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State Senator  
**Don White**  
41st Senatorial District



**Senate of Pennsylvania**

17-485-1  
CLetka #7

SENATE BOX 203041  
THE STATE CAPITOL  
HARRISBURG, PA 17120-3041  
717-787-8724  
FAX: 717-772-1589

618 PHILADELPHIA STREET  
INDIANA, PA 15701  
724-357-0151  
FAX: 724-357-0148

101 MARKET STREET  
SUITE 100  
KITTINGING, PA 16201  
724-543-3026  
FAX: 724-548-4856

3950 WILLIAM PENN HIGHWAY  
MURRYSVILLE, PA 15668  
724-327-2422  
FAX: 724-327-2436

September 10, 2004

Ms. Gail Weidman  
Division of Long Term Care Client Services  
PA Department of Public Welfare  
Post Office Box 2675  
Harrisburg, PA 17105-2675

**RECEIVED**

SEP 18 2004

**PROGRAM ANALYSIS  
AND REVIEW SECTION**

RE: Comments on Proposed Rulemaking  
55 PA Code, Chapter 1187

Dear Ms. Weidman:

I am taking this opportunity to express my most sincere opposition to the Department of Public Welfare's (DPW) proposed rulemaking regarding 55 PA Code, Chapter 1187, also known as Metropolitan Statistical Area (MSA). Attached are copies of letters of opposition from Armstrong County Board of Commissioners, Armstrong County Health Center, Kittinging Care Center, and Quality Life Services – which are all negatively affected by the above referenced proposed rulemaking changes.

Armstrong County was added to the Pittsburgh MSA on July 06, 2003 by the Federal Office of Management and Budget (OMB). These proposed regulations are DPW's attempt to make changes to existing reimbursement procedures, which will negatively affect Armstrong County residents as well as public and privately administered nursing homes.

DPW's attempt to avoid recognizing Armstrong County as part of the Pittsburgh MSA when allocating Medicaid reimbursements will mean millions in lost funding for county homes. In the case of the Armstrong County Health Center, a county owned and operated health care facility, DPW's proposed regulation would deny the facility \$200,000 in additional revenue annually.

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Gail Weidman  
September 10, 2004  
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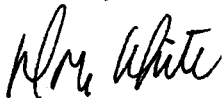
Additionally, numerous privately owned facilities' reimbursements will be negatively impacted and will result in their inability to compete with Pittsburgh homes which receive a higher reimbursement.

Armstrong County has been attempting to become part of the Pittsburgh MSA for many years. One of the main reasons for their long effort was to increase their reimbursement levels for Medicaid. To be more blunt, the Pittsburgh MSA wanted Armstrong County to be included because it would be an overall benefit to the region. However, the proposed regulations if enacted do not make the relationship mutually beneficial. Rather, the Pittsburgh MSA receives the additional clout of being a larger region while Armstrong County is denied the very benefits the other members of the MSA receive.

In a meeting with Secretary Richman on May 12, 2004, I also voiced the aforementioned concerns regarding these proposed changes. To adopt these changes is to jeopardize the quality of care to Armstrong County residents. I urge DPW to maintain the current regulations and begin reimbursing Armstrong County health care facilities as currently mandated.

Thank you for your attention to this matter. If I may provide additional information, please let me know.

Sincerely,



Don White  
Senator, 41<sup>st</sup> District

Gail Weidman  
September 10, 2004  
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cc: The Honorable Estelle B. Richman, Secretary, DPW  
The Honorable David J. Brightbill  
The Honorable Samuel H. Smith  
The Honorable Harold F. Mowery  
The Honorable James V. Scahill, Armstrong County Commissioner  
Ms. Nancy D. Dragan, Administrator, Armstrong County Health Center  
Mr. Ross J. Nese, President, Kittanning Care Center  
Mr. Kenneth R. Tack, CEO, Quality Life Services

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SEP 13 2004

# 6065



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September 8, 2004

HARRISBURG

Ms. Gall Weidman  
Division of Long Term Care Client Services  
DEPARTMENT OF PUBLIC WELFARE  
P.O. Box 2675  
Harrisburg, PA 17105-2675

RE: Comments on Proposed Rulemaking  
55 PA Code, Chapter 1187

Dear Ms. Weidman:

On behalf of the citizens of Armstrong County, and to protect their collective interests, the Board of Commissioners of the County of Armstrong strenuously object to the Department's proposed rulemaking relating to peer grouping for price setting in Chapter 1187.94 of 55 PA Code. Frankly, this "proposed rulemaking" is an arrogant display of power by a Department that admits it wishes to maintain in its own words "status quo" reimbursement policies that perpetuates discrimination against Armstrong County that has been finally recognized and corrected by the federal government's Office of Management & Budget (OMB) in 2003.

To the lay person, the language of the proposed rulemaking seems innocuous enough; however, it is simply goobly-goop that states that the Department is going to ignore its own rules to TOTALLY IGNORE changes in OMB designations for not just Armstrong County but other counties that will and should change the formulas by which reimbursement should occur. We do not use the word "arrogant" lightly. How else can we describe the Department's statement that "No fiscal impact will result" when in fact fiscal impact will result in several ways? How else can we describe the fact that the fiscal impact statement is printed twice for some reason? How else can we describe the Department's statement that there will be no fiscal impact on the general public when in fact the good citizens of Armstrong County will continue to be denied additional reimbursements for its county-owned skilled nursing facility under the new MSA designation and peer grouping that would result in an estimated \$ 200,000-\$ 500,000 in additional funding? Finally, how else can we describe a department proposing rulemaking that will have an effective date TWO MONTHS BEFORE the comment period is closed?

