
CMS Launches Web-Based 372

In a recent State Medicaid Directors' letter (SMD letter), the Centers for Medicare and Medicaid Services (CMS) announced that it has placed the CMS 372 form on the web. This form, which is unchanged in content from the approved CMS 372 form, is available at http://www.hcbswaivers.net. The letter points out that CMS is working toward incorporating elements captured in the CMS 372 reporting form for 1915(c) Home and Community-Based Services (HCBS) waivers into the CMS 64 form. While the process is expected to be completed in approximately 18 months, CMS expects states to continue to use the 372 during the intervening time.

States will be able to use the web-based 372 form to enter and transmit their reporting data to CMS. Using the same role design as the web-based application, the State Medicaid Director (or his/her designee) will submit the information to CMS through the web. The Regional Offices will be able to use the web-based 372 form to view and accept the submission, which will then auto-populate an online database. CMS is also eliminating the required "initial" 372 report, Instead requiring one 372 report for each waiver year. This new "annual 372 report," previously known as the "lag" report, will be due to CMS 18 months after the close of the waiver year (or 30 months after the waiver year start date).

FMI: To find the CMS 372 form on the web, go to http://www.hcbswaivers.net, click on the 1915(c) link, and log in.



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Bills Introduced Placing Moratorium on CMS Case Management Rule

Senator Norm Coleman (R-MN) and Representative Keith Ellison (R-MN) have introduced bills (S 2578 and HR 5173) that would delay implementation until April 1, 2009 of CMS' final case management rule.

The bills would specifically prevent the targeted case management rule issued December 4th from taking effect before April 1st, 2009. They would also more generally restrict the Secretary of Health and Human Services (HHS) from taking "any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy or practice, including a Medical Assistance Manual transmittal or issuance of a letter to State Medicaid directors) to restrict coverage or payment under title XIX of the Social Security Act for case management and targeted case management services if such action is more restrictive than the administrative action, policy, or practice that applies to coverage of, or payment for, such services under title XIX of the Social Security Act on December 3, 2007."

FMI: To track the progress of the legislation, go to http://thomas.loc.gov and search for HR 5173 or S 2578.

CMS Letter Announces New HCBS Quality Resources

Quality Communication #13, the latest in a series of The Centers for Medicare & Medicaid Services (CMS) communications intended to support state efforts to improve the quality of services and supports provided through the Medicaid Home and Community-based Waiver (HCBS) program, announces several new products designed to assist States in enhancing their HCBS waiver programs. The letter discusses Version 3.5 of the revised 1915(c) HCBS Waiver Application, the results of the evaluation of the revised application, and a technical assistance website of CMS' National Quality Contractor.

On February 6, 2008, CMS launched version 3.5 of the revised 1915(c) waiver application. This version is currently available through the 1915(c) web-based application at http://www.hcbswaivers.net. In addition to the web-based application, the site contains the Word version of the Revised Waiver Application, the Instructions, Technical Guide and Review Criteria, and Resource Attachments. Version 3.5 of the application incorporates a new structure for the collection of information related to a State's Quality Improvement Strategy, asking about the discovery and remediation processes utilized by the State in appendices throughout the document, while collecting information on the State's systems improvement mechanisms in Appendix H of the application. Version 3.5 also further clarifies CMS expectations in several subject areas, including the Administrative Authority of the Single State Medicaid Agency. Version 3.5 also includes an improved change report function, enabling users to get more precise information on the changes made to a waiver application. Another new feature of Version 3.5 is the opportunity for States to submit online draft applications for CMS review before a formal document is submitted.

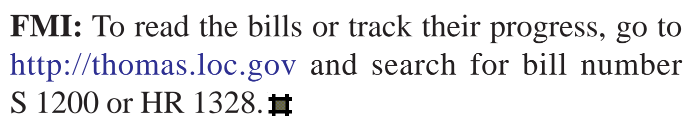
CMS commissioned the Muskie School of the University of Southern Maine to conduct a qualitative evaluation of the revised waiver application designed to present feedback on States' experience using the waiver application and instructions. According to the review, states identified several benefits to the new application, including facilitated communication and coordination within the State and with CMS, clarified expectations of CMS

(***HCBS Quality Resources*** continued on page 7)

Moratorium Added to Indian Health Bill

The United States Senate voted unanimously to attach an amendment that would impose a moratorium on the Case Management and Targeted Case Management Regulation issued by CMS in December 2007. The amendment, introduced by Senators Barbara Mikulski (D-MD), Norm Coleman (R-MN) and Amy Klobuchar (D-MN), was attached to the Indian Health Bill (S 1200), which was then passed on February 25th. Now the bill will need to be reconciled with the version considered by the House of Representatives (HR 1328). The House bill was passed by the Energy and Commerce Subcommittee on Health in March 2007 and is awaiting action by the full committee.

