

a.m. to 10:50 a.m., and 3 p.m. to 3:20 p.m. on January 18, 2001; and between 10:30 a.m. to 10:50 a.m., and 3 p.m. to 3:20 p.m. on January 19, 2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 12, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

*Closed Committee Deliberations:* On January 18, 2001, from 5 p.m. to 5:30 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this material.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 18, 2000.

**Linda A. Suydam,**

*Senior Associate Commissioner.*

[FR Doc. 00-33021 Filed 12-26-00; 8:45 am]

**BILLING CODE 4160-01-F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Vaccines and Related Biological Products Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on January 30, 2001, 8 a.m. to 6:30 p.m., and on January 31, 2001, 9 a.m. to 6 p.m.

*Location:* Holiday Inn, Versailles I, II, and III, 8120 Wisconsin Ave., Bethesda, MD.

*Contact Person:* Nancy T. Cherry or Denise H. Royster, Center for Biologics Evaluation and Research (HFM-71), Food and Drug Administration, 1401

Rockville Pike, Rockville, MD 20852, 301 827 0314, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12391. Please call the Information Line for up-to-date information on this meeting.

*Agenda:* On January 30, 2001, the committee will discuss the influenza virus vaccine formulation for the 2001-2002 season. On January 31, 2001, the committee will hear a review of LYMERIX™ (Lyme disease vaccine, SmithKline Beecham) safety profile including an update of post-marketing safety data.

*Procedure:* On January 30, 2001, from 8 a.m. to 6:30 p.m., and on January 31, 2001, from 9 a.m. to 6 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 22, 2001. Oral presentations from the public will be scheduled between approximately 2 p.m. and 2:30 p.m. on January 30, 2001. Oral presentation from the public will be heard on January 31, 2001, between approximately 1:45 p.m. and 2:15 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 22, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 18, 2000.

**Linda A. Suydam,**

*Senior Associate Commissioner.*

[FR Doc. 00-33019 Filed 12-26-00; 8:45 am]

**BILLING CODE 4160-01-F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### Notice of Hearing: Reconsideration of Disapproval of Rhode Island State Plan Amendment (SPA) 00-003

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an administrative hearing on January 25, 2001; 10:00 a.m.; Twenty-second Floor; Room 2255; JFK Federal Building;

Boston, Massachusetts 02203-0003, to reconsider our decision to disapprove Rhode Island (SPA) 00-003.

**DATES:** *Closing Date:* Requests to participate in the hearing as a party must be received by the presiding officer by January 10, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scully-Hayes, Presiding Officer, HCFA, C1-09-13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410) 786-2055.

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider our decision to disapprove Rhode Island's State Plan Amendment (SPA) 00-003. Rhode Island submitted SPA 00-003 on March 29, 2000. This amendment proposed to include under the State plan disproportionate share (DSH) payments to non-government hospitals to cover the costs of providing inpatient hospital services to inmates in the custody of the Department of Corrections (DOC) or the Department of Children, Youth and Families (DCYF). As explained below, HCFA could not approve Rhode Island's SPA 00-003.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The issue in Rhode Island SPA 00-003 is whether the payments at issue are consistent with the statutory requirements for DSH payments at section 1923 of the Act. The payments are for specific services furnished to individuals not eligible for Medicaid, and are not generally available for the costs to "serve a disproportionate share

of low income patients with special needs." Moreover, since inmates in the custody of the DOC or the DCYF, have a source of third party coverage, because of the legal obligation of those entities to furnish food, housing and medical care to wards of the State, DSH payments for those services would be contrary to the applicable hospital-specific limits. HCFA contends that these inmates are neither eligible for Medicaid nor are they uninsured.

Section 1923 of the Act establishes Federal requirements for DSH payments to qualifying hospitals. DSH payments may be reasonably related to the costs, volume or proportion of services provided to patients eligible for medical assistance under a State plan or to low-income patients. Unlike other Medicaid payments, DSH payments are not payments for specific services, but are made to recognize that DSH facilities "serve a disproportionate share of low income patients with special needs." The payments described in this State plan are payments for specific services to specified inmates in the custody of the DOC or DCYF, rather than payments available for the overall costs of serving a disproportionate share of low-income patients. It is important to note that, while States may use DSH payments generally to assist facilities that have high levels of uncompensated care, the DSH provisions do not authorize payments for specific services to non-Medicaid eligible individuals.

Furthermore, under section 1923(g) of the Act there is a hospital-specific limit on DSH payments under Medicaid. Such payments cannot exceed the hospital's uncompensated costs of furnishing hospital services to individuals who either are eligible for medical assistance under the State plan or have no health insurance or other source of third party coverage for services provided during the year. Individuals in the custody of the DOC and the DCYF are wards of the State. As such, the State is obligated to cover their basic economic needs (food, housing, and medical care) because failure to do so would be in violation of the Eighth amendment of the Constitution. Because State obligations outside of the Medicaid program provide these individuals a source of third party coverage, the individuals are neither eligible for medical assistance nor are they uninsured. Therefore, the State cannot make DSH payments to cover the costs of their care.

Therefore, based on the above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), HCFA disapproved Rhode Island SPA 00-003.

The notice to Rhode Island announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Christine C. Ferguson  
Director  
Department of Human Services  
600 New London Avenue  
Cranston, Rhode Island 02920

Dear Ms. Ferguson: I am responding to your request for reconsideration of the decision to disapprove Rhode Island State Plan Amendment (SPA) 00-003.

The issue in Rhode Island SPA 00-003 is whether the payments at issue are consistent with the statutory requirements for disproportionate share hospital (DSH) payments at section 1923 of the Social Security Act (the Act). The payments are for specific services furnished to individuals not eligible for Medicaid, and are not generally available for the costs to "serve a disproportionate share of low income patients with special needs." Moreover, since inmates in the custody of the Department of Corrections (DOC) or the Department of Children and Youth (DCYF), have a source of third party coverage, because of the legal obligation of those entities to furnish food, housing and medical care to wards of the State, DSH payments for those services would be contrary to the applicable hospital-specific limits. HCFA contends that these inmates are neither eligible for Medicaid nor are they uninsured.

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State obligations outside of the Medicaid program provide these individuals a source of third party coverage, the individuals are neither eligible for medical assistance nor are they uninsured. Therefore, the State cannot make DSH payments to cover the costs of their care.

Therefore, based on the above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), HCFA disapproved Rhode Island SPA 00-003.

I am scheduling a hearing on your request for reconsideration to be held on January 25, 2001, Twenty-second Floor: Room 2255; JFK Federal Building; Boston, Massachusetts 02203-0003. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786-2055.

Sincerely,

Robert A. Berenson, M.D.  
Acting Deputy Administrator.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR Section 430.18) (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: December 20, 2000.

**Robert A. Berenson,**

*Acting Deputy Administrator, Health Care Financing Administration.*

[FR Doc. 00-32922 Filed 12-26-00; 8:45 am]

**BILLING CODE 4120-03-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Health Care Financing Administration**

**[HCFA-9006-N]**

#### **Medicare and Medicaid Programs**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Correction of HHS regulatory plan and unified agenda.

**SUMMARY:** This document corrects a technical error that appeared in the November 30, 2000 Regulatory Plan and the November 30, 2000 Unified Agenda. The Regulatory Plan included HHS-HCFA sequence number 57-Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Phase II (HCFA-1810-FC) that concerns the physician referral provisions under section 1877 of the