



**State of Louisiana**  
Department of Health and Hospitals  
Bureau of Health Services Financing

VIA E-MAIL

October 18, 2011

Mr. John Matessino  
Louisiana Hospital Association  
9521 Brookline Avenue  
Baton Rouge, LA 70809

Mr. Paul Salles  
Metropolitan Hospital Council of New Orleans  
2450 Severn Avenue, Suite 210  
Metairie, LA 70001

Dear John and Paul:

On behalf of Secretary Greenstein, thank you for your letter outlining your questions about Louisiana's plan to improve health outcomes and better invest taxpayer dollars through the Medicaid program. Indeed, our health care system has failed us for far too long in producing better health outcomes and spending each dollar in the most effective and efficient way possible. I am thankful for your support of the program and am delighted to offer you further guidance per your request.

1. Clarification of current Medicaid reimbursement rates and methodologies
  - a. Global and hospital-specific rate details to ensure all parties completely understand how hospitals are reimbursed under Medicaid, which can and often does vary significantly by facility. ***The per diem rates for each hospital are posted at the following URL under "Fee Schedules" <http://new.dhh.louisiana.gov/index.cfm/page/277>***
  - b. Additional information regarding Graduate Medical Education rates and methodologies. ***No historic payments for Graduate Medical Education are included in the capitation rate for pre-paid CCNs. Hospital per diem rates that are currently posted do not contain any GME. All GME payments will continue to be made by the Louisiana Medicaid Hospital Program under current methodologies.***

- c. Additional information regarding cost based reimbursement and settlement process. *For the three capitated CCNs, DHH intends to have our contractor Cypress analyze the cost settlements and advise the CCN of the interim amount due or to be collected from the hospital. The CCN will use the same methodology as DHH (timeframes, \$ % of interim settlement). Hospitals have the option to negotiate with CCNs to incorporate cost settlements into the per diem rate (based on their historic cost settlements).*

*Should the hospital prefer and successfully negotiate with the CCN to get all payments up front with no cost settlement, they can complete the Provider-Initiated Request for Alternative Payment Arrangement and submit to DHH for approval by the Medicaid Director. Instructions for submitting a request are located at [http://new.dhh.louisiana.gov/assets/docs/Making\\_Medicaid\\_Better/Provide\\_Initiated\\_Alternative\\_Paymen.pdf](http://new.dhh.louisiana.gov/assets/docs/Making_Medicaid_Better/Provide_Initiated_Alternative_Paymen.pdf)*

2. Availability of Contracts, Policies & Procedures and other clarifications

- The final CCN contract (Amerigroup) was approved by DOA on October 4, 2011. Contracts for Louisiana Healthcare Connections and AmeriHealth were approved by DOA on September 30, 2011. Copies of the approved contracts are posted on the website.
- CCN *Provider Handbooks* approved by DHH can be found at <http://new.dhh.louisiana.gov/index.cfm/page/827> or by requesting them from the CCN.
- The CCN *Quality Companion Guide* is located at [http://new.dhh.louisiana.gov/assets/docs/Making\\_Medicaid\\_Better/Publications/QCG\\_Final\\_Oct2011.pdf](http://new.dhh.louisiana.gov/assets/docs/Making_Medicaid_Better/Publications/QCG_Final_Oct2011.pdf).
- Medicaid Provider Manuals are located on the Louisiana Medicaid website maintained by Molina. The URL for the hospital provider manual is: [http://www.lamedicaid.com/provweb1/Providermanuals/Hosp\\_Main.htm](http://www.lamedicaid.com/provweb1/Providermanuals/Hosp_Main.htm).
- The RFPs (including written comments and DHH responses and Addendums), which contains the primary content of the Contract, contain relevant policies and procedures. See <http://new.dhh.louisiana.gov/index.cfm/page/270>.
- Please specify any other “other clarifications” being referenced.

- a. When will the executed contracts between DHH and the CCNs be available for review? *Contracts are now posted at <http://new.dhh.louisiana.gov/index.cfm/page/840> . Proposals--which are part of the Contract—cannot be released at this time because*

*of the 45 day stay issued by Judge Hernandez on 9/21/11.*

- b. When and how will DHH clearly communicate the date on which the “3 documented contract attempts” begins? *See the definition in Glossary of Documented Attempt at [http://new.dhh.louisiana.gov/assets/docs/Making\\_Medicaid\\_Better/RequestsforProposals/CCNPrepaid04112011\\_FINAL.pdf](http://new.dhh.louisiana.gov/assets/docs/Making_Medicaid_Better/RequestsforProposals/CCNPrepaid04112011_FINAL.pdf):*

*“Documented Attempt - A bona fide, or good faith, attempt, in writing, by the CCN to contract with a provider, made on or after the date the CCN signs the Contract with DHH. Such attempts may include written correspondence that outlines contract negotiations between the parties, including rate and contract terms disclosure. If, within 10 calendar days, the potential network provider rejects the request or fails to respond either verbally or in writing, the CCN may consider the request for inclusion in the CCN’s network denied by the provider. This shall constitute one attempt.”*