The bill would prevent the Centers for Medicare and Medicaid Services (CMS) from implementing the rule before April 1, 2009. Unfortunately, observers do not expect the House to pass a similar Indian Health Bill, if they pass one at all.



FMI: To read the bills or track their progress, go to http://thomas.loc.gov and search for bill number S 1200 or HR 1328. ⌗

Baucus and Reid Urge HHS to Rescind Case Management Rule

Senate Majority Leader Harry Reid (D-NV) and Finance Committee Chairman Max Baucus (D-MT) sent a letter to Health and Human Services (HHS) Secretary Michael Leavitt urging that the agency rescind or delay the Targeted Case Management (TCM) interim final rule issued December 4, 2007. The Senators argued that the rule goes beyond Congressional intent in the Deficit Reduction Act (DRA), and 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.

Baucus hand-delivered the letter to Secretary Leavitt in a previously scheduled meeting. The letter describes TCM services as “a critical component of the Medicaid benefit offered to carefully selected members of the most vulnerable populations in our communities.” The letter goes on to make clear that 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.” The Senators suggest 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” of the DRA.

They also express concern that the rule “limits states’ flexibility to provide and pay for case management services in the way that would work best for beneficiaries” by prohibiting bundled or capitated methodologies and requires that TCM services be documented in 15 minute increments. Because recipients of TCM tend to have substantial and complex needs, the Senators explain, many states opt for bundled rates to coordinate services in a manner that is more efficient and clinically effective. Another example the Senators mention is the rule’s requirement that case management services be furnished by a single Medicaid case management provider, indicating that “it may not be possible for one single provider to address all of a beneficiary’s issues.”

FMI: The letter is available online at http://www.senate.gov/~finance/press/Bpress/2008press/prb020508a.pdf. ⌗

(**Deep Medicaid Cuts** continued from page 1)

decreases in reimbursements to physicians, hospitals and other health care providers, as well as efforts to reduce payments for services to a level closer to the actual cost. The budget request also would increase monthly premiums for Medicare beneficiaries enrolled in the prescription drug benefit, despite recent reports from the CMS that the Part D benefit will cost the federal government $117 billion less over the next nine years than last year's estimate predicted. Observers do not expect Congress to go along with the massive cuts the Bush administration is planning to propose in the Medicare and Medicaid programs, and they were rejected by the House and Senate budget resolutions; Congress last year rejected a request from Bush for a $65 billion reduction in Medicare spending.

The budget request also would reduce Medicaid spending by $17 billion over five years. Specifically, the FY 2009 Budget proposes Medicaid legislative changes that will save $17.4 billion over five years and administrative changes that will save $800 million over five years.

Among the President's legislative proposals:

Redesign Acute Care Benefits for Optional Long-Term Care (LTC) Groups: Establish a State Plan Amendment option to expand on the flexibility provided in the DRA, which allows States to offer private sector-type coverage to certain Medicaid populations.

Repeal Section 1932(a)(2) Special Rules: Give States greater flexibility in coordinating care for special populations by allowing them to enroll populations described in Section 1932(a)(2) of the Social Security Act (dual eligibles and children with special needs) into managed care programs under the State plan.

Align Administrative Match Rates: Align all reimbursement rates for administrative activities in Medicaid at 50% in order to "create consistency in the administrative matching structure across Medicaid."

Align Case Management Match Rate: Align reimbursement for Targeted Case Management services with the standard administrative matching rate of 50%.

Given the President's "lame duck" status and the fact that Congress is controlled by the opposition party, the President's legislative proposals are expected to gain little traction. To the surprise of advocates and observers, the budget only proposes three administrative changes to Medicaid, none of which would have a significant impact on the provision of services to individuals with MR/DD.

