

U.S. House and Senate Notification
Thursday, April 29, 2010

To: Congressional Health Staff

From: Amy Hall
Director, Office of Legislation
Centers for Medicare & Medicaid Services

Re: State Flexibility for Medicaid Benefit Packages Final Regulation on Display in the Federal Register

Today, the Centers for Medicare & Medicaid Services (CMS) put on display in the Federal Register the Final Rule regarding the State Flexibility for Medicaid Benefit Packages made available to States under the Deficit Reduction Act (DRA) of 2005.

Section 6044 of the DRA amended title XIX of the Social Security Act by adding a new section 1937. This provision gives States the option to design “benchmark” or “benchmark-equivalent” benefit packages to be provided to certain populations that the Medicaid program covers. The Final Rule defines terms such as “benchmark and benchmark-equivalent” coverage and offers additional guidance regarding public notice processes, populations that are exempt from the benchmark option and the parameters for voluntary versus mandatory enrollment in benchmark plans. It also includes modifications required by the Children’s Health Insurance Program Reauthorization Act (CHIPRA) of 2009. As required by CHIPRA, this final rule establishes that States may waive statutory requirements related to state-wideness and comparability, but must comply with all other provisions of Medicaid, including freedom of choice and the assurance of necessary transportation, unless the provision would be contrary to implementation of the benchmark plan.

This regulation will become effective on July 1, 2010. It will be followed by a forthcoming regulation that will codify the benefits changes found in the recently enacted Affordable Care Act of 2010.

The regulation is now on display and will be published in the *Federal Register* on April 30, 2010. To view the final rule, please visit:

http://www.federalregister.gov/OFRUpload/OFRData/2010-09734_PI.pdf

If you have any additional questions, please contact the CMS Office of Legislation.