*DHH is interpreting the date the CCN signs the Contract with DHH as the date of approval of the Contract by the Division of Administration (9/30/11 for AmeriHealth Mercy and Louisiana Healthcare Connections; 10/4/11 for Amerigroup).*

- c. When will the CCN Policies & Procedures and Provider Manuals be complete and available for review? *If you are referring to the Policy & Procedures Manual that was posted on the website in 2010, that content was integrated into the RFP. DHH does not have a separate CCN Policy & Procedures Manual. CCN Provider Handbooks have been approved by DHH. See above.*
- d. Information and guidance regarding what items and terms in the provider agreement cannot be changed or modified. Please provide an explanation or reference regarding why these items cannot be changed or modified. *Please provide your definition of “provider agreement.” Are you referencing DHH’s contract with the CCNs or CCN subcontracts with their network providers? DHH’s contract with CCNs can be amended on mutual agreement as can CCN contracts with providers. Items and terms required for provider subcontracts are located at [http://new.dhh.louisiana.gov/assets/docs/Making\\_Medicaid\\_Better/NoticeofIntent\\_Materials/CCN\\_P\\_ProviderSubcontractChecklist9132011.pdf](http://new.dhh.louisiana.gov/assets/docs/Making_Medicaid_Better/NoticeofIntent_Materials/CCN_P_ProviderSubcontractChecklist9132011.pdf)*
- e. Is there an absolute deadline for providers to contract with CCNs for inclusion in provider directories, or are these documents going to be updated on a regular basis? *The deadlines by which providers must contract with a CCN in order to be assured inclusion in the initial printing of the CCN’s Provider Directory for the GSA have been added to the*

*Implementation Timeline that is posted on the Making Medicaid Better website:  
[http://new.dhh.louisiana.gov/assets/docs/Making\\_Medicaid\\_Better/Resources/TimelineUpdate10-4-2011.pdf](http://new.dhh.louisiana.gov/assets/docs/Making_Medicaid_Better/Resources/TimelineUpdate10-4-2011.pdf).*

- f. *No item “P” was included your original letter dated September 29, 2011.*
- g. Is there any limit to ancillary or other services that CCNs can carve out of a provider contract? **No.** Are there any requirements that a provider must carve these services out of their contract with a CCN? **No.**

3. Network related issues

- a. On occasions when a CCN is not able to transfer a patient to either an in-network facility or the most appropriate care setting, what is the Department’s guidance on how these situations should be coordinated and reimbursed? Per the Rule and RFP, post-stabilization care is covered under the provisions as specified in 42 CFR 422.113 and 42 CFR 438.114.

*In-Network Facility: This depends on the reason the CCN is “not able” to transfer the stabilized patient. Stabilization is clearly defined in Section § 9.7.2 of the Prepaid RFP.*

*9.7.2. The CCN is financially responsible (consistent with 42 CFR §422.214) for post-stabilization care services, as specified in 42 CFR §438.114(e) and 42 CFR §422.113(c)(2)(i), (ii) and (iii), obtained within or outside the CCN that are:*

*9.7.2.1. Pre-approved by a network provider or other CCN representative; or*

*9.7.2.2. Not preapproved by a network provider or other CCN representative, but:*

- *Administered to maintain the member’s stabilized condition within one (1) hour of a request to the CCN for pre-approval of further post-stabilization care services;*
- *Administered to maintain, improve or resolve the member’s stabilized condition if the CCN:*
  - *Does not respond to a request for pre-approval within one (1) hour;*
  - *Cannot be contacted; or*
  - *CCN’s representative and the treating physician cannot reach an agreement concerning the member's care and a network physician is not*

*available for consultation. In this situation, the CCN must give the treating physician the opportunity to consult with a network physician and the treating physician may continue with care of the patient until a network physician is reached or one of the criteria of 422.133(c)(3) is met.*

- *Are for post-stabilization hospital-to-hospital ambulance transportation of members with a behavioral health condition, including hospital to behavioral health specialty hospital.*

*9.7.3. The attending emergency physician, or the provider actually treating the member, is responsible for determining when the member is sufficiently stabilized for transfer or discharge, and that determination is binding on the CCN as responsible for coverage and payment as per 42 CFR §438.114(d). The CCN's financial responsibility ends for post stabilization care services it has not pre-approved when:*

*9.7.3.1. A network physician with privileges at the treating hospital assumes responsibility for the member's care;*

*9.7.3.2. A network physician assumes responsibility for the member's care through transfer;*

*9.7.3.3. A representative of the CCN and the treating physician reach an agreement concerning the member's care; or*

*9.7.3.4. The member is discharged.*

*9.7.4. Expenditures for the medical services as previously described have been factored into the capitation rate described.*

- b. Per the RFP, "the CCN shall not deny payment for treatment obtained when a member had an emergency medical condition, including cases in which the absence of immediate medical attention would not have had the outcomes specified in 42 CFR 438.114(a) of the definition of an emergency medical condition." Per the Rule, "the CCN-P may not concurrently or retrospectively reduce a provider's reimbursement rate for these emergency services, including ancillary and diagnostic services, provided during an episode of care." In instances where a patient presents to a hospital's emergency room, is evaluated and treated, and subsequently determined to be non-emergent, what is the Department's guidance on coverage for these situations, both in-network and non-network?