Under the budget request, U.S. Department of Health and Human Services (HHS) discretionary spending would decrease by $2.2 billion to $68.5 billion. The budget request includes $29.3 billion in funds for the National Institutes of Health (NIH), which would essentially flat-fund health research at current-year spending. Developmental Disabilities Act programs would be level funded: University Centers for Excellence in Developmental Disabilities (UCEDD) would receive $37 million; DD Councils $72 million; Protection & Advocacy Programs $39 million; and Projects of National Significance, which includes Family Support $14 million. Once again, the President's Budget provides zero funds for the Lifespan Respite Care Act that was signed into law last year. This program was authorized at $40 million in FY 07 but did not receive any funding. This year the program is authorized at $53 million. The Social Services Block Grant is cut by $500 million, the same cut that was proposed in last year's budget. This program, which provides flexible funding for states for a range of social services, including respite care, has continued to be level funded by the Congress at $1.7 billion although it is authorized at $2.3 billion. The overall FY 2009 Budget requests $5.9 billion for the Health Resources and Services Administration (HRSA), a net decrease of $992 million from FY 2008. This funding includes $36 million (level funding) for the new "Autism and Other Developmental Disorders" line item authorized by the Combating Autism Act. Every program under CDC's Health Promotion is cut, including the National Center on Birth Defects and Developmental Disabilities, which is cut by $614,000 to $126,752 million.

FMI: The President's 2009 budget proposal is available at http://www.whitehouse.gov/omb/budget/fy2009/. Specific documents on the HHS budget can be found at http://www.hhs.gov/budget/docbudget.htm. ⌗

House Asks Medicaid Agencies to Describe State Impact of Medicaid Regulations

Congressman Henry Waxman, chair of the House Committee on Oversight and Government Reform, has sent a letter to all 51 State Medicaid Agencies (SMAs) asking for a state-by-state analysis of the impact of seven Medicaid regulations recently issued by the Centers for Medicare and Medicaid Services (CMS). The relevant regulations involve cost limits for public providers; payment for graduate medical education; payment for hospital outpatient services; provider taxes; coverage of rehabilitative services; payments for the costs of school administrative and transportation services; and targeted case management.

The letter points out that, while CMS has "provided an estimate of the reduction in federal Medicaid payments to states that each of its proposals would achieve," the estimates are national, and do not help Congress understand the state-by-state impact of the regulations. Waxman suggests that the federal-state nature of Medicaid makes it difficult to assess the changes created by the rules without such an analysis. The Committee is requesting that the SMAs provide both an estimate of "the expected reduction in Medicaid funds" and "the effect of this reduction on Medicaid applicants and beneficiaries." ⌗

NASDDDS Comments on TCM Rule

The National Association of State Directors of Developmental Disabilities Services (NASDDDS) has submitted comments to the Centers for Medicare and Medicaid Services (CMS) in response to new regulations regarding the provision of case management services through the Medicaid program. The comments address state MR/DD agencies' concerns about the significant impact the regulations will have on Home and Community-Based Services (HCBS) waiver programs.

Among the issues the comments address is the new regulation's emphasis on the consumer's right to refuse case management services. The Association's comments point out that "the right of refusal and its interaction with assuring service delivery and health and welfare presents states with an irresolvable dilemma," since many of the activities required by CMS to operate HCBS waivers (development of the plan of care, assuring health and welfare) are typically funded and delivered through case management. The comments also indicate that the regulation's prohibition on the use of Medicaid administrative funding to pay for case management exacerbates this problem, as it "leaves states without a vehicle to provide for the assurances required to operate a Medicaid HCBS waiver" that can not be refused by the participant.

The comments also address the scope of the rule and the problems associated with implementing its provisions by its implementation date of March 3, 2008; the prohibition against case managers serving as "gate keepers;" the provision that case management services must be provided by a single Medicaid case management provider; the reduction of the time period during which case management can be claimed for individuals transitioning from institutions to the community; and requirements that "the unit of service for case management and targeted case management services be 15 minutes or less."

The Association recommends in its comments that CMS reconsider the decision to apply the rule's requirements

(***TCM Rule*** continued on page 7)

131 Organizations Sign Letter Calling for Moratoria on Medicaid Regulations

131 National Organizations representing Medicaid-funded service systems and their beneficiaries have signed a letter to congressional leadership urging them to help pass and extend legislative moratoria that would prevent a series of recently issued Medicaid regulations from taking effect.

