

**CMS's Duty to Review and Require Revision of  
Florida Medicaid's Proposed Contracts with Managed Care Organizations**

**Florida's Agency for Health Care Administration (AHCA) has developed a draft contract for managed care organizations' delivery of Medicaid long-term services and supports. That draft contract has numerous deficiencies and omissions, as detailed in a letter of March 29, 2013, to AHCA from Florida Legal Services, the Elder Law Section of the Florida Bar, and the Academy of Florida Elder Law Attorneys.**

**As set forth in Florida's approved Section 1915(b) application, any contract between AHCA and a managed care organization must be approved by CMS prior to its use. During its review of the draft contract, CMS should consider each of the important consumer issues raised in the March 29 letter. The paragraphs below document how each of those issues from the letter is subject to CMS's review under the provisions of the Section 1915(b) application.**

**Comments # 1 & # 2 from March 29 letter, relating to Person Centered Care Planning.**

The CMS Regional Office is required to review and approve the MCO contracts for compliance with the provisions of section 1932(c) (1) (A) (i) of the Act and 42 CFR § 438.208 - Coordination and Continuity of Care. *See* p. 35 of the § 1915(b) Waiver Application.

**Comment #3 from March 29 Letter, relating to Appeals of Care Plans.** The CMS Regional Office is required to review and approve the MCO contracts for compliance with the provisions of section 1932(b) (4) of the Act and 42 CFR § 438 Subpart F- Grievance System. *See* p. 63 of the §1915(b) Waiver Application.

**Comment #4 from March 29 letter, relating to Importance of Private Occupancy in Assisted Living.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932(c) (1) (A) (iii)-(iv) of the Act. *See* p. 39 of the §1915(b) Waiver Application.

**Comment #5 from March 29 letter, relating to Services Available in Assisted Living.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (c) (1) (A) (i) of the Act and 42 CFR § 438.206-Availability of Services. *See* p. 29 of the § 1915(b) Waiver Application.

**Comments #6, #7 & #8 from March 29 letter, relating to Home-Like Environment and Community Inclusion, Room and Board Charges in Assisted Living Facilities.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (c) (1) (A) (iii)-(iv) of the Act and 42 CFR §§ 438.202, 438.204, 438.210, 438.214, 438.218, 438.224, 438.226, 438.228, 438.230, 438.236, 438.240, and 438.242 *See* p. 39 of the § 1915(b) Waiver Application.

**Comment #9 from March 29 letter, relating to Access to Reports.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (a)( 5) of the Act. *See* p. 45 of the § 1915(b) Waiver Application.

**Comment #10 from March 29 letter, relating to Cultural Competency Plan.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (c) (1)(A) (i) of the Act and 42 CFR § 438.206- Availability of Services. *See* p. 29 of the § 1915(b) Waiver Application.

**Comment #11 from March 29 letter, relating to Network Adequacy.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932(b) ( 5) and 42 CFR 438.207 - Assurances of adequate capacity and services. *See* p. 32 of the § 1915(b) Waiver Application.

**Comment # 12 from March 29 letter, relating to Physical Accessibility.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (c) (1) (A) (i) of the Act and 42 CFR 438.206 - Availability of Services. *See* p. 29 of the § 1915(b) Waiver Application.

**Comment #13 from March 29 letter, relating to Payment for Background Checks.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (c) (1) (A) (iii)-(iv) of the Act and 42 CFR §§ 438.202, 438.204, 438.210, 438.214, 438.218, 438.224, 438.226, 438.228, 438.230, 438.236, 438.240, and 438.242. *See* p. 39 of 1915(b) Waiver Application.

**Comments #14 & #15 from March 29 letter, relating to Compliance with Existing Medicaid Standards & Case Manger Ratios.** The CMS Regional Office is required to review and approve MCO contracts for compliance with the provisions of section 1932 (b)( 5) and 42 CFR § 438.207 - Assurances of adequate capacity and services. *See* p. 32 of the § 1915(b) Waiver Application.