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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 9, 2005

Honorable Estelle B. Richman, Secretary
Department of Public Welfare
333 Health and Welfare Building
Harrisburg, PA 17105

Re: Regulation #14-491 (IRRC #2452)
Department of Public Welfare
Home Health Agency Services

Dear Secretary Richman:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5506.

Sincerely,

Mary S. Wyatt
Acting Executive Director/Chief Counsel

evp

Enclosure

cc: Honorable George T. Kenney, Jr., Majority Chairman, House Health and Human Services Committee

Honorable Frank L. Oliver, Democratic Chairman, House Health and Human Services Committee

Honorable Jake Corman, Chairman, Senate Public Health and Welfare Committee

Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health and Welfare Committee

Comments of the Independent Regulatory Review Commission

on

Department of Public Welfare Regulation #14-491 (IRRC #2452)

Home Health Agency Services

February 9, 2005

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Department of Public Welfare (Department) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on January 10, 2005. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General – Consistency with other regulations; Clarity.

The Preamble to this regulation states that all references to the term “homebound” must be deleted from the regulation to bring the Department’s policies into compliance with federal regulations. Accordingly, The Department has deleted the definition of and references to the term “homebound” in Sections 1249.2, 1249.42(1)(ii), 1249.52 and 1249.57(b) of the proposed regulation. However, Section 1249.2a in existing regulation contains a statement of policy by the Department outlining conditions which may render a Medical Assistance recipient “homebound.”

We understand the Department will be rescinding Section 1249.2a and replacing it with a statement of policy that is consistent with the proposed changes to this regulation. We recommend the Department publish the final-form version of this regulation and the updated statement of policy concurrently to avoid inconsistencies in Chapter 1249.

2. Section 1249.52. Payment conditions for various services. – Reasonableness.

Subsection (a) reads:

- (a) Home health agencies are reimbursed for services furnished to MA recipients within the MA Program Fee Schedule limits if the following conditions are met:
 - (2) The attending physician certifies that the recipient requires care in the home and either of the following conditions exist:
 - (i) The only alternative to home health agency services is **hospitalization**. (Emphasis added.)

Subsection (a)(2)(i) states “hospitalization” is the only alternative to HHA services. It is our understanding that all recipients of MA can qualify for home health care services if they are residing or are eligible to reside in nursing homes, rehabilitative facilities or mental institutions. Therefore, the term “hospitalization” should be replaced with a broader term that encompasses all institutional care settings.



Facsimile Cover Sheet

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INDEPENDENT REGULATORY REVIEW COMMISSION
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To: Shirley A. Nace
Stephanie Schubert
Ruth O'Brien, Esq.
Agency: Department of Public Welfare
Phone: 3-2201; 7-4063; 3-2800
Fax: 2-0717
Date: February 9, 2005
Pages: 3

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INDEPENDENT REGULATORY REVIEW COMMISSION

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Department of Public Welfare's regulation #14-491 (IRRC #2452). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Shirley A. Nace Date: 2-9-05

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