The letter, addressed to Senate Majority Leader Harry Reid (D-NV), Senate Minority Leader Mitch McConnell (R-KY), Speaker of the House Nancy Pelosi (D-CA), and House Minority Leader John Boehner (R-OH), argues that the series of Medicaid regulations will, if implemented, "have a sharp, adverse impact on beneficiaries, providers, states and localities." The letter suggests that "extending the existing moratoria on changes in school-based and rehabilitation services and hospital payments and passing new moratoria to address other recent Administration actions that endanger health care by limiting access to services and harming providers' ability to provide needed services will help protect Medicaid beneficiaries and the health care providers they rely on." The moratoria "will also prevent state and local governments from cutting other health and social services to cover the added costs of essential services for which federal reimbursement is no longer available." NASDDDS is a signatory to the letter.

FMI: The letter is available online at http://www.familiesusa.org/assets/pdfs/medicaid-coalition-stuff/2-21-medicaid-regulations-letter-to-hill-national-groups-2-20-08-final.pdf. ⌗

(***HCBS Quality Resources*** continued from page 3)

regarding roles and responsibilities, and greater overall consistency and accuracy. States also noted a few challenges, including the time required to coordinate responses to the application with all relative entities and the use of CMS language rather than state-specific language. The evaluation included recommendations for improving the waiver application, a number of which have already been incorporated in Version 3.5.

CMS also announced the new National Quality Contractor (NQC) website, a CMS sponsored location for up to date policy, statutory and technical assistance materials and contacts to guide States' in their ongoing quality improvement efforts. The site offers technical assistance in designing quality improvement strategies, preparing evidence packages, developing samples, administering surveys, and more.

FMI: The new waiver application can be found online at http://www.hcbswaivers.net. The National Quality Contractor website is located at http://www.communitvzero.com/nqc, and contains the waiver evaluation. ⌗

(***TCM Rule*** continued from page 6)

to the HCBS waiver program. The comments further recommend that "CMS develop a function within the HCBS waiver that will enable states to assign a professional to each waiver participant to carry out the functions of developing the required person-centered plan, monitoring the plan's implementation, making modifications to the plan as the person's needs change and effecting those changes, and monitoring incidents and health related sentinel events in the person's life – all of which are the components of assuring health and welfare." Finally, the Association offers the recommendation that CMS initiate an implementation planning process with each of the states and the District of Columbia that will allow for a thoughtful and responsible implementation of the new rules.

NASDDDS was one of a number of national organizations submitting comments. Other commenters include the National Association of State Medicaid Directors (NASMD), the National Association of Mental Health Program Directors (NASMHPD), and ANCOR.

FMI: NASDDDS comments are attached to this issue of ***Perspectives***. ⌗

CBPP Paper Addresses Impact of Medicaid Regulations

The Center for Budget Policy and Priorities (CBPP) has released a paper addressing the impact of a series of Medicaid regulations recently issued by the Department of Health and Human Services (HHS) that could significantly affect health care at the state and local level. Taken together, these regulatory changes, affecting case management, school-based services, hospital services, graduate medical education, outpatient services, and other aspects of the federal/state program, will reduce federal Medicaid spending by close to $15 billion over the next five years. Most of these costs, CBPP points out, "will simply be shifted to state and local governments, at a time when states have less capacity to absorb added costs given the economic slowdown and their weakening fiscal conditions."

CBPP makes the point that, since the services involved are "widely seen as important and necessary," states will not have the option of simply discontinuing them. Instead, states will have three options for making up the loss of federal Medicaid funds: "1) cutting back on their Medicaid programs by reducing eligibility (and thereby causing more low-income people to become uninsured), cutting back on health benefits, and/or reducing payments to providers (which already are lower than the payments that providers receive for treating most other patients); 2) cutting back on other state programs and using those funds to replace the lost federal Medicaid dollars; or 3) raising taxes."

The report goes on to analyze the impact the regulations will have on Medicaid beneficiaries and on the health system as a whole. CBPP suggests that the Administration's regulations reflect an ideological antipathy toward Medicaid, reflecting a goal of remaking Medicaid "in the image of commercial insurance that contains significant gaps in coverage for some people with serious health problems." The paper ends with a call to Congress to "extend [already-existing] moratoria and enact new moratoria to block the other harmful regulations."

