



Center for Medicaid and State Operations

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SMDL #03-005

June 13, 2003

Dear State Medicaid Directors:

On May 28, 2003, President Bush signed into law (P.L. 108-27) the Jobs and Growth Tax Relief Reconciliation Act of 2003 (TRRA). Subsection 401(a) of TRRA provides temporarily, with respect to certain expenditures by eligible states, increases in the Federal medical assistance percentage (FMAP), that is, the Federal matching rate for states' medical assistance expenditures under their Medicaid program. Under this provision, the increased FMAP is available only for a period of five calendar quarters, the last two quarters of Federal fiscal year (FY) 2003 and the first three quarters of Federal FY 2004. Subsection 401(a) of TRRA also increases the limitation on payments to the commonwealths and territories (the territories) as determined under section 1108 of the Social Security Act (the Act).

This letter contains some initial guidance on section 401(a) of TRRA. Attached to this letter are tables setting forth the additional Federal funding authorized for the commonwealths and territories, the potential increases in the FMAP for each state and territory for the third and fourth quarters of FY 2003, and increases in FY 2003 third quarter advance grant awards to reflect these changes.

Determination of the Increased FMAP

Under TRRA, there are two steps for determining the increased FMAP for each state for the last two quarters of FY 2003. First, each state's FY 2003 FMAP, as would otherwise be calculated, must be at least equal to the state's FMAP for FY 2002, and second, the FMAP determined under this first step is increased by 2.95 percentage points. Under section 401(a)(8)(B) of TRRA, the term "State" has the same meaning given for such term for purposes of title XIX of the Act, the Medicaid statute. Under section 1101(a) of the Act, the territories are considered as states for purposes of title XIX of the Act. Therefore, the territories will receive the same FMAP increase as the 50 states and District of Columbia will receive under this new law.

Payments for Which Increased FMAP Are Not Available

Subsection 401(a)(5) of TRRA provides that the increased FMAP does **not** apply with respect to the following:

- Medicaid disproportionate share hospital payments

- Payments under title IV and title XXI of the Act (the Federal matching percentage under these programs is a function of the Medicaid FMAP rate). This provision indicates that the Medicaid FMAP applied for the purposes of these programs will be the Medicaid FMAP otherwise determined without application of the provisions of TRRA.
- Payments under Medicaid that are based on the “enhanced FMAP” described in section 2105(b) of the Act. The Federal matching rate for certain Medicaid expenditures is tied to the “enhanced FMAP” referenced in section 2105(b) of the Act. In turn, the enhanced FMAP is calculated based on the Medicaid FMAP. This provision of TRRA indicates that the enhanced FMAP under section 2105(b) of the Act will be based on the Medicaid FMAP otherwise determined without application of the provisions of TRRA.

There are certain expenditures in the Medicaid program for which the Federal matching rate is not the usual FMAP; these include Indian Health Service facility expenditures (100 percent), family planning services (90 percent), cervical and breast cancer services (enhanced FMAP). The Federal matching rate for these medical assistance expenditures will continue to be as indicated. Finally, the increased FMAP is only applicable with respect to certain medical assistance expenditures; it is not applicable for states’ administrative costs.

#### Determination of Increased Limitation for the Territories

Section 401(a)(4) of TRRA provides that the limitation for the territories under section 1108 of the Act, shall be increased by 5.90 percent for the last two quarters of FY 2003 and the first three quarters of FY 2004. CMS is implementing this provision by prorating the territorial cap, as otherwise determined for the fiscal year under section 1108 of the Act, among the four quarters of the fiscal year. For FY 2003, these third and fourth quarter prorated amounts will be increased by 5.9 percent. In effect, operationally, for FY 2003 the dollar increase in the section cap multiplied by 5.9 percent. For FY 2004 the dollar increase in the section 1108 cap will be equal to three-fourths of the section 1108 cap multiplied by 5.9 percent. The revised caps for the territories are attached.

