

April 20, 2011

Donald R. Speer  
Executive Director  
Commonwealth of Kentucky  
Finance and Administration Cabinet  
Office of Procurement Services  
New Capitol Annex  
702 Capitol Avenue, Room 373  
Frankfort, KY 40601  
*Sent via electronic mail:* [speermco@ky.gov](mailto:speermco@ky.gov)



Kentucky Equal Justice Center  
201 W. Short Street, Suite 310  
Lexington, KY 40507

T: 859-233-3057  
F: 859-233-0007

Dear Mr. Speer:

We write on behalf of the Kentucky Equal Justice Center, a civil legal services organization that works closely with legal aid organizations across Kentucky. Our advocates will assist consumers with the managed care process, including, but not limited to, grievance hearings, appeals, and access to adequate and necessary medical care. Although the Kentucky Equal Justice Center is not a prospective vendor for this contract, answer to our questions would provide important clarification for vendors and consumers alike and we would appreciate your answers to these questions in the Addendum to the Solicitation.

1. What guidelines will the Department provide to the MCO(s) regarding Quality Improvement? Although the RFP discusses the requirement of QAPI and QAPI annual review, *see* Section 030.090.50, it does not specify the rules and procedures that the MCO(s) will need to follow in this process to ensure quality managed care. Please explicate.
2. Will the Department give additional guidelines regarding “medical necessity?” Further, why does the RFP not use the language set forth in 907 KAR 3:130? The RFP appears to give great latitude to the MCO(s) to determine their own criteria for “medical necessity” and “sound medical evidence.” What safeguards will be put in place to ensure that the standards used are appropriate and equitable?
3. What guidance will the Department give regarding adequate staffing beyond the managerial level? Further, are there any requirements as to the adequacy and breadth of the provider network?
4. Please provide additional guidance regarding Section 030.090.50.70. In particular, why is notification of an adverse decision not required when the Member has no financial liability? To which groups of Members does this refer?
5. Why has the Department chosen a threshold of 10% of county Members speaking a language other than English for the translation of written Member materials? As you may know, the Centers for Medicare and Medicaid Services adopted a 5%

threshold of Limited English Proficiency for Medicare written materials. Additionally, the Office of Civil Rights has given federal guidance to the Department of Health and Human Services producing a safe harbor provision over 5%. In light of these decisions, please explain the choice of 10%, as opposed to 5%.

6. Finally, several sections of the RFP give strict prohibitions regarding MCO actions. *See, e.g.*, Section 030.090.130.10. What penalties will exist for the MCO(s) for violation of Department policy and state and federal law and regulations other than nonrenewal of contract?

Please do not hesitate to contact us at (859) 233-3057. We appreciate your time to respond to our inquiries and hope to work with you to enhance managed care in Kentucky.

Sincerely,

Anne Hadreas, Health Law Fellow  
Rich Seckel, Director  
Anne Marie Regan, Senior Staff Attorney  
Kentucky Equal Justice Center