FMI: The paper is available at http://www.cbpp.org/2-13-08health.pdf. ⌗

KFF Brief Addresses Spate of Medicaid Regulations

A new Kaiser Family Foundation brief focuses on six new Medicaid regulations that have been the source of considerable controversy and explains current policy, the proposed regulatory changes as well as the impact and issues with these changes. Taken together, the six new regulations could result in an estimated $12 billion reduction in federal Medicaid spending over the next five years according to the regulatory impact statements prepared by Centers for Medicare and Medicaid Services.

The brief warns that, taken together, the new regulations could "shift costs to states and limit fiscal capacity to administer the Medicaid program at a time when many states are entering another economic downturn and might need to allocate scarce resources to replace federal support just maintain critical services." Since states must balance their budgets each year, Kaiser points out, "allocating additional resources to maintain current programs would displace resources that might have been available for new initiatives." KFF concludes that "the combined effect of the regulatory changes and the fiscal downturn could hinder states ability to build on Medicaid to expand coverage, promote community based long-term care, and support safety-net hospitals."

FMI: The report is available online at http://www.kff.org/medicaid/upload/7739.pdf. ⌗

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Additional Information Will be Posted on the NASDDDS Website as it Becomes Available

Rockefeller & House Members Introduce FMAP Increase Bills

Senator Rockefeller (D-WV), Chairman of the Senate Finance's Health Subcommittee introduced the State Fiscal Relief Act of 2008 (S 2586), which would provide $12 billion in state aid, equally divided between a temporary 1.225 percentage increase in federal Medicaid matching payments (FMAP) and general revenue sharing grants for the last three quarters of 2008 and the first two quarters in 2009. Rockefeller introduced the bill after failing to amend similar language to the Senate's economic stimulus package. A bipartisan group of House members has also introduced a bill (HR 5268) that would temporarily increase the Medicaid federal medical assistance percentage, in this case by 2.95% for eligible states.

After failing to reach 60 votes to overcome a filibuster and pass a Democratic package. Senate Democrats joined with Republicans for an 81 to 16 vote for a Republican-offered bill that included additional targeted tax rebates but excluded extension of unemployment benefits, home heating assistance, and other rebates. By a vote of 380 to 34, the House then adopted the Senate-passed economic stimulus package. Senator Rockefeller then introduced his bill and it has been referred to the Finance Committee.

Energy and Commerce Health Subcommittee Chairman Frank Pallone Jr. (D-NJ) has introduced HR 5268, which would increase the Medicaid federal medical assistance percentage (FMAP) to states by 2.95%. U.S. territories would get a similar FMAP increase of 5.9%. States and territories would get the increase for five quarters from April 1, 2008, through June 30, 2009.

Pallone's bill has the support of the House Energy and Commerce Committee Chairman John D. Dingell (D-MI), who joined New York Representatives Peter T. King (R) and Thomas M. Reynolds (R) to cosponsor the bill. The Dingell-Pallone bill is a "stand-alone" bill, with no expectations as of yet that it will be added to another legislative measure, according to an Energy and Commerce spokesperson.

FMI: To read the bills or track their progress, go to http://thomas.loc.gov and search for bill number S 2586 or HR 5268. ⌗

Law Extends, Freezes SNP Program

A new law, the Medicare, Medicaid, and SCHIP Extension Act of 2007, will have several impacts on the growing subset of Medicare Advantage Plans known as Special Needs Plans (SNPs). The act extends the authorization for SNPs to December 31, 2009, but imposes a moratorium on the approval of new SNPs. The law also precludes the enrollment of a beneficiary in any SNP in an area in which that SNP was not available for enrollment on January 1, 2008. In essence, the legislation allows existing SNPs to continue enrollment in the areas they currently serve through 2009, but prohibits the Center for Medicare and Medicaid Services (CMS) from approving new SNPs or increasing the service areas of current SNPs.

