

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1600 Broadway, Suite 700
Denver, CO 80202-4967



CENTERS for MEDICARE & MEDICAID SERVICES

Region VIII

August 16, 2010

Joan Henneberry
Executive Director
Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203-1818

Dear Ms. Henneberry:

This is in response to your letter dated December 23, 2009, requesting clarification on Federal Medicaid policy for Medicaid eligible individuals that become incarcerated and then subsequently need medical care. We apologize for the delay in responding.

Specifically, you are asking if services provided to the inmates who are receiving care from the Correctional Care Medical Facility of Denver Health Medical Center, is eligible for Federal Financial Participation (FFP). In your letter you describe the Correctional Care Medical Facility of Denver Health Medical Center as a unit that is designed exclusively to treat inpatient referrals from the Denver County detention facility but is a part of and operates under the accredited inpatient hospital license of the Denver Health Medical Center.

Please be advised the costs of care, treatment and services described above and in your letter dated December 23, 2009, is entitled to FFP. The basis for this technical assistance is based on 42 CFR 435.1009 and 42 CFR 435.1010 and the State Medicaid letter dated April 10, 1998. While Federal law at 1905(a)(A) of the Social Security Act prohibits FFP for medical care or services for inmates in a public institution there is the exclusion when the inmate who is otherwise Medicaid eligible receives medical care in a medical institution.

The situation you describe in your letter is inmates on occasion are admitted into this special unit of the Denver Health Medical Center for inpatient care. Denver Health Medical Center is a licensed, accredited inpatient hospital and otherwise meets the definition of a medical institution as defined at 435.1010(b)(2)(b). The inmates in question are expected to remain in Denver Health Medical Center for a period of 24 hours or longer. Denver Health Medical Center is an accredited and licensed hospital and not created for the purposes of law enforcement and incarceration (which is separate from the law enforcement system) and is not under the authority of any correctional unit. As long as these conditions are met FFP is available.

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Additionally, if the inmate becomes an inpatient of a nursing facility or a hospital, FFP is available for that individual under the exception of the inmate provision. This continues as long as the individual is an inpatient of the medical facility. Federal policy and regulations do not place a time limit for FFP availability as long as the individual continues to be eligible for Medicaid and residing as an inpatient in the medical facility.

If you have any questions please contact Diane Dunstan-Murphy of my staff at (303) 844-7040 or via email at Diane.Dunstan-Murphy@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard C. Allen".

Richard C. Allen
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

cc: Chris Underwood