

Comments and Responses on ARC 9538B
Addition of Mental Health and Substance Abuse Counselors as
Providers of Medicaid Behavioral Health Services
Received June 21, 2011

The following persons and organizations provided written comments, which are included in the summary below:

Kerri Stahlecker Hermann, associate general counsel, OPTUMInsight, for UnitedHealthcare
Marvita McCown, registered nurse and licensed mental health counselor
Michael Pierce

COMMENT: The question I have is currently we must be licensed under Magellan if we are a LMHC to bill out Title 19 clients and this change will put us under the IME umbrella like other providers. Is that what I am understanding and when will this take effect? (Pierce)

RESPONSE: You will still bill Magellan for the majority of your services. If you serve a Medicaid member who is not Iowa-Plan-eligible, this rule allows you enroll as a Medicaid provider and to bill the Iowa Medicaid Enterprise for those services. The rule will become effective August 1, 2011.

COMMENT: Does this include Iowa Cares???? I have had several people come to me and Iowa Cares has the same criteria of Needing LISW credentials. I hope it includes Iowa Cares, could you let me know??? I believe having a degree in actual counseling actually qualifies us as much if not more. (McCown)

RESPONSE: The same services that are covered under regular Medicaid are covered for IowaCare members, but only to the extent that the member's IowaCare provider offers such services. IowaCare providers include the University of Iowa Hospitals and Clinics, Broadlawns Medical Center in Des Moines, and some designated federally qualified health centers. Since, to our knowledge, none of these provide mental or behavioral health services to IowaCare members, such services are effectively not covered under IowaCare.

COMMENT: Under the Department's proposed language, any person certified by the non-governmental Iowa Board of Substance Abuse (IBSAC) as an alcohol and drug abuse counselor is eligible to participate.

After contacting the IBSAC, it is our understanding that the only sources of sanctioning information made available to the public are (1) its newsletter, which is published on a quarterly basis and provides only the name of the person sanctioned and when the sanctions expires; and (2) its website, on which a search of the person's name reveals whether or not they are certified and whether or not they have been sanctioned. Neither of these sources provides any details about the exact date of the sanction or the reason it was imposed. When asked whether we could obtain the sanctioning orders (which contain details about the sanction) we were told that orders were not available to the public.

We are extremely concerned about this limitation of access to information for two reasons.

First, state Medicaid agencies and Medicare contractors are required by Federal regulation to screen providers to confirm that their licenses are valid and have no current limitations, as well as to verify

that they meet all state and federal regulation requirements, including the enrollment criteria for their provider type. See 42 C.F.R. Parts 424 and 455. Without regular access to detailed information about alcohol and drug counselors' certification and sanctioning information the agency and contractors will be unable to comply with these federal mandates. It is therefore imperative that detailed sanctioning information be made available.

Second we are concerned the Medicaid patients do not have access to detailed information about sanctioning of certified drug and alcohol abuse counselors in Iowa. The lack of access to information prevents them from making informed decisions about their health care. These patients may be particularly vulnerable, which makes access to information even more vital.

For these reasons, we strongly encourage the Department to amend or add to the rule language to correct this problem. The enabling legislation, Iowa Stat. §249A.15A, specifically grants the Department authority to impose limitations it finds necessary on the basis of federal laws and regulations.

We specifically request that the department add conditional language to the eligibility requirements for alcohol and substance abuse counselors. We suggest that this conditional language provide that"

- (1) the IBSAC make available to the public on a regular basis detailed information about each person's certification and any limitations thereon, including any sanctioning orders. This information could be made available either upon telephone inquiry or by internet publication; and
- (2) as a condition to Medicaid enrollment, each certified alcohol and drug abuse counselor waives any privacy rights he or she may have in information about sanctioning of the person's certification that is created and/or maintained by the IBSAC.

We strongly urge the Department to seriously consider these changes, which would bring the Department's rules into compliance with Federal regulations. (Hermann)

RESPONSE: All drug and alcohol abuse counselors will have to provide verification of their certification to the Iowa Medicaid Enterprise on a routine basis. The Iowa Medicaid Enterprise will regularly compare the list of enrolled providers to the list providers published by the Iowa Board of Substance Abuse to determine if any of the providers have been sanctioned.