



160 St. Ronan Street, New Haven, CT 06511-2390 (203) 865-0587 FAX (203) 865-4997

February 8, 2010

Mr. Kevin Kinsella, Co-Chair
Ms. Alicia Woodsby, Co-Chair
Medical Inefficiency Committee
Human Services Committee
Legislative Office Building
Hartford, CT 06106

Dear Mr. Kinsella and Ms. Woodsby:

On behalf of the more than 7,000 physician members of the Connecticut State Medical Society (CSMS), thank you for the opportunity to provide comment regarding an appropriate definition of "medical necessity" within state programs, and the Medicaid program in particular. First and foremost, it is imperative that any determination of what is medically necessary for a patient be made by the treating physician and that it is made in the best interest of the patient's medical care in the judgment of that treating physician. Furthermore, any definition must be based on the premise that, if determined to be present by the physician, there is a presumption of medical necessity.

Over the past few years, CSMS was involved in the settlement of several lawsuits in which most of the nation's largest insurers agreed to a standard and relatively consistent definition of medical necessity. Although there are small word variations, these definitions are almost identical to the one proposed by the Committee that allow for a certain standard of care, as well as flexibility associated with the patient's medical condition(s) and treatment protocol. A similar definition also was codified for commercial health plans in Connecticut in Public Act 07-75.

Another important requirement is that medically necessary services include the actual treatment of a condition, as well as services for the purposes of preventing, evaluating, diagnosing and/or treating an illness, injury, disease or its symptoms. Any definition of medical necessity must reflect this. We believe the committee's proposed definition does just this and protects the need for an individualized evaluation and determination by the treating physician of what is medically necessary for the patient at that point in time.

The Department of Social Services' (DSS) proposed standard, taken from the increasingly restrictive SAGA program, is neither patient-nor service-specific and is too expressly tied to cost reduction. This limits the effectiveness of the standard; and applying it will significantly reduce the quality of care for the over 400,000 Connecticut Medicaid enrollees. Although cost is an important factor in health-care decisions, physicians are ultimately concerned about care. Though they consider the financial impact on their patients, physicians must first address the

medical condition of the presenting patient and the best care should not be denied on the basis of cost. To do so would be discriminatory.

There are substantial advantages in having a uniform definition of medical necessity for providers participating in various programs. At a minimum, however, the Medicaid population, which is generally more vulnerable than the commercial population and possesses fewer resources to pay for denied services, should be afforded at least the same protections as the commercial managed care population is entitled to under state law, including the "therapeutic equivalence" standard for substituting a prescribed treatment that is applied to commercial plans. C.G.S. §38a-513c sets forth the standard of "equivalent therapeutic or diagnostic results," a standard which is broadly supported by national medical groups and has also been adopted by other states across the country. Proposed language based on "similarly effective" or "comparably effective," as proposed by DSS, provides less protection and is not consistent with maintaining quality of care for Medicaid recipients. CSMS believes that all Connecticut residents deserve the same quality of care regardless of their financial means.

Establishing one standard definition of medical necessity will help to ensure that patients and their physicians can determine in advance the most appropriate care with as little intrusion into the physician/patient relationship as possible, but certainly Medicaid enrollees are entitled to at least the protections already provided to commercial managed care enrollees.

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew C. Katz". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Katz".

Matthew C. Katz
Executive Vice President