

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-05-37

DATE: July 14, 2005

FROM: Director
Survey and Certification Group

TO: State Survey Agency Directors

SUBJECT: Responsible State Agency for Psychiatric Residential Treatment Facility (PRTF) Surveys

Letter Summary

- This memorandum clarifies which State Agency is responsible for surveying Psychiatric Residential Treatment Facilities (PRTFs).
- The same State Agency that surveys facilities for compliance with Medicare health and safety requirements is responsible for conducting PRTF surveys.

42 CFR section 431.610 (b) provides that--

“A state plan must designate, as the State authority responsible for establishing and maintaining health standards for private or public institutions that provide services to Medicaid recipients, the same State Agency that is used by the Secretary to determine qualifications of institutions and suppliers of services to participate in Medicare.”

Subparagraphs (e)(1) & (2) further delineate that--

“The plan must provide that (1) the agency designated in paragraph (b) [see above], or another State Agency responsible for licensing health institutions in the State, determines for the Medicaid agency whether institutions and agencies meet the requirements for participation in the Medicaid program; and (2) the agency staff making the determination under paragraph (e)(1) of this section is the same staff responsible for making similar determinations for institutions or agencies participating under Medicare.”

Inpatient psychiatric services for individuals under the age of 21 is a Medicaid benefit. The Social Security Act (the Act), at section 1902(a)(33)(B), states that the State Survey Agency (SA) that performs the survey function under the Medicare program is responsible for surveying Medicaid providers as well. Therefore, the SA responsible for the Medicare survey is the agency responsible for surveying PRTFs.

As stated in memorandum S&C-04-13, dated December 11, 2003, the State Medicaid Agency (SMA) has ultimate responsibility for program administration of Medicaid programs, which includes implementation of the PRTF benefit. In order to determine whether PRTFs meet program requirements, the SMA should enter into an interagency agreement with the SA responsible for the Medicare survey that establishes overall compliance determination-making authority. The SMA should review the SA's compliance decisions and exercise its own discretion as to whether to enter into or continue its provider agreements with PRTFs.

The Act does not preclude an SA from establishing an agreement with another agency or contractor to perform PRTF surveys. The statute does require the state to be ultimately responsible for determining whether the PRTF meets established health standards. Thus, any arrangement that the state might have with other agencies to perform this task must be done so in a way that maintains the state's accountability for this aspect of its obligations under the State plan; however CMS will not make cost adjustments if such arrangements create unnecessary overhead expenses.

Questions concerning this memo should be directed to Jennifer Welch at 410-786-6664 or via e-mail at Jennifer.Welch@cms.hhs.gov.

Effective Date: Immediately. The SA should disseminate this information within 30 days of the date of this memorandum.

Training: This information should be distributed to all managers and surveyors involved in the PRTF survey process.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)
State Medicaid Directors