



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

March 29, 2010

The Honorable Diana DeGette
House of Representatives
Washington, DC 20515-3806

Dear Representative DeGette:

Thank you for your letter seeking formal guidance from the Centers for Medicare & Medicaid Services (CMS) concerning Federal financial participation (FFP) for medical care provided to individuals participating in Colorado's community corrections programs. You indicated that in these programs, some or all individuals are incarcerated in community residential corrections placements.

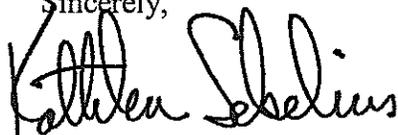
Prior to and since the inception of the Medicaid program, the responsibility for health care for inmates of public institutions has resided with the States. The Social Security Act excludes FFP for medical care provided to inmates of a public institution, except when the inmate is admitted as a patient in a medical institution. In guidance issued in 1997 and 1998, CMS (formerly the Health Care Financing Administration) clarified that public institutions include residential placements other than traditional prisons, including placements obtained through private contractors. This guidance remains in effect today; however, we remain available to engage in a dialogue with States about the need to update this policy and further clarify issues such as the one included in your letter.

To the extent that the individuals in question are not residing in community residential corrections placements, but are participating voluntarily in non-residential programs (in some cases while on probation or home release), FFP may be available for covered medical services. This would not include any periods when the individuals are reporting to a corrections facility for an overnight stay.

CMS is committed to working in partnership with States to ensure that Medicaid-eligible individuals receive covered services under the Medicaid statute, and we will continue to do so for your State through our Central and Regional Offices. The CMS Denver Regional Office is aware of your letter, and we are sending them a copy of this response.

Please do not hesitate to contact me if you have additional comments or would like to discuss this issue further.

Sincerely,


Kathleen Sebelius