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HOSPITAL CLIENT NEWSLETTER

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TCORS FILES BRIEF IN APPEAL CHALLENGING DMHAS BEHAVIORAL HEALTH GUIDELINES

On February 22nd, TCORS filed its Memorandum of Law in support of an appeal which challenges the validity of DMHAS' behavioral health guidelines which require providers to:

- (a) secure prior authorization for treatment of a patient who is only potentially eligible for SAGA when treated;
- (b) file or submit bills within 180 days of treatment.

In addition, the appeal challenges DMHAS' failure since 1998 to adopt regulations establishing a fair hearing process through which patients and providers can challenge denial of service and payment by the Department.

In August 2006, TCORS filed the petition for a declaratory ruling on behalf of some hospitals and patients. The petition requested that the Department determine that its guidelines are illegal and invalid, because the Department has never adopted them as formal regulations in accordance with the uniform administrative procedures act, as directed by the General Assembly in 1997.

TCORS argued that the guidelines on prior authorization for potentially eligible persons and timely filing illegally impose requirements on recipients and providers which are not imposed by DSS in the remainder of the SAGA medical assistance program or in the Medicaid program.

In addition, TCORS argued that the statutes governing the behavioral health program require that the Department adopt regulations providing a fair hearing to applicants and providers who have been denied service or payment for treatment. DMHAS has failed to adopt such regulations for over 13 years.

The Connecticut Hospital Association intervened in the declaratory ruling preceding TCORS started on behalf of all its members in general, and a number of specific hospitals.

After TCORS filed the petition, the Department revised its guidelines to permit 365 days for submission of bills, which is consistent with the timely filing requirement applicable to the balance of the SAGA medical assistance program and the Medicaid program

In June 2007, DMHAS, not surprisingly, issued a declaratory ruling upholding its own guidelines.

In August 2007, TCORS filed an appeal of this adverse ruling. On February 22nd, TCORS filed a memorandum setting forth detailed arguments challenging DMHAS' ruling. The Attorney General's Office will be filing a responsive memorandum in late April. We hope to have a ruling by the court sometime this summer. We will keep you posted on further developments.

If you would like to obtain a copy of the memorandum filed by TCORS, or have any questions concerning this case, please contact Robert D. Tobin, Thomas J. Riley, Gerry Badalucca, or Kristen Cramer at (860) 447-0335 or email us at attorneys@tcors.com.