

Column A	Column B	Column C
Approved critical uses	Approved critical user and location of use	Limiting critical conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation:
	(c) Members of the North American Millers' Association in the U.S.	Moderate to severe beetle infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
Commodities .....	(d) Members of the National Pest Management Association treating processed food, cheese, herbs and spices, and spaces and equipment in associated processing and storage facilities.	Moderate to severe beetle or moth infestation. Presence of sensitive electronic equipment subject to corrosion. Time to transition to an alternative.
Dry Cured Pork Products .....	(a) California entities storing walnuts, beans, dried plums, figs, raisins, and dates (in Riverside county only) in California.	Rapid fumigation required to meet a critical market window, such as during the holiday season.
	(a) Members of the National Country Ham Association and the Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney and Smithfield Inc.	Red legged ham beetle infestation. Cheese/ham skipper infestation. Dermested beetle infestation. Ham mite infestation.

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 440 and 441**

[CMS-2261-WN]

RIN 0938-A081

**Medicaid Program; Coverage for Rehabilitative Services; Withdrawal**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.  
**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This document withdraws a proposed rule that was published in the *Federal Register* on August 13, 2007. The proposed rule discussed our proposal to amend the definition of Medicaid “rehabilitative services.” It also clarified the broad general language of the current regulation to ensure that rehabilitative services are provided in a coordinated manner, are limited to rehabilitative purposes, and are furnished by qualified providers.  
**DATES:** Effective November 23, 2009, the proposed rule published on August 13, 2007 (72 FR 45201) is withdrawn.  
**FOR FURTHER INFORMATION CONTACT:** Melissa Harris, (410) 786-3397.  
**SUPPLEMENTARY INFORMATION:** On August 13, 2007, we published a proposed rule in the *Federal Register* entitled “Medicaid Program; Coverage for Rehabilitative Services” (72 FR 45201). The rule proposed to amend the definition of Medicaid “rehabilitative services” to include a requirement for a

person-centered written rehabilitation plan and maintenance of case records.  
We received a total of 1,845 public comments in response to the August 13, 2007 proposed rule. In addition, following the publication of the proposed rule, in section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, Public Law 110-173, the Congress enacted a moratorium on December 29, 2007 that included a prohibition on the Secretary taking any action, including publication of a final rule that was more restrictive with respect to coverage or payment for rehabilitative services than the requirements in place as of July 1, 2007. That moratorium was extended until April 1, 2009 by section 7001(a)(2) of the Supplemental Appropriations Act of 2008, Public Law 110-52.

Before the expiration of that congressional moratorium, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, was enacted on February 17, 2009 and, at section 5003(d), stated that it was the “sense of Congress” that the Secretary should not promulgate as a final regulation the August 13, 2007 proposed regulation concerning rehabilitative services.

In light of the clear congressional concern indicated by the statutory moratorium and the resolution opposing issuance of a final rule based on the proposed rule, as well as the complexity of the underlying issues and of the public comments received, we have decided to withdraw the August 2007 proposed rule in order to assure agency flexibility in re-examining the issues and exploring options and alternatives with stakeholders.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 28, 2009.  
**Charlene Frizzera,**  
*Acting Administrator, Centers for Medicare & Medicaid Services.*  
Approved: November 17, 2009.

**Kathleen Sebelius,**  
*Secretary.*  
[FR Doc. E9-27954 Filed 11-17-09; 4:15 pm]  
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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**45 CFR Part 89**

RIN 0991-AB60

**Organizational Integrity of Entities Implementing Leadership Act Programs and Activities**

**AGENCY:** U.S. Department of Health and Human Services.  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Health and Human Services (HHS) is issuing this Notice of Proposed Rulemaking (NPRM) to obtain input from stakeholders and other interested parties. This is a proposal to amend the rule governing the separation that must exist between a recipient of HHS funds to implement HIV/AIDS programs and activities under the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 and an affiliate organization that engages in activities that are not consistent with a policy opposing prostitution and sex trafficking. The proposed rule relaxes the criteria for recipient—affiliate separation, and simplifies the process for compliance with the statutory requirement that recipients of HHS Leadership Act HIV/AIDS funds have a policy explicitly opposing prostitution and sex