In response to the new law, CMS has announced that it will monitor and provide technical assistance to MAs with SNPs in accordance with existing contracts, but will not approve any reconfiguration of SNP type, SNP subset, or SNP service area. Therefore, a SNP cannot change from one type of target beneficiary (individual with a chronic condition, dual eligible, institutionalized individual), as CMS would consider that a different SNP that was not offered as of January 1, 2008. CMS will not allow dual eligible SNPs to modify the types of duals they will serve or chronic condition SNPs to add new conditions to their rolls. A SNP cannot be sub-divided or split into two or multiple SNPs, and the SNP county service area cannot be expanded. The legislation does not preclude a SNP from reducing its service area or terminating its services. ⌗

CMS Releases Report on 2003 Independence Plus Grantees

The Centers for Medicare and Medicaid Services (CMS) has released a report describing the activities of twelve grantees that received Independence Plus (IP) grants in FY 2003 and are using them to increase self-directed services options for persons of all ages with disabilities or chronic illnesses. Grantees encountered a range of issues while implementing their grants and the report provides information for states and stakeholders who are planning, implementing, or expanding self-direction programs.

In 2003, to encourage states to offer self-directed services options, CMS awarded $5.4 million in IP grants to Colorado, Connecticut, Florida, Georgia, Idaho, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, and Ohio under the Real Choice Systems Change grant program. States receiving IP grants could develop new home and community-based services (HCBS) or research and demonstration (R&D) waiver programs; build capacity to strengthen new or existing self-direction programs; build provider capacity under the self-directed services option; and/or hire personnel to research self-direction program designs or funding opportunities with the expectation of submitting an IP waiver application or amending an existing waiver. The report details the processes the states undertook and the issues that arose.

FMI: The report is available online at http://www.hcbs.org/files/130/6482/IPpaper.pdf.

NCD Releases Annual Progress Report

The National Council on Disability (NCD) has released its annual report, *National Disability Policy: A Progress Report*, noting progress where it has occurred and making further recommendations where necessary to the executive and legislative branches of the federal government. The report is divided into 13 chapters, each dealing with a major area of public policy. These subject-specific chapters are preceded by an introductory Major Trends section that identifies overarching themes and issues that are pertinent to many of the specific topics discussed throughout the report.

The report cites several examples of continued progress in disability policy. Among these are the Help America Vote Act (HAVA) for increasing access to elections for Americans with disabilities, developments under the Assistive Technology Act (ATA) that "hold out the promise for enhanced coordination in the delivery of services," and the positive role of the Department of Justice (DoJ) in a recent Detroit public transit case.

The report also notes that "many challenges remain for our citizens who are living with disabilities and who wish to be more independent, more productive, and more actively involved in their families and communities." According to the report, "far too many Americans are desperately trying to improve the quality of their lives, but they are frustrated by a lack of affordable accessible housing, transportation, and long-term services and supports."

FMI: The report is available at http://www.ncd.gov/newsroom/publications/2008/NationalDisabilityPolicy_A_Progress_Report.html or http://www.ncd.gov/newsroom/publications/2008/pdf/20080115_NCD_ProgressReportComplete.pdf.

GAO Predicts Fiscal Challenges for States

A report from the Government Accountability Office (GAO) to congressional committees predicts growing fiscal challenges for state and local governments in less than a decade. The report indicates that two major fiscal balance measures for states, net lending or borrowing and operating balance, are likely to remain within their historical ranges in the next few years, but both begin to decline thereafter and fall below their historical ranges within a decade. GAO says that policy changes are necessary for state and local governments to avoid an increasing gap between receipts and expenditures in the coming years. Since most state and local governments are actually required to keep their operating budgets balanced, GAO suggests that these declining fiscal conditions are "a foreshadowing of the extent to which these governments will need to make substantial policy changes to avoid these potential growing fiscal imbalances."

As is true for the federal sector, the growth in health-related expenditures is the primary driver of the fiscal challenges facing the state and local government sector, according to GAO. In particular, GAO identifies two types of expenditures that will likely rise quickly: Medicaid expenditures and government expenditures for health insurance for state and local employees and retirees. Although the report indicates that health care expenditures clearly appear to be a looming problem for the state and local government sector, GAO suggests that the extent of fiscal difficulties faced by any given state or local government will vary with its individual expenditure and tax profile.

The watchdog agency used its fiscal model to examine how the fiscal balance measures would be affected over the long-term under assumptions that differed from those of our base case across three factors: (1) the rate of growth in tax receipts, (2) the rate of growth in expenditures, and (3) the rate of growth in medical care expenditures. GAO found that it would be difficult to address the expected future fiscal deficits solely through tax increases or solely through expenditure cuts. The agency concludes that the state and local sector will provide an additional drag on an already declining federal government fiscal outlook and that the critical problem of escalating costs of health care is an economy wide problem that will need to be addressed by all levels of government.

