



MEMORANDUM

TO: Long Term Home Health Care Program Members

FROM: Diane Darbyshire, Senior Policy Analyst

DATE: September 30, 2008

SUBJECT: Overview of Conference Call with DOH on LTHHCP Waiver Renewal

ROUTE TO: Administrators, Program Directors

ABSTRACT: DOH provides NYAHS with final updates regarding waiver renewal process.

Introduction

As was reported in [NYAHS Doc ID# n00002718](#), NYAHS and other associations have been working together for over a year to advocate for various legislative and administrative changes to make the Long Term Home Health Care Program (LTHHCP) more flexible and able to respond to the current market. Based on input we received from members, we provided additional feedback to the Department of Health (DOH). NYAHS recently received further updates during a recent conference call with DOH, and are pleased to report some successes. This memo provides an overview of those areas, and issues for which the department has assured us future collaboration.

Background

NYAHS has been working diligently to advocate for various updates and modernization of the Long Term Home Health Care Program (LTHHCP) through the upcoming Medicaid waiver renewal process. DOH is currently submitting to the Centers for Medicare and Medicaid Services (CMS) the request for the renewal of the authorization to continue the LTHHCP. The authority expires at the end of this calendar year, and CMS requires time to review the application and pose questions to the state.

NYAHS and our colleagues from other associations participated in a conference call with DOH on August 26th, during which DOH provided an overview of the expected contents of the LTHHCP waiver renewal application. NYAHS wrote a letter to DOH to advocate on some outstanding issues, still open to discussion, based on member input and our discussion during the August 27th Community Services Issue Forum conference call. This letter is provided as an attachment, which can be viewed at the bottom of this computer screen.

The department scheduled a follow-up conference call to address input and concerns raised by NYAHSA and our colleagues before the waiver application is submitted. We are pleased that the department was receptive to our requests and commits to further collaboration.

Waiver Renewal Application Overview

Alternate Entry

We are pleased to report that the “alternate entry” process will be included in the waiver renewal application. During the last conference call with the department, we were told that this process would be disallowed. We raised concern, as noted in our attached letter, and were successful in our advocacy.

Increased Flexibility in Capacity Limits

NYAHSA also raised concerns regarding the suggested approach to capacity limits. The current need methodology provides that there is need in a county when the county census as a whole reaches 85% of the approved capacity for that county (all providers in the county do not have to reach the 85% threshold). As was discussed during the Issues Forum conference call, DOH had proposed that organizations would be able to increase their capacity to 25% of their currently approved capacity or 25 registrants while awaiting formal approval from the department. Further, DOH proposes a process for reducing the approved capacity of providers that have had a census below 50% for one or more years, and providers that have had a census of zero for two years will have their approval to provide LTHHCP services in that county rescinded.

While members appreciated the flexibility to expand further while awaiting approval, there was concern that providers may have a low census or zero census for legitimate reasons that may, over time, change. Further, as the need and demand for home and community-based services increases, that capacity may be necessary. In addition, with new programs developed through the Voluntary Nursing Home Rightsizing Demonstration and the “Berger Commission,” there are likely to be some programs that will slowly build their census over time. NYAHSA argued that those providers should not be penalized, and such outliers should be omitted from the determination of county census and need.

The department has agreed to work with us on this issue and intends to provide more flexibility with capacity limits. This issue does not require a waiver amendment; however, so it will be addressed after the waiver renewal is finalized with CMS.

Assessment

DOH continues to maintain that further amendments can be made to the waiver after this process is complete. For example, parties are in agreement to change the frequency of

assessment from 120 days to 180 days; however, this will require a statutory amendment and therefore cannot be changed until after the waiver is already renewed.

Expenditure Caps

The expenditure caps for participants in the LTHHCP have not changed; however, the department is willing to continue to work with the associations on this issue. Any plan would be subject to scrutiny from a budget perspective.

Additional Features Included in the Waiver Renewal Application

As was discussed in [NYAHSA Doc ID# n00002718](#), DOH plans to submit the waiver application including the following:

- Medicaid spousal impoverishment protections intact (though CMS is expected to take issue with it);
- a plan to develop a new electronic assessment tool;
- adds or amends waiver services to provide more flexibility;
- articulates the physician override process;
- states that the AIDS Home Care Program is part of the LTHHCP;
- changes the Level of Care assessment tool for children from the DMS-1 to the Pediatric Patient Review Instrument (PPRI) used in the Care at Home I/II waiver;
- stipulates that consumers will be apprised of the options of long term care programs that they are eligible for, including the LTHHCP; and,
- discusses DOH's intent and efforts to ensure statewide consistency in the administration of the program.

See [NYAHSA Doc ID# n00002718](#) for more details on the above.

Conclusion

NYAHSA has been working diligently with other associations to advocate for changes to the LTHHCP that will provide needed flexibility for providers and consumers. We appreciate the department's willingness to work closely with us on this important matter. Members should remember that the above proposals are subject to CMS approval, and could change. NYAHSA will keep members apprised of further developments in this process.

If you have any questions regarding the contents of this memo, contact Diane Darbyshire at 518-449-2707, ext. 162 or by e-mail at ddarbyshire@nyahsa.org, or Anne Hill at NYAHSA ext. 141, or e-mail at ahill@nyahsa.org.

Attachment

N:\NYAHSA\Policy\ddarbyshire\LTHHCP\Memo_DOH_Mtg_sept_081.doc