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MICHAEL K. SMITH, SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

December 15, 2005

Dr. Mark B. McClellan, M.D., Ph.D
Administrator
Centers for Medicare and Medicaid Services
Mail Stop C5-11-24 – Central Building – Room C5-25-25
7500 Security Boulevard
Baltimore, MD 21244-1850

Dear Dr. McClellan:

I am writing to formally accept the Special Terms and Conditions (STCs) of the recently approved Global Commitment Section 1115 Demonstration, with an effective start date of October 1, 2005. We sincerely appreciate the time and dedication of the Centers for Medicare & Medicaid (CMS) staff in the development of this innovative program. We believe that the Demonstration will enable us to better serve Vermonters through more effective use of state and federal resources.

Under the Global Commitment to Health Waiver, Vermont will demonstrate its ability to promote universal access to health care. Subject to the availability of state funds, authorization of the Vermont legislature and compliance with the Demonstration's STCs, the Demonstration will enable the State to develop health care initiatives to improve the access to and quality of health care services received by uninsured and underinsured Vermonters.

Vermont's Demonstration Proposal, submitted April 15, 2005, identified the State's goals and objectives; described examples of innovative programs that might be implemented in order to more effectively and efficiently meet Vermonters' health needs; and provided assumptions regarding program design.

During the course of extensive collaboration and negotiation with CMS, Vermont's goals and objectives for the Demonstration continued without change. Through collaboration with CMS, we refined the program design and operational parameters to better meet both state and federal policy and fiscal objectives. Therefore, the final parameters under which the State will operate are defined by the Special Terms and Conditions approved by CMS on September 27, 2005. Short of rewriting the April 15, 2005 application to reflect the approved and accepted STCs, the following points serve as clarification:

- The Vermont Legislature must approve changes to eligibility requirements and benefits for enrollees in the Global Commitment to Health Section 1115(a) Demonstration and they also may be subject to CMS approval as specified in the STCs.
- Per the STCs, should the State of Vermont elect to implement any of the innovative features outlined in its waiver proposal in accordance with any directive of the state legislature, the state will seek approval from CMS to do so through an amendment to the demonstration.
- The Office of Vermont Health Access (through the Agency of Human Services) will be serving as the public MCO for the demonstration program. OVHA will provide services in accordance with the managed care provisions set forth at 42 CFR part 438 and part 447 with respect to timely claims payment. The MCO premium rate will be based on covered benefits and eligibility, will be actuarially certified, and approved by CMS. The MCO will have broad operational authority, subject only to the limitations specified in section 40 of the Special Terms and Conditions, MCO payment restrictions identified in 42 CFR 438, and approval of the Vermont Legislature.
- Changes in eligibility criteria and the scope of benefits provided under the Vermont Medicaid program, including this demonstration, will be determined by the Vermont Legislature. Vermont does not plan to change mandatory services for mandatory populations or EPSDT services. Changes also must be approved by CMS if required by the Special Terms and Conditions. However, further health care initiatives for the purposes defined under section 40 of the STCs may be implemented without CMS approval.
- The payment rate in the Intergovernmental Agreement (IGA) between the AHS and MCO can be altered during the agreement year, as long as the revised rate is compliant with 42 CFR part 438 and is prior approved by CMS.
- As is consistent with the CMS capitation rate setting checklist for risk contracts and the actuary practice guidelines for Medicaid rate-setting, it is permissible for the actuary to make adjustments based on plan specific encounter and financial data to ensure that an efficiently run managed care plan is not penalized for its efficiencies.
- The budget neutrality terms rely on historical expenditures and current federal projections of program growth. The State may seek re-negotiation of the budget neutrality terms if an unforeseen event occurs during the course of the Waiver term, such as a major economic downturn or catastrophic event (e.g., epidemic, natural disaster or terrorist action).
- The specific details regarding “normal close-out costs” in Special Terms and Conditions #10 is determined on a case-by-case basis. However, at a minimum, this clause indicates that, in the event that the waiver is prematurely suspended or terminated, CMS will provide federal match for the administrative and service costs associated with transitioning the care of people enrolled in the demonstration, including non-state plan populations.

- Consistent with the Global Commitment Special Terms and Conditions, Vermont intends to continue to operate the Vermont Health Access Program (VHAP) through the MCO, including VHAP-Uninsured, VHAP Pharmacy, VScript and PCPlus Programs. However, such services will be provided under the authority of the Section 1115a Global Commitment waiver rather than the authority of the former Section 1115a VHAP waiver. Program eligibility criteria and benefits will remain unchanged unless directed by the Vermont Legislature and by CMS, as required by the Special Terms and Conditions.
- Existing federal authority and state administrative rules associated with all programs included under the 1115a Global Commitment waiver will remain in effect unless they are changed through the state's formal rule-making process.
- Vermont intends to continue to offer the following home and community based (HCBS) services under the Global Commitment Waiver for the following populations: people with developmental disabilities, children and adolescents with severe emotional disturbances, and people with traumatic brain injuries. However, such services will be provided under the authority of the 1115a Global Commitment waiver rather than the authority of Section 1915c waivers. HCBS program parameters, including eligibility criteria, under the former developmental services, severe emotional disturbance and traumatic brain injury waivers will remain unchanged unless modified through established state procedures associated with these programs. The operational parameters for these 1915c waiver programs will be defined in the Intergovernmental Agreements between the MCO and the departments that administer these programs. The State does not need to submit any additional reports to CMS for these 1915c waivers for services paid after September 30, 2005.

The Vermont Legislature, through its Joint Fiscal Committee, has given final approval for entering into the waiver program, in accordance with its September 30th contingent approval, and subsequent review and approval of the completion of these contingencies on December 13, 2005.

If you have any concerns with the above clarifications, please inform us within thirty days of receipt of this letter.

Sincerely,

Michael K. Smith, Secretary
Agency of Human Services