FMI: The report is available at http://www.gao.gov/new.items/d08317.pdf. ⌗

Federal Stimulus Package Threatens State Revenues

The recently passed federal economic stimulus package contains a bonus depreciation provision that threatens to reduce many states' tax revenue this year and next year, according to a new report form the Center for Budget and Policy Priorities (CBPP). To avoid this revenue loss, the organization suggests that states can enact laws to "decouple" their business depreciation rules from the part of the federal tax code that allows bonus depreciation.

Bonus depreciation allows a business to claim an immediate federal tax deduction of up to 50% of the cost of new equipment purchases, rather than following the standard accounting approach of depreciating the full cost gradually over the several year useful life of the equipment. While the stimulus package alters federal tax laws, states will be affected because most state-level personal and corporate income taxes are based on federal law. States can avoid this outcome by decoupling their business depreciation rules from the section of the federal tax code that allows bonus depreciation. CBPP points out that, absent this remedy, affected states will experience immediate revenue loss in the current fiscal year and the upcoming fiscal year because the bonus depreciation provision is retroactive to January 1, 2008. The report estimates that under current state law, "some 23 states stand to lose an estimated $1.7 billion in corporate and individual tax revenue in the current and upcoming fiscal years."

FMI: The report is available at http://www.cbpp.org/2-13-08sfp.pdf. ⌗

KCMU Resources on Health Coverage During Economic Downturns

The Kaiser Family Foundation's (KFF's) Kaiser Commission on Medicaid and the Uninsured (KCMU) has re-released a series of resources created during past economic downturns that the organization suggests may be useful as policymakers decide how to deal with these issues once again.

THE KAISER COMMISSION ON
Medicaid and the Uninsured

The resources include:

- A policy brief examining the impact of providing federal assistance to states via an increased federal match rate of Medicaid funds (http://www.kff.org/medicaid/7434.cfm).
- A brief examining the relationship between rising unemployment and the nation's uninsured population (http://www.kff.org/uninsured/6011-index.cfm).
- A brief examining the relationship between unemployment and Medicaid (http://www.kff.org/medicaid/4026-index.cfm).
- A fact sheet reviewing the impact of the fiscal relief provisions for Medicaid (http://www.kff.org/medicaid/7073.cfm).
- A background piece looking at the role Medicaid plays in state budgets and the impact of declining state revenues on Medicaid (http://www.kff.org/medicaid/4024-index.cfm).
- A compilation of many studies examining Medicaid's role and impact on state economies, including estimates of the economic stimulus derived from Medicaid spending, and analysis of the adverse effects on the state economy from reducing Medicaid spending (http://www.kff.org/medicaid/7075a.cfm).
- A series of case studies examining how eight states (Alabama, California, Colorado, Massachusetts, Michigan, New York, Texas, and Washington) from around the nation responded to their budget crises from 2003 to 2005, with a focus on how Medicaid and State Children's Health Insurance Programs were affected (http://www.kff.org/medicaid/7324.cfm).

HHS Publishes 2008 Poverty Guidelines

The U.S. Department of Health and Human Services (HHS) has issued the 2008 poverty guidelines for federal programs. The Omnibus Budget Reconciliation Act (OBRA) of 1981 requires the Secretary of HHS to update the poverty guidelines at least annually. The poverty guidelines are a simplified version of the poverty thresholds that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty. As required by law, the update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI-U).

The guidelines in the 2008 notice reflect the 2.8% price increase between calendar years 2006 and 2007. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes.

FMI: The *Federal Register* notice announcing the guidelines is available online at http://aspe.hhs.gov/poverty/08fedreg.htm.

NIH Develops Down Syndrome Research Plan

The National Institutes of Health (NIH) has developed a research plan to advance understanding of Down syndrome and speed development of new treatments for the condition, the most frequent genetic cause of mild to moderate mental retardation and associated medical problems, according to the government agency. The plan sets research goals for the next 10 years that build upon earlier research advances fostered by the NIH.

To develop the plan, the NIH's National Institute of Child and Human Development (NICHD) convened a working group of NIH scientists who listened to public comments and suggestions from families of individuals with Down Syndrome, as well as from Down Syndrome research advocacy organizations. The NIH scientists then developed the research plan in collaboration with researchers in the national scientific community. Among the research objectives identified as priorities over the next 10 years is the need for greater access to laboratory animals with the characteristics of Down syndrome. The plan cites the need for increased research on the medical, cognitive, and behavioral conditions that occur in people with Down syndrome, including leukemia, heart disease, sleep apnea, seizure disorders, stomach disorders, and mental health problems. The working group also identified the need to study whether aging has a greater impact on mental processes in people with Down syndrome than in people who do not have Down syndrome.