*Emergency medical condition is determined by the prudent layperson standard. If the condition on presenting to the provider does not meet the prudent layperson*

*standard for an emergency, then it is not an emergency. See Section § 9.7.1.6 of the RFP:*

*9.7.1.4. The CCN shall not deny payment for treatment obtained when a member had an emergency medical condition and the absence of immediate medical attention would not have had the outcomes specified in 42 CFR §438.114(a) of the definition of emergency medical condition.*

*Policy regarding emergency transportation and subsequent determination that the condition is non-emergent is applicable to other providers as well:*

*The CCN shall be financially responsible for emergency medical transportation and shall not retroactively deny a claim for emergency transportation to an emergency provider because the condition, which appeared to be an Emergency Medical Condition under the prudent layperson standard, was subsequently determined to be non-emergency in nature.*

- c. Assuming medical necessity has been met for a covered service, is there any circumstance in which a CCN would not be required to authorize a service at a network facility if that facility is the preference of the doctor and patient? *The CCN can determine the provider authorized to provide a service with the caveat that the provider must be within the time and distance requirements. The provider is not ultimately determined by the doctor or patient but by the CCN.*
  
- d. Under what circumstances would non-network facilities be required to perform non-emergency and/or elective care? Please provide guidance and clarification and cite any appropriate references. *We are not aware of circumstances in which non-network facilities would be required to perform non-emergency and/or elective care with the exception of physicians who may be "on call" to see hospital admissions.*

4. Other issues

- a. What is the program requirement for provider malpractice insurance limits? ***This is not addressed in the program requirements or DHH contract with the CCN.***
- b. Are there any provisions that would allow a CCN to prohibit a provider from charging for medical record copies as allowed in LA RS 40:1299.96? ***The Contract contains no such preclusion. See DHH response to Comment # 332 in CCN Prepaid Questions and Answers (Posted 5/22/11) at <http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/1688>.***
- c. Can DHH offer guidance and clarification regarding the subcontract requirement “include a provision which states the subcontractor is not permitted to encourage or suggest, in any way, that members be placed in State custody in order to receive medical or specialized behavioral health services covered by DHH?” ***A provider is not permitted to recommend or suggest that an individual be placed in State custody (foster care, incarceration, placed by court-order in custody of DHH) for the sole reason that the State will be responsible for providing the individual’s health care. This is not referencing assisting individuals in enrolling in Medicaid or LaCHIP or referring individuals to specialists or other health care services at State-owned hospitals.***
- d. Can DHH provide some specific guidance on how Medicaid CCN-P information should be reported with respect to Medicaid cost reports? Are Medicaid CCN-P days eligible for inclusion toward Medicare DSH? ***CCN-P days should be included on Medicaid cost reports. The question regarding inclusion of Medicaid managed care hospital days for which a capitation payment has been made, in calculation of Medicare DSH, would best be directed to Medicare.***
- e. Please provide guidance on how will the CCN-P program impact the Physician UPL program? ***Physician services provided to members in CCNs who received a capitation payment for those services are excluded from Physician UPL calculations. Federal Medicaid regulations do not allow supplemental payments for any service for which a capitation payment has been made except DSH, GME and FQHCs/RHCs.***
- f. Can DHH offer guidance and clarification for resolving CCN-S issues arising from claims that were pre-processed in error? ***If an error was made in the pre-processing a claim(s), the provider should contact the CCN’s Provider Relations Department and explain why they believe the claim was pre-processed in error and request an adjustment to***

*the claim. If the CCN denies the request, the provider can file a grievance with the CCN and/or a State Fair Hearing.*

We appreciate the opportunity to answer your questions. We value our relationship with Louisiana's hospitals and the fruitful endeavors we have produced together over the past year — including our Birth Outcomes initiatives and the Upper Payment Limit program. These two efforts are examples of great policy that is possible when we work together. I have no doubt that coordinating care will be any different. Our state's people are depending on both their government leaders and health care providers to improve health outcomes and lower taxpayer costs.

If there is anything unclear in our response, please contact us immediately for additional clarity. I am happy to make myself or our team available to meet with you or offer additional written response

Sincerely,

/s/ J. Ruth Kennedy