

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

February 23, 2010

Mr. Thomas Betlach, Director
Arizona Health Care Cost
Containment System (AHCCCS)
801 East Jefferson
Phoenix, AZ 85034

Re: 2009 Performance Bonus Payment under the Children's Health Insurance Program
Reauthorization Act of 2009 (CHIPRA)

Dear Mr. Betlach:

On December 18, 2009 the Centers for Medicare & Medicaid Services (CMS) notified you that Arizona's request for a Performance Bonus Payment under Section 2105(a)(4) of the Social Security Act was being denied for fiscal year 2009. On January 15, 2010, AHCCCS sought to contest that denial by seeking review by the U.S. Department of Health and Human Services, Departmental Appeals Board (DAB). However, in a letter dated February 1, 2010, addressed to Matthew J. Devlin of the Office of Administrative Legal Services, AHCCCS and Mark D. Polston of the Office of the General Counsel, CMS Division, the DAB determined that this issue falls outside the scope of their jurisdiction.

CMS has reviewed your request for DAB review and believes that AHCCCS should be afforded the opportunity to request reconsideration of CMS's December 18, 2009 decision. The reconsideration process will enable you to fully articulate your position before a CMS Hearing officer, similar to the hearing process available to states with respect to Medicaid state plan amendments as described at 42 C.F.R. Part 430, Subpart D. The parties to such a reconsideration hearing will be the State of Arizona and CMS. However, we believe that a less formal process than the full Subpart D proceedings contemplated for state plan amendments is warranted here. Therefore, the parties shall be afforded all of the rights contemplated at 42 C.F.R. § 430.83 and 42 C.F.R. § 430.102.

Because you indicated in your letter to the DAB, and in a conversation between Mr. Devlin and counsel for CMS, that you wish to seek reconsideration of CMS's December 18, 2009 decision, we will forward your request directly to the CMS Hearing Officer. The Hearing Officer will contact you regarding the scheduling of further proceedings. The Hearing Officer's address is as

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follows: Benjamin R. Cohen, Director, CMS Office of Hearings, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244.

If you have any questions or wish to discuss this determination further, please contact Gloria Nagle, Associate Regional Administrator for Medicaid and Children's Health, Centers for Medicare & Medicaid Services, 90 7th Street, Suite 5-300 (5W), San Francisco, California 94103-6706.

Sincerely,

Cindy Mann
Director

cc: Gloria Nagel, DHHS Region IX
Matthew J. Devlin, AHCCCS
Marcus H. Christ, OGC, CMSD