#### State Eligibility for Increased FMAP

Under section 401(a)(6) of TRRA, a state is eligible for an increase in its FMAP for any of the affected quarters of FY 2003 and 2004 only if eligibility under its Medicaid state plan (including any waivers under title XIX or section 1115 of the Act) in effect for such quarter is no more restrictive than the eligibility under such plan or waiver as in effect on September 2, 2003.

In making this determination on what is effective on September 2, 2003, CMS will consider only the approved state plan and waivers on September 2, 2003, and subsequently approved state plan amendments and waivers submitted on or prior to September 2, 2003. This is because we do not read the statutory reference to this exact date to include revisions subsequently proposed by the state.

Determination of Increased Funds for the Third Quarter of FY 2003

Because of the increased FMAP provided under TRRA, we have recalculated advance grant awards for most states applicable to the third quarter of FY 2003. In general, under the Federal funding process for the Medicaid program, at the beginning of each calendar quarter and based on states' estimates and any adjustments made by CMS, states are provided advance grant awards. These are issued for purposes of making Federal matching funds available to states during a current quarter for allowable Medicaid expenditures incurred by the state during the quarter. The amount of Federal funds needed by a state during a quarter is directly related to the FMAP applicable to the expenditures incurred by the state during the quarter. Since the increased FMAP under TRRA is potentially available with the beginning of the third quarter of FY 2003 (that is, April 1, 2003), the amounts of the initial grant awards that were initially issued at the beginning of April 2003 were potentially insufficient.

Based on states' estimates and CMS adjustments for the third quarter, any subsequent adjustments, and the original FY 2003 third quarter grant awards, we have recalculated an incremental amount of Federal funds that may be needed by states in the third quarter of FY 2003 because of the availability of the increased FMAP. We calculated this amount by first determining the total amount of expenditures that the state estimated for the quarter incorporating any adjustments made by CMS. We then deducted the amounts the states had included in such estimates for DSH payments and expenditures that would be claimed at the "enhanced FMAP" under section 2105(b) of the Act. We calculated the Federal matching funds needed for these net expenditures using the previous FMAP, and then with the increased FMAP. The difference between these two amounts represent the incremental amount of Federal funds needed in the third quarter to accommodate the increased FMAP. These amounts are indicated in the attachment to this letter.

We note that there are six "annual grant award" (AGA) states referenced in the attached chart for which no incremental amounts are shown for the third quarter. The AGA states are not issued an advance grant award for each calendar quarter as is done for most states; rather, at the beginning of the fiscal year CMS issues AGA states grant awards reflecting the states' Federal funding needs for the entire fiscal year. Since the AGA states have been issued grant awards in amounts that reflect the entire FY 2003, we have determined that no incremental grant awards are needed at this time for the third quarter for FY 2003.

Regardless of the supplemental grant awards we are issuing for the third quarter related to the FMAP increase, should any state need additional funds before the end of the quarter, they may request them. CMS will evaluate such requests and issue any appropriate additional supplemental grant awards. Finally, CMS will be evaluating states' needs for the fourth quarter of FY 2003.

Non-Federal Share (NFS) Funding Requirements.

Under section 401(a)(7) of TRRA, states may not require that the percentage of a states' NFS of expenditures contributed by political subdivisions within a state to be greater than the percentage required under the state's plan on April 1, 2003. Under existing Medicaid provisions at section 1902(a)(2) of the Act, and 42 CFR 433.53 of the regulations, a state plan must require that the

NFS be comprised of at least 40 percent of state (as distinguished from local) funds. In order to implement section 401(a)(7) of TRRA, CMS will need to identify each state that has a requirement for political subdivisions within the state to contribute toward the non-Federal share of expenditures, and with respect to such states to determine the applicable percentage as of April 1, 2003. On a subsequent basis, with respect to the five quarter period for which the increased FMAP is available, the state must maintain this NFS funding percentage. We note that since this is a state plan requirement, if this condition is not met, the state would be considered to be out of compliance resulting in the applicable compliance process and any appropriate sanctions.

