



March 8, 2007

VIA FACSIMILE

The Honorable Kent Conrad
The Honorable Judd Gregg
Senate Budget Committee
624 Dirksen Senate Office Building
Washington, DC 20510

Re: Access to Rehabilitation Services Under Medicaid

Dear Chairman Conrad and Ranking Member Gregg:

The undersigned members of the Coalition to Preserve Rehabilitation (CPR) write to request the inclusion of the attached “Sense of the Senate” Resolution regarding the Medicaid Rehabilitative Services option in the fiscal year (FY) 2008 budget resolution.

CPR is a coalition of national consumer and clinician organizations with the goal of preserving access to appropriate rehabilitation services so that individuals with disabilities, injuries, or chronic conditions may regain and/or maintain their maximum level of independent function.

Rehabilitation services provided under the Medicaid Rehabilitative Services option are vital to individuals with mental illness and developmental disabilities to improve and maintain their health and independence. However, the President’s FY 2008 budget request indicated that the Department of Health and Human Services (HHS) will soon publish regulations that would narrow the definition of rehabilitation services under this option, thereby severely restricting access to many of the rehabilitation services currently being provided.

During 2005 Deficit Reduction Act (DRA) negotiations, the Administration presented similar changes to the Medicaid Rehabilitative Services option to Congress in the form of a legislative proposal. However, Congress rejected the proposal at that time and did not include it with the Medicaid provisions of the DRA. HHS now appears to be moving forward—without Congressional authority—with a similar proposal using the regulatory process.

Inclusion of the attached resolution in your FY 2008 budget resolution, while non-binding, would indicate to the Administration Congress’ concern with this significant change in policy, especially without Congressional authority or direction. We strongly urge you to send this important message

to the Secretary of HHS on behalf of the many Medicaid recipients with disabilities who depend on rehabilitative services to improve and maintain their health and ability to function as independently as possible.

Thank you for your consideration. Please contact Emily Niederman with CPR at (202) 349-4290 if you have any questions.

Sincerely,

American Association of People with Disabilities

American Occupational Therapy Association

American Physical Therapy Association

American Therapeutic Recreation Association

Amputee Coalition of America

ACCSES-DSPA Alliance

Brain Injury Association of America

Center for Medicare Advocacy, Inc.

Child Welfare League of America

Christopher and Dana Reeve Foundation

Easter Seals

Epilepsy Foundation

Goodwill Industries International, Inc.

National Association for the Advancement of Orthotics and Prosthetics

National Association of Social Workers

National Council for Community Behavioral Healthcare

National Council on Independent Living

National Multiple Sclerosis Society

National Spinal Cord Injury Association

National Stroke Association

Paralyzed Veterans of America

The Arc of the United States

United Cerebral Palsy

United Spinal Association

PROPOSED CONCURRENT RESOLUTION

To prohibit the Secretary of Health and Human Services from issuing regulations or implementing policies, practices, or procedures, including through the state audit process, that have the purpose or effect of severely restricting access to rehabilitative services provided under the Medicaid rehabilitative services option (Section 1905(a)(13) of the Social Security Act) without the enactment of legislation expressly authorizing such restrictions.

Whereas, the Medicaid rehabilitative services option authorized by Section 1905(a)(13) of the Social Security Act and implementing regulations currently finances critical community-based services for persons with disabilities, including individuals with developmental disabilities, intellectual disabilities, and mental illnesses; and

Whereas, such rehabilitative services are essential to reducing physical and mental disability as well as to maintain the health and daily functioning of people with disabilities in the community; and

Whereas, the Administration, including the Department of Health and Human Services, is repeatedly on the public record (i.e., The New Freedom Initiative and Executive Order No. 13217 relating to community-based alternatives for individuals with disabilities) as strongly favoring community-based services and choices for persons with disabilities rather than institution-based care in general; and

Whereas, the Department of Health and Human Services has repeatedly and over an extended period of years, authorized state Medicaid agencies in accordance with Medicaid state plans to expend state and matching federal funds for a well-established scope of rehabilitative services; and

Whereas, the Department of Health and Human Services proposed to the 109th Congress during deliberations on the Medicaid provisions of the Deficit Reduction Act of 2005, Pub. Law 109-171, a legislative amendment authorizing the Department of Health and Human Services to restrict the well-established scope of services provided under the rehabilitative services option and Congress rejected this proposal; and

Whereas, there are indications that the Department of Health and Human Services is implementing a more restrictive definition of rehabilitative services through administrative policies, practices and procedures, including Office of the Inspector General state audits and waiver approvals, notwithstanding the refusal of Congress to grant such authority to the Secretary of Health and Human Services; and

Whereas, the President's FY 2008 budget proposes to implement such restrictions regarding the provision of rehabilitative services through regulation, notwithstanding the refusal of Congress to grant such authority to the Secretary of Health and Human Services; and

Whereas, a more restrictive definition of services provided under the Medicaid rehabilitative services option is not only unauthorized but it is public policy that is likely to decrease community-based supports and services and increase both short and long term Medicaid costs through greater utilization of institutional facilities, emergency rooms, and inpatient hospitals; and

Whereas, in the 42-year history of the Medicaid program, a state Medicaid optional services program has never before been significantly modified through regulation without prior congressional authorization and the active participation of state and county governments;

Resolved, that it is the sense of Congress that the Secretary of Health and Human Services shall not promulgate regulations or implement policies, practices, or procedures, including through the state audit process, that have the purpose or effect of restricting the nature and scope of rehabilitative services provided under the Medicaid rehabilitative services option, including amendments to service definitions, without explicit Congressional authority.