FMI: The report is available on the NICHD website at http://www.nichd.nih.gov/publications/pubs/upload/NIH_Downsyndrome_plan.pdf. The plan also includes a summary of recent and current Down Syndrome related research efforts at NIH. ⌗

CCF Addresses Medicaid as Portion of State Budgets

A new report from the Center for Children and Families (CCF) at the Georgetown University Health Policy Institute takes a close look at commonly held assumptions about the role Medicaid plays in state budgets. While the report acknowledges that Medicaid "has a considerable impact on state budgets," it suggests that this role "is more nuanced than the headlines frequently suggest." The brief examines the different measures of Medicaid's impact and provides data on how much each state spends on Medicaid.

Among the report's key findings:

- Much reporting on Medicaid as a share of state budgets fails to distinguish between Federal and State dollars. It is often reported that states spend, on average, almost 23% of their state budgets on Medicaid, federal funds account for 56.7% of this spending. Average state spending on Medicaid as a share of state general fund budgets is actually 17.9%, and, just 14.4% as a share of total state spending.

- In some states with more favorable federal Medicaid matching rates, the different measures can result in dramatically different stories because federal funds can account for as much as two-thirds to three-quarters of Medicaid spending.

- Rather than preventing states from spending on other priorities, federal funds coming into a state to pay for Medicaid services actually help states finance other priorities.

FMI: The report is available online at http://www.hcbs.org/files/130/6488/medexp.pdf. ⌗

KFF Releases Part D 2008 Data Spotlights

The Kaiser Family Foundation (KFF) has issued two new Medicare Part D Data Spotlights focusing on Medicare drug plan formularies and utilization management techniques. The spotlights analyze 2008 data for the 47 stand-alone prescription drug plans available nationwide and address key changes since 2006, using a sample of 169 commonly used and high-cost prescription drugs to examine these topics.

The first spotlight focuses on formularies (the list of covered drugs) of Medicare stand-alone prescription drug plans and differences in how plans cover brand name and generic drugs. The analysis finds that most drug plans (91%) cover a majority of the generic sample drugs, while only 28% of plans cover a majority of brand-name sample drugs. The analysis also finds relative stability in the coverage of sample drugs since 2006.

The second spotlight examines three techniques used by stand-alone prescription drug plans to manage enrollees' use of formulary drugs: quantity limits, prior authorization, and step therapy rules that require enrollees to try one or more specific drugs before covering certain medications. Utilization management restrictions are more common in 2008 than in 2006, with 30% of sample drugs subject to some use restriction in 2008, up from 20% in 2006.

These new releases are the latest in the series of Medicare Part D 2008 Data Spotlights released by the Foundation since November 2007. Other spotlights discuss Medicare drug plan premiums, benefit design, the coverage gap, and the specialty tier. The Foundation has also posted online an appendix detailing the methodology used in the Medicare Part D 2008 Data Spotlight series.

FMI: The Spotlights are available online at http://www.kff.org/medicare/med102507pkg.cfm.

NCD Releases Report on School-Age Children with Disabilities

The National Council on Disability (NCD) has released a report analyzing the progress of the No Child Left Behind (NCLB) Act and the Individuals with Disabilities Education Act (IDEA). NCD concludes that, due to these two federal laws, students with disabilities are no longer ignored. To that end, NCD says, NCLB and IDEA have had a significant, positive impact.

NCD commissioned this study, entitled *The No Child Left Behind Act and the Individuals with Disabilities Education Act: A Progress Report*, to assist policy leaders and stakeholders in assessing the impact of NCLB and IDEA on schools, including student outcomes produced as a result of changes mandated in the laws. The report provides an analysis of such questions as (a) How has student achievement status changed since the laws were (re)authorized? (b) What impact have the laws had on assessment systems, accountability systems, and systems of personnel development? and (c) Which barriers are impeding the achievement of students with disabilities, and how can those barriers be overcome?

FMI: The report is available at http://www.ncd.gov/newsroom/publications/index.htm.