#### Definition of Incurred Expenditures

The increased FMAP is available for expenditures incurred by states in the applicable quarters. TRRA does not change the definition of incurred expenditures under the Medicaid program. In particular, under title XIX medical assistance expenditures are considered to be incurred based on when the state makes a payment to a provider of services; it is not determined by the date of service. Therefore, the date of payment will determine the quarter for which the expenditure will be considered to be incurred. The increased FMAP applicable to each affected quarter will be available for matching such expenditures.

#### Prior Period Adjustments

Expenditures incurred during a particular quarter, which are not reported by states as a current quarter expenditure, must be reported on the Medicaid quarterly expenditure report, Form CMS-64, as a prior period adjustment. For such prior period adjustment expenditures, the available applicable FMAP will relate to the quarter it was initially incurred. If an expenditure was incurred in one of the five quarters referenced in the legislation, the (increased) FMAP associated with that quarter would be the applicable FMAP for such expenditure.

#### Expenditure Reporting

CMS is working to modify the Medicaid budget and expenditure reporting system so states will be able to identify and claim expenditures at the appropriate FMAP rate. We expect the reporting system to be updated in time for states to submit their third quarter expenditure reports. CMS will issue instructions to states on this in the near future.

If you have any questions regarding this issue, please contact Richard Strauss on 410-786-2019.

Sincerely,

/s/

Dennis G. Smith  
Director

Enclosures

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cc:

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ATTACHMENT

**INCREASE IN FY 2003 AND FY 2004 FEDERAL MEDICAID CEILING LIMIT  
AS A RESULT OF THE JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF FY 2003 (\$ IN 000s)**

FY 2003							
TERRITORIAL SECTION 1108 CAP INCREASE (\$ in 000s)						5.9% :Section 1108 CAP Increase	
Territory	Previous FY 03 1108 CAP	Previous FY 03 1108 CAP Per Qtr  (Col B)/4	Previous 1108 CAP For 1st & 2nd Qtrs of FY 03 Col C x 2	Previous 1108 CAP For 3rd & 4th Qtrs FY 03 Col C X 2	New FY 03 1108 CAP For 3rd & 4th Qtrs FY 03 Col E X 1.059	Total New 1108 CAP For FY 03  Col D + Col F	Total 2 Quarter Impact FY 03  Col G - Col B
A	B	C	D	E	F	G	H
Puerto Rico	201,400	50,350	100,700	100,700	106,641	207,341	5,941
Amer. Samoa	3,620	905	1,810	1,810	1,917	3,727	107
Guam	6,140	1,535	3,070	3,070	3,251	6,321	181
N. Mariana Islands	2,190	548	1,095	1,095	1,160	2,255	65
Virgin Islands	6,350	1,588	3,175	3,175	3,362	6,537	187
<b>Total</b>	<b>219,700</b>	<b>54,925</b>	<b>109,850</b>	<b>109,850</b>	<b>116,331</b>	<b>226,181</b>	<b>6,481</b>

FY 2004							
TERRITORIAL SECTION 1108 CAP INCREASE (\$ in 000s)							
Territory	Previous FY 04 1108 CAP	Previous FY 04 1108 CAP Per Qtr  (Col B)/4	Previous 1108 CAP For 4th Qtr of FY 04 = Col C	Previous 1108 CAP For 1st - 3rd Qtrs FY 04 Col C X 3	New FY 04 1108 CAP For 1st - 3rd Qtrs Col E X 1.059	Total New 1108 CAP For FY 04  Col D + Col F	Total 3 Quarter Impact FY 04  Col G - Col B
A	B	C	D	E	F	G	H
Puerto Rico	210,100	52,525	52,525	157,575	166,872	219,397	9,297
Amer. Samoa	3,780	945	945	2,835	3,002	3,947	167
Guam	6,400	1,600	1,600	4,800	5,083	6,683	283
N. Mariana Islands	2,280	570	570	1,710	1,811	2,381	101
Virgin Islands	6,620	1,655	1,655	4,965	5,258	6,913	293
<b>Total</b>	<b>229,180</b>	<b>57,295</b>	<b>57,295</b>	<b>171,885</b>	<b>182,026</b>	<b>239,321</b>	<b>10,141</b>

