

SUBJECT: Request for Emergency Clearance of the Paperwork Reduction Act Package for the Medicaid Emergency Psychiatric Demonstration , Application Proposal Guidelines form , Authorized Under Section 2707 of the Patient Protection and Affordable Care Act of 2010.

The Centers for Medicare & Medicaid Services (CMS) is requesting that an Information collection request for the Medicaid Emergency Psychiatric Demonstration, Application Proposal Guidelines form, be processed under the emergency clearance process, as stated in 5 CFR 1320.13(a)(2)(iii). The approval of this Application Proposal Guideline form is essential in order to comply with the research Demonstration evaluation requirements and Report to Congress (RTC), due by December 31, 2013, mandated by section 2707 of the Patient Protection and Affordable Care Act of 2010. The statute requires CMS to include in the RTC, a recommendation as to whether the Demonstration project should be continued after December 31, 2013, and expanded on a national basis. Importantly, as shown in the timeline below, the draft RTC will be submitted to CMS and begin the clearance process on January 1, 2013. The Demonstration will be implemented in the multiple States on December 12, 2011. Thus, the evaluation and recommendation included in the RTC will be based upon data for 1-year. A delay in approving the Application Proposal Guideline form and subsequent implementation of the demonstration will not allow sufficient data to be collected and evaluated in order to make a recommendation in the RTC and CMS will miss the mandated RTC requirements and due date.

Background

Under the provisions of section 2707 of the Patient Protection and Affordable Care Act of 2010 (See Attachment A), CMS is conducting the Medicaid Emergency Psychiatric Demonstration. This is a 3-year Demonstration that permits participating States to provide payment under the State plan to private psychiatric hospitals for inpatient emergency psychiatric care to Medicaid recipients aged 21 to 64 who have expressed suicidal or homicidal thoughts or gestures and are determined to be dangerous to themselves or others.

The statute provides authority to waive requirements of title XI and XIX of the Social Security Act, including the requirements of section 1902(a)(1) relating to state-wideness, and 1902(1)(10)(B) relating to comparability, to the extent necessary to carry out this demonstration. The statute provides specific waiver authority to allow State Medicaid payment and Federal Matching funds for current Medicaid institutions for mental diseases (IMD) exclusion qualifying services for States that participate in this Demonstration.

The goal of the Demonstration is to assess whether this expansion of Medicaid coverage to include services provided in private, free-standing inpatient psychiatric facilities improves access to and quality of medically necessary care and whether this change in reimbursement policy is cost-effective. Focusing on psychiatric emergencies, the Demonstration is also an attempt to explore a potential remedy to alleviate one of the factors contributing to psychiatric boarding, one of the consequences associated with the (IMD) exclusion.

The Medicaid IMD exclusion, is purported to be a major factor contributing to the rate of “psychiatric boarding” in hospital emergency departments (DHHS, 2008). Psychiatric boarding occurs when an individual with a mental disorder is kept in a hospital emergency department

for several hours because appropriate mental health services are unavailable. Emergency departments are required to provide treatment to stabilize or transfer these patients in accordance with EMTALA. Thus, even if a psychiatric bed is available at an outside facility, the boarding time may be extended when there is uncertainty as to whether a patient's condition meets the EMTALA definition of "stabilized" for transfer. The result is a disruption in the continuity of care directed at the patient and the overall diminished quality of care provided to the patient at the most critical period of the treatment episode.

In the case of more serious mental disorders requiring inpatient admission, boarding can include improper placement, for instance, to a bed on a medical ward or in a skilled nursing facility, when a psychiatric bed at the hospital or at a referral facility outside the hospital would be more appropriate but is not available (DHHS, 2008). This situation becomes even more acute when the individuals seen are suicidal or homicidal and present a danger to themselves or others. It appears that these cases are most often referred to non-government psychiatric facilities specializing in emergency conditions and short-term hospitalizations as more and more, the State mental hospitals have limited their bed space to long-term resident admissions focusing on the treatment of chronic psychiatric illnesses.

Although a comprehensive, nationwide evaluation of psychiatric boarding has not been completed, there appears to be ample survey and anecdotal information to indicate that it is a frequent and prevalent problem leading to serious consequences for psychiatric patients and unnecessary hospital costs (DHHS, 2008).

As a condition for receiving payment under this Demonstration, a State shall be responsible for collecting and reporting information to CMS about the conduct of the Demonstration in the State for the purposes of providing Federal oversight and the evaluation of the Demonstration and required to cooperate with the CMS evaluation team. The CMS is also required to submit a Report to Congress, with a recommendation as to whether the Demonstration project should be continued after December 31, 2013, and expanded on a national basis.

The statute requires that a State seeking to participate in this Demonstration project shall submit an application (see Appendix 1) that includes such information, provisions, and assurances necessary to assess the State's ability to conduct the Demonstration as compared with other State applicants. States submitting applications to participate in the Demonstration will be selected on a competitive basis based on their responses to the application subject areas. The selection will also include factors necessary to achieve an appropriate national balance in the geographic distribution of the Demonstration. The State Medicaid Director will submit the Demonstration application proposal.

DHHS, ASPE, A Literature Review: Psychiatric Boarding, David Bender, Nalini Pande, Michael Ludwig, The Lewin Group, Office of Disability, Aging and Long-Term Care Policy, Office of the Assistant Secretary for Planning and Evaluation, US DHHS, October 28, 2008 contract number HHS-100-03-0027.

Requested and Proposed Timelines

<u>Date</u>	<u>Activity</u>
04/08/11	Target publication date for Emergency 25-day FR notice
05/04/11	End of 25-day public comment period
05/09/11	Requested date of OMB approval
08/13/11	Application Proposals due to CMS; State Application Proposals review process/panel review and analysis
09/27/11	CMS Administrator State selection decision
10/18/11	Awards to participating States
10/28/11	States begin Demonstration pre-implementation activities
11/14/11	Solicitation and award of evaluation contract
12/12/11	Demonstration implementation in multiple States
01/01/13	Submit draft report; beginning of clearance for Report to Congress
12/31/13	Report to Congress due
12/31/14	Demonstration ends

We request your support in reviewing our Application Proposal Guidelines form under the emergency PRA procedures to allow us to meet the deadline for reporting to Congress, mandated under section 2707 of the Patient Protection and Affordable Care Act of 2010. If you have any questions, please contact:

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