

**Congress of the United States**  
**Washington, DC 20515**

Secretary Michael O. Leavitt  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Leavitt:

We are writing to express our concern regarding an interim final rule on the Medicaid Targeted Case Management (TCM) option (CMS-2237-IFC) published by the Centers for Medicare and Medicaid Services (CMS) on December 4, 2007. We believe that the policy issued by CMS to implement the statutory reforms to TCM included in Section 6052 of the Deficit Reduction Act of 2005 (DRA) go far beyond the statutory provisions of the DRA and the intent of Congress. We believe the changes proposed by CMS will have a disastrous impact on children and vulnerable populations in our communities who have disabilities or chronic health conditions.

In Section 6052 of the DRA, Congress clarified the scope of the case management and TCM benefit, excluding from the definition the direct delivery of certain underlying medical, educational, and social services, while clarifying that many case management services remain allowable, legitimate Medicaid expenses.

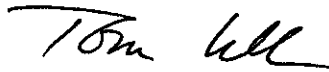
The DRA specifically articulates these Medicaid-reimbursable services as 1) assessment of service needs; 2) development of a specific care plan; and 3) referral to help an individual obtain needed services and monitoring. We believe that language contained in the interim final rule will have the effect of restricting services that may be appropriately classified within these three categories of services, and therefore, disregards the Congressional intent of Section 6052.

We are concerned that the interim final rule imposes a number of restrictions on TCM services that were not intended in the language of the DRA and limits states' flexibility to provide and pay for case management services. For example, the proposed rule significantly restricts the time line for case management services necessary to successfully transition a developmentally disabled individual from an institution to the community. By prohibiting states from making fee-for-service payments for case management services in increments that exceed 15 minutes, the regulation makes it difficult to thoroughly assess and meet the needs of individuals, such as persons with severe mental illness who receive assertive communication treatment (ACT). Another example is the rule's requirement that case management services be furnished by a single Medicaid case management provider. Given that many people eligible for Medicaid case management services may have a wide range of health, social services, and rehabilitation needs, requiring a single provider to address all these needs may be impossible. The regulation also negatively impacts the child welfare and foster care systems and the vulnerable children they serve by largely prohibiting payment for TCM services offered by child welfare and child protective service agencies.

Congress has long recognized the vital role case management services provide for certain Medicaid beneficiaries, which is demonstrated by the fact that Congress chose to clarify, rather than eliminate, TCM services in the DRA. If this rule goes into effect in its current form, it will restrict critical services and cause undue harm to the most vulnerable in our society. We strongly urge you to rescind or delay CMS-2237-IFC until CMS can draft a policy that accurately reflects Congressional intent in the DRA.

Thank you for your prompt attention to this important issue. We look forward to working with you to implement a TCM policy that reflects the will of Congress by ensuring that our most vulnerable citizens are not denied essential case management services.

Sincerely,



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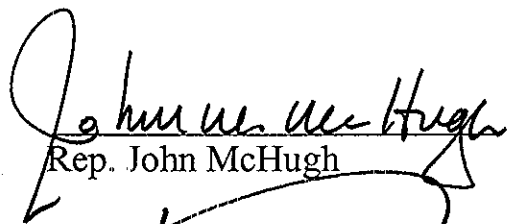
Robert Scott  
Rep. Robert Scott

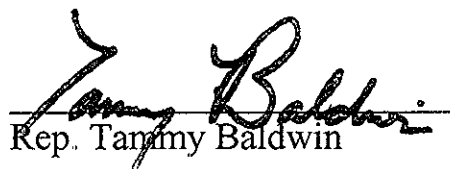
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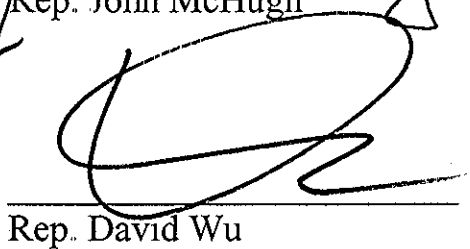
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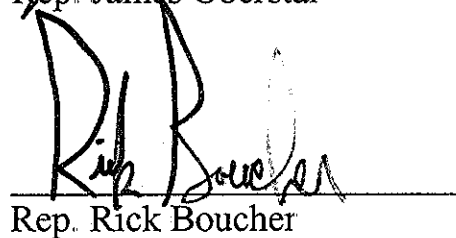
  
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