ATTACHMENT

IMPACT OF SECTION 401(a) OF P.L. 108-27 FOR THIRD QUARTER FY 2003 TEMPORARY INCREASE OF THE MEDICAID FMAP			
State	PREVIOUS FY 2003 FMAP	NEW FMAP FOR 3RD AND 4TH QUARTERS FY 2003	3rd QUARTER FY 2003 SUPPLEMENTAL GRANT AWARD
A	B	C	D
Alabama	70.60%	73.55%	20,862,000
Alaska	58.27%	61.22%	5,095,000
Arizona	67.25%	70.20%	33,930,000
Arkansas	74.28%	77.23%	17,322,000
California	50.00%	54.35%	409,080,000
Colorado	50.00%	52.95%	17,796,000
Connecticut	50.00%	52.95%	23,308,000
Delaware	50.00%	52.95%	5,400,000
Dist Columbia	70.00%	72.95%	9,127,000
Florida	58.83%	61.78%	87,464,000
Georgia	59.60%	62.55%	47,934,000
Hawaii	58.77%	61.72%	5,805,000
Idaho	70.96%	73.97%	6,219,000
Illinois	50.00%	52.95%	80,189,000
Indiana	61.97%	64.99%	-
Iowa	63.50%	66.45%	15,164,000
Kansas	60.15%	63.15%	12,313,000
Kentucky	69.89%	72.89%	26,917,000
Louisiana	71.28%	74.23%	-
Maine	66.22%	69.53%	12,425,000
Maryland	50.00%	52.95%	28,965,000
Massachusetts	50.00%	52.95%	54,705,000
Michigan	55.42%	59.31%	62,727,000
Minnesota	50.00%	52.95%	37,567,000
Mississippi	76.62%	79.57%	21,925,000
Missouri	61.23%	64.18%	35,999,000
Montana	72.96%	75.91%	4,830,000
Nebraska	59.52%	62.50%	-
Nevada	52.39%	55.34%	6,617,000
New Hampshire	50.00%	52.95%	7,269,000
New Jersey	50.00%	52.95%	47,117,000
New Mexico	74.56%	77.51%	14,034,000
New York	50.00%	52.95%	264,344,000
North Carolina	62.56%	65.51%	50,294,000
North Dakota	68.36%	72.82%	4,872,000
Ohio	58.83%	61.78%	69,644,000
Oklahoma	70.56%	73.51%	18,864,000
Oregon	60.16%	63.11%	19,939,000
Pennsylvania	54.69%	57.64%	92,676,000
Rhode Island	55.40%	58.35%	8,933,000
South Carolina	69.81%	72.76%	27,384,000
South Dakota	65.29%	68.88%	4,791,000
Tennessee	64.59%	67.54%	43,084,000
Texas	59.99%	63.12%	108,744,000
Utah	71.24%	74.19%	7,762,000
Vermont	62.41%	66.01%	6,036,000
Virginia	50.53%	54.40%	-
Washington	50.00%	53.32%	-
West Virginia	75.04%	78.22%	14,057,000
Wisconsin	58.43%	61.52%	-
Wyoming	61.32%	64.92%	2,834,000
<b>TOTAL STATES</b>			<b>1,902,363,000</b>
<b>COMMONWEALTHS AND TERRITORIES/1</b>			
Puerto Rico	50.00%	52.95%	5,941,000
Amer. Samoa	50.00%	52.95%	107,000
Guam	50.00%	52.95%	181,000
N. Mariana Islands	50.00%	52.95%	65,000
Virgin Islands	50.00%	52.95%	187,000
<b>TOTAL</b>			<b>6,481,000</b>
<b>NATIONAL TOTAL</b>			<b>1,908,844,000</b>

AGA\*

AGA\*

AGA\*

AGA\*

AGA\*

AGA\*

\*AGA = Annual Grant Award States. AGAs can use previously received full-year funding to cover any third quarter impact.

1/ The amounts in Column D for the Commonwealths and Territories represent the total increase to the cap under section 1108 of the Act for both the 3rd and 4th quarters of of FY 2003.