Simply put, and has been repeatedly pointed out to the Department, Armstrong County should have been included in the original designation of "Statistical Metropolitan Areas" (SMA) in 1950 since Armstrong County physically touches the core county of Allegheny and its principal city, Pittsburgh. In the intervening 50+ years, Armstrong County's numerous requests to correct this wrong have never been addressed. Recently, PA State Senator Don White met personally with Secretary Estelle B. Richman about this injustice. Enclosed please find the background briefing paper that had been prepared for the Senator, and we wish to enter it as part of the record of this letter of objection.

On June 3, 2003, the announcement by the federal OMB in the Federal Register that Armstrong County was included in the Pittsburgh Core Base Metropolitan Statistical Area (MSA) was met with jubilation in the county. It was a short-lived celebration for the county quickly found out that playing by all the rules sometimes just doesn't win regardless of how just your cause may be. Subsequent actions by both the federal and state governments in regard to the MSA designation defied logic and protected the status quo of reimbursement policy that has systematically shifted funding that should have been shared by Armstrong County to other counties that no longer (or never) qualified for said reimbursement. Fortunately, after careful consideration the federal government several months ago reaffirmed the June 3, 2003 action that Armstrong County was indeed part of the core Pittsburgh MSA Region. We felt that affirmation by the CSM would surely filter down to the DPW and its own policies would cause it to adjust to the new MSA designations, including the new classification of micropolitan areas. Had this been a perfect world, the adjustments would have occurred and Armstrong County would be a full partner to the Pittsburgh Region. The present proposed rulemaking by DPW demonstrates that it wishes to cling to the past and is willing to risk the ire of legislators by ignoring the most recent OMB ruling. Frankly, when Senator White met with Secretary Richman, the County was willing to move forward and not discuss past reimbursements. That issue is currently under review, given the proposed rulemaking. Since the 1960's, Armstrong County has been recognized as a full regional partner in transportation, economic planning, and other areas, with the exception of DPW reimbursement. Denied access to that reimbursement has resulted in MILLIONS of dollars that should have come to Armstrong County instead going to other counties under the DPW policy. By maintaining the "status quo" under the DPW proposed rulemaking (which is the present reimbursement policy), there will be no change in the manner or amount that Armstrong County is reimbursed. Therefore, the County will explore recovering amounts that were due it since this designation began.

The extensive history that has been outlined to the Department has apparently fallen on deaf ears. What recourse does that leave our county? We now are faced with a conflict between the OMB MSA designation and the State DPW non-designation. How can we be both things at once? In addition, we are troubled by the capricious nature in which the county "Level" designation occurs. In the proposed rulemaking, the Department describes it as: Level A as areas having over 1 million in population; Level B as areas having a population of 250,000 to 999,999; and Level C as areas having a population of 100,000 to 249,000 (according to the proposed rulemaking). Incidentally, what about a county that has between 249,000 and 250,000 in population? Would they be reimbursed at Level B or C or not at all?? Regardless of other factors such as competition with an adjacent urban area or material costs, all other counties are arbitrarily and capriciously determined to be reimbursed at a lesser, "non-classified, non-urban" rate. That means that 34 of the 67 counties in Pennsylvania are in this category. While there will be some function of population density driving rate, this archaic structure should change with the times. But a quick study of two of the counties that receive a Level C rate demonstrates that the designation is arbitrary. Somerset County is a 6<sup>th</sup> Class county with a population of 80,023, well below the 100,000 so aptly described as Level C by the Department. Worse, another 6<sup>th</sup> Class county, Carbon, has less than 60% of the DPW requirement with a population of 58,802. What is the justification for these two counties to enjoy Level C status when they clearly don't meet the requirement as presented?

Obviously, the Department is attempting to make the public believe there will be serious harm if any other, fairer formula would be applied. Frankly, the total amount of money would relatively stay the same. Counties that had received more than they should would indeed have to begin to live within the requirement needs. Counties that deserve the new formula would finally receive it. This is a matter that will be pursued with the IRRC, the Governor and the public.

We only ask for fairness in this matter. Withdraw this proposed rulemaking and replace it with a matching of the OMB's designation of MSA counties. Recalculate the formula for fairness and let the chips fall where they will.

In closing, we recognize that we have a responsibility to provide for our most fragile citizens, our seniors and those with disabilities that have no where else to go. We do so in a wonderful facility, with dedicated and supportive staff. Does the Department factor into the formula the fact that over 25% of the citizens of Armstrong County are over the age of 60, which means that our Health Center is vital to the well being of the community and county? As mentioned in the opening, it is apparent to many of our people that we are being discriminated against based solely on the population of our county and some arbitrary formula that rewards counties smaller than us. We cannot stand by and allow that to happen. We will not go quietly in the night anymore, and seek redress for our citizens who are willing to fight this issue as far as it needs to go.

We hope that the Department will listen to reason on this issue and do the right thing, regardless of how popular it is. Thank you for your consideration in this matter.

Cordially,

BOARD OF COMMISSIONERS

*Patricia L. Knypatrick*  
*Richard L. Lind*  
*Jim Scull*

ATTEST:

cc: Honorable Edward G. Rendell, Governor  
Senator Don White  
Senator Jim Ferlo  
Rep. Sam Smith  
Rep. Fred McIlhattan  
Rep. Jeff Coleman  
Rep. Joe Petrarca  
Rep. John Pallone  
IRRC