

LeadingAge NY Provides Initial Analysis of Medicare “Improvement Standard” Lawsuit Settlement

The proposed settlement in the case of Jimmo v. Sebelius was filed in Federal District Court in Vermont on Oct. 16, 2012 and is now waiting the court's approval. This case centers on the “Improvement Standard” in Medicare that requires that an individual show improvement in his or her condition or functional status in order to qualify for Medicare coverage of therapy services. The plaintiff in this case alleged that this standard wrongfully denies Medicare coverage to patients suffering from chronic conditions and who are in need of skilled nursing facility (SNF) care and home health (HH) care, as well as outpatient therapy (OPT).

To settle the case, CMS agreed to revise the Medicare Benefit Policy Manual and the Internet Only Manual 100-02 to “clarify” the coverage standards to include SNF, HH and OPT benefits when a patient has no restoration or improvement potential but when that patient needs SNF, HH or OPT services. Understanding the full extent to which this case will impact the provision of therapy services to Medicare beneficiaries will have to wait until early next year when CMS releases their manual updates. However, it is clear that the potential impact could be dramatic. The initial analysis by LeadingAge NY is available on our website.

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