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Senate of Pennsylvania

November 25, 2002

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Honorable Feather O. Houstoun
Secretary of Public Welfare
333 Health & Welfare Building
Harrisburg, PA 17105

Original: 2296

Re: Department of Public Welfare (DPW)
Proposed Regulation 14-477:
Income Provisions for Categorically Needy NMP-
MA and MNO-MA

Dear Secretary Houstoun:

As members of the Senate Public Health & Welfare Committee, we submit the following comments in opposition to the Department's proposal in Regulation 14-477 to eliminate the Spend-down procedure for Non-Money Payment - Medical Assistance (NMP-MA).

We believe that the proposal to eliminate eligibility for 7,196 individuals under the NMP-MA Spend-down procedure is not in the public interest as it fails to protect the public health and ultimately will result in additional costs to the Commonwealth and municipal governments. Further, it appears to be in direct contravention of the decision of the Pennsylvania Supreme Court in *Crammer v. DPW*, 449 Pa. 528, 296 A. 2d. 815 (November 17, 1972). Finally, the proposal runs counter to recent efforts of the General Assembly to expand prescription coverage.

The Department anticipates that 7,196 individuals will lose coverage under this proposal. The vast majority of these individuals have high prescription costs, limited income and resources, and no other options for drug coverage. Eliminating the spend-down procedure will have a potentially devastating impact on the lives of these mostly older, disabled Pennsylvanians, who currently have their prescription drugs covered under the NMP-MA Program. While it is true that many of these individuals will be able to enroll in the Medically Needy Only - Medical Assistance (MNO-MA) Program, of the thirty-one states with MNO-MA, Pennsylvania is one of only two¹ states that does not include prescription drugs as a benefit of the program. We believe that the loss of prescription coverage will inevitably result in a deterioration of health and quality

¹ *Medicaid Outpatient Prescription Drug Benefits: Findings From A National Survey and Selected Case Study Highlights*, Scwalberg, et al., Kaiser Commission on Medicaid & the Uninsured, Table 1, p. 5 (October, 2001)

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of life for those affected. This is detrimental to public health and inconsistent with the Department's mission to protect our most vulnerable citizens.

This deterioration of health will also lead to additional health care costs to the Commonwealth and to municipalities. As you indicated during the Committee briefing of the Pharmacy Plus Waiver Program, a basic premise of the waiver program is that providing prescription coverage will reduce future health care costs. Specifically, the briefing document that the Department provided that day states:

- The premise for a Pharmacy Plus Waiver is that additional elderly and disabled groups will be able to access prescription drug coverage and that this would reduce costs in the Medicaid Program. ...
- The waiver premise theorizes that without the advantage of prescription drug coverage, an individual's health status will decline more rapidly and produce a greater need for other medical services for which an individual may or may not be covered. This could lead to earlier spend down into Medicaid and unnecessary institutionalization.
- Additionally, at the time of Medicaid eligibility, an individual's health status may be at a point where the cost to Medicaid is greater than what it would have been if an individual had sustained better health as a result of having access to prescription drugs.

We agree with the federal government's premise and are convinced that reductions in prescription coverage will inevitably result in increased costs to MA's outpatient, inpatient and long term care programs. While there may be some uncertainty about the cost or savings of the proposal, it is clear that it will cause harm to those who lose their prescription benefit.

The MMP-MA Spend-down procedures were a result the Pennsylvania Supreme Court's decision in *Crammer v. DPW*. The Court was clear in its unanimous decision that people must have an opportunity to become eligible for a full-coverage MA program, including prescription drug coverage, by spending their excess income above the established eligibility level on medical expenses. As the Supreme Court recognized, creation of a spend-down procedure in the NMP-MA fills the gap in the MNO-MA program that does not offer prescription coverage, and is necessary to meet the requirements of federal law. The proposed regulation fails to address this decision.

Finally, the proposal appears to run counter to recent efforts of the General Assembly to expand prescription coverage. To ensure that the Department's approach is consistent with the Legislature's, we recommend that changes in MA prescription coverage be coordinated and reviewed by the entire General Assembly.

We believe that the decision to eliminate the NMP-MA Spend-down procedures should be reconsidered. We would be willing to meet with agency staff to discuss appropriate changes to the proposal.

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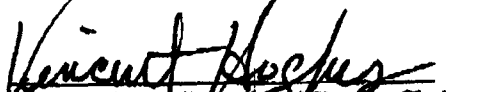
Thank you for your time and consideration.

Sincerely,

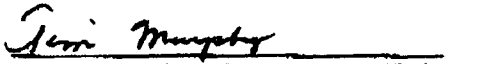


Senator Harold F. Mowery, Jr. Chairman

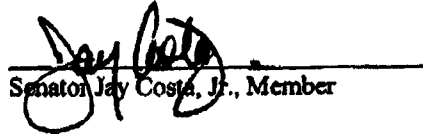
Sincerely,




Senator Vincent J. Hughes, Minority Chairman



Senator Timothy F. Murphy, Vice Chairman



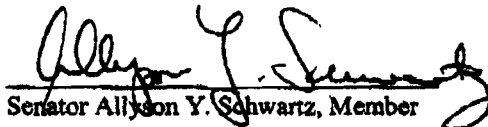
Senator Jay Costa, Jr., Member



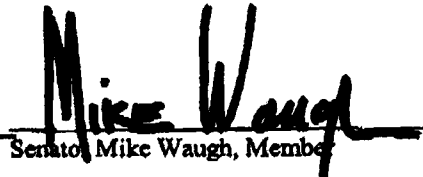
Senator Edwin B. Erickson, Member



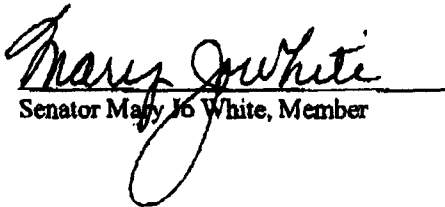
Senator Shirley M. Kitchen, Member



Senator Allison Y. Schwartz, Member



Senator Mike Waugh, Member



Senator Mary Jo White, Member

cc: John R. McGinley, Jr., Esq., Chair, Independent Regulatory Review Commission

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