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Sent: Tuesday, June 20, 2023 6:50 PM
To: Brown, Shante' <shantbrown@pa.gov>; Jenkins, Dale <daljenkins@pa.gov>
Cc: lhayes@clsphila.org; SForrester@KHS.org
Subject: RE: [External] RE: DHS Final Form Child Care Regulations

Shante'

Thank you for getting back to us. No apology needed. We are happy to be included in OCDEL's plans for consultation.

I'm afraid, however, that we don't understand what you envision regarding the interplay between a disapproval order, restoring the current language, and agreeing on amended language. We are concerned about a scenario where DHS (i) gives the go-ahead to the IRRC to issue a disapproval order; (ii) then resubmits the regulatory package in which the regulation authorizing balance billing is restored; and (iii) and *thereafter* engages stakeholders to have conversations about the balance billing regulation might be amended. (If this is not what OCDEL envisions could you please set us straight?)

Our concern, in the above scenario, is that, if DHS restores the regulation allowing balance billing as currently worded, it would likely be years before that regulation could be amended to reflect agreements reached with stakeholders, given what we know about how slowly regulatory changes move through the Department's internal process.

We think it would make better sense for DHS to tweak the current regulation so as to authorize OCDEL to establish reasonable limits on balance billing through sub-regulatory policy – by way of child care provider agreements, for example. This would allow the Department to be far more nimble in responding to factors influencing the need for balance billing and the extent to which it may be needed, such as increases in provider reimbursement rates. Here is how the current regulation might be tweaked very slightly to accomplish this (**modifications in red**):

§ 3042.14. Payment of provider charges.

(d) If a parent or caretaker selects a provider whose published rate exceeds the Department's payment rate, the provider may charge the parent or caretaker **some or all of** the difference between these two amounts, in addition to the weekly co-payment, **subject to such reasonable limits as the Department may choose to establish in accordance with applicable federal law, following public review and comment.**

We would welcome the opportunity to discuss this idea with you, but feel it would be best to do that before the regulatory package is resubmitted to the IRRC.

And one final matter, does DHS have **any** data regarding balance billing, even if not the specific data described in the CCDF state plan we referenced?

Thank you.

Peter Zurflieh

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