State Work Plan to Seek Federal Financial Participation (FFP) for Long Term Care (LTC) Ombudsman Activities

This work plan guide has been developed by CMS to assist state Medicaid agencies and Long Term Care Ombudsman (LTCO) programs in developing proposals to claim federal financial participation (FFP) for LTCO activities that benefit the administration of the Medicaid program. Because each state's program operation is unique, CMS is available to provide technical assistance and support throughout the process to help states ensure that their LTCO administrative claiming plan proposal meets federal claiming requirements.

The following steps are recommended in order to facilitate the development of an LTCO administrative claiming plan proposal:

Step 1: State Medicaid Agency and LTCO Program Engagement

Claims for federal Medicaid funding must come directly from the single state Medicaid agency. Therefore, the first step in the process is for the Office of the State Long-Term Care Ombudsman (or its designee), the state unit on aging, and other relevant partners to collaborate with the state Medicaid agency to develop a proposal for claiming FFP for those LTCO activities that help administer the Medicaid program.

Step 2: Identify Permissible Sources of Non-Federal Funds for Match Purposes

States must ensure that permissible funding sources are available to match federal Medicaid funds. Permissible sources of the non-federal share include appropriations to the Medicaid agency and funds transferred from other units of government. The matching funds may not include from another federal funding source, including funds used by a state or local entity which originate from a federal source, such as the Older Americans Act. (See also 42 Code of Federal Regulations (CFR) 433.51)

Step 3: Identify LTCO Activities Potentially Eligible for Federal Medicaid Administrative Funding

As part of their overall mission, LTCO programs provide a variety of activities that may or may not be eligible for Medicaid matching funds. Any expenditures claimed by the state as Medicaid administration, including LTCO activities, must be deemed by the Secretary of the Department of Health and Human Services (HHS) to be "proper and efficient" for the administration of the State plan, as specified in section 1903(a)(7) of the Social Security Act. CMS Regional and Central Office analysts are available to work with states to identify LTCO activities potentially eligible for claiming Medicaid funding and how states can properly allocate related costs and meet existing documentation requirements.

The following are some examples of LTCO program activities that may be eligible for Medicaid administrative funding, subject to meeting other statutory and regulatory requirements:

- Education and consultation to potential enrollees on Medicaid eligibility and facilitation of the enrollment process.
- Identifying and referring individuals who may be eligible for and in need of Medicaid services.
- Developing procedures for tracking and reporting consumer requests for assistance with obtaining medical/dental/mental/long-term care (including home and community based) services that are covered by Medicaid.
- Consultation and advocacy to assist beneficiaries in transitioning from Medicare Part A coverage into the Medicaid nursing facility benefit.
- Direct case advocacy in transitioning individuals from private pay status into Medicaid funded nursing facility, home and community based services, or other Medicaid service categories.
- Identifying Medicaid-eligible residents who want to transition out of nursing home facilities and then connecting them with the appropriate local contact agency or other services to assist them in returning to the community.
- Identifying and reporting suspected instances of Medicaid fraud to federal and state agencies for investigation and action.
- Identifying gaps or duplication of medical/dental/mental/long-term care services to elders and individuals with disabilities and developing strategies to improve the delivery and coordination of these services for those individuals.

There are many LTCO activities for which Medicaid administrative funding would not be available. For example, Medicaid funding is not permitted for activities performed by volunteer staff because there is no cost to the state or to the LTCO Program and hence no amount claimable for Medicaid administrative match. Social, vocational and educational activities conducted by LTCO staff that are not directly related to the Medicaid program would also not be eligible for Medicaid funding or match, nor would general health initiatives that are made available to all residents free of charge.

Step 4: <u>Determine Basis for FFP</u>

The state and its partners must develop a valid administrative claiming methodology that identifies eligible and non-eligible activities and includes procedures to identify, allocate, document, and report the costs of all of those activities. When states submit claims for FFP for Medicaid LTCO administrative expenditures, there are a number of cost allocation requirements that must be met. Specifically, only those costs directly related to the administration of state's Medicaid program are allowable, and should be reviewed by CMS Regional Office Financial Management analysts to confirm what are allowable activities. The state's administrative claiming methodology must adhere to the cost determination and allocation guidelines for state, local and Tribal governments in the administration of federal grant awards contained in Office of Management and Budget (OMB) Circular A-87. States and LTCO Programs should make special note of the OMB Circular A-87 provisions related to the requirements for interagency agreements and certifications, the determination of allowable costs, cost allocation (including the distribution of salaries or wages for employees working on multiple activities or cost objectives), development of indirect cost rates, and maintaining source documentation to support claims.

Step 5: Establish Contractual Agreements

An interagency agreement (IAA), memorandum of understanding (MOU) or other contractual arrangement, which describes and defines the relationship between the state Medicaid agency and the entity which operates the LTCO program ("LTCO entity"), must be in effect before the Medicaid agency may submit claims for federal matching funds for any administrative activities conducted by the LTCO entity. These contractual agreements describe and define the relationship between the state Medicaid agency and the LTCO entity and document the scope of the activities to be performed by the LTCO on behalf of the Medicaid program. CMS does not have approval authority for IAAs, MOUs, or contracts, nor is the agency party to them; however the agreement(s) should be included in the LTCO claiming proposal submitted to CMS for review.

Step 6: Secure CMS/DCA Review and Approval

States should submit their administrative claiming methodology to the CMS Regional Office for review and approval. Among other review criteria, CMS will determine if the proposal identifies and isolates allowable LTCO costs through the use of a valid allocation methodology (e.g., time study, fixed fee contract, rate). Once CMS approves the proposed methodology, we ask the state to amend its Public Assistance Cost Allocation Plan (PACAP) on file with HHS, if necessary, to reflect the approved methodology. The PACAP is a narrative description of the procedures that the state agency will use to identify, measure, and allocate costs, as specified at Subpart E of 45 CFR part 95 and referenced in OMB Circular A-87, Attachment D. Note: In accordance with the statute, regulations and the Medicaid state plan, the state is required to maintain and retain source documentation to support Medicaid payments for administrative activities.