RICK SCOTT
GOVERNOR

FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION

ELIZABETH DUDEK
SECRETARY

March 28, 2014

Dear Medicaid Managed Care Plan:

State law requires that Medicaid Managed Medical Assistance plans offer all home medical equipment and supplies providers a network contract if they meet certain criteria. The law states:

> *Each managed care plan must offer a network contract to each home medical equipment and supplies provider in the region which meets quality and fraud prevention and detection standards established by the plan and which agrees to accept the lowest price previously negotiated between the plan and another such provider.* [409.975(1)(d), Florida Statutes]

The Agency interprets that 409.975(1)(d), F.S. is meant to ensure that home medical equipment and supplies providers operating in Florida are given a genuine opportunity to be part of Medicaid Managed Medical Assistance plan networks and to compete to serve the needs of the plan's Medicaid members. To that end, the Agency provides the following guidance.

1. Managed Medical Assistance plans must offer contracts to all home medical equipment and supplies providers in the region. The Agency clarified in a September 2012 Guidance Statement that this includes:

- All providers enrolled with the Florida Medicaid program as Durable Medical Equipment providers (provider type 90), and
- All providers licensed in the state of Florida as Home Medical Equipment providers pursuant to Chapter 400, Part VII, F.S.

The Agency is in the process of refreshing the list of qualified providers. The updated list will be posted at http://ahca.myflorida.com/SMMC . Go to the News and Events tab, and select Guidance Statements.

2. Contract offers must be at least at the lowest price previously negotiated "for another such provider." The Agency interprets "such provider(s)" to be companies that primarily provide durable medical equipment and supplies, rather than entities that provide multiple types of services. The rate offered must be a good faith offer in that it is a rate that is sufficient to adequately reimburse for equipment and supplies provided by a home medical equipment company and that does not violate labor laws.

3. Contracts may not contain "non-compete" clauses that restrict contracted providers from competing with a managed care plan's other subcontractors or network providers. The Agency reserves the right to review contracts and subcontracts to ensure that they do not contain provisions that restrict the network in ways other than delineated in statute.

- 409.975(1)(d), F.S. allows plans to restrict their home medical equipment and supplies (HME) network only based on price and quality and fraud detection standards.

4. Recipients may choose any HME provider in the managed care plan's network unless exceptions to freedom of choice are listed in the plan's Agency-approved Enrollee Handbook [See Section IV.A, item 7.a(17) of plan contract]. Please note that currently there are no approved freedom of choice exceptions and therefore:

- MMA plans must list every HME provider with which they contract in their online and printed provider directories.
- Recipients may choose any HME provider in the plan's network.
- Recipients do not have to change HME providers unless their provider is not in the plan's network.

5. MMA plans' prior authorization or other utilization management determinations are based on evidence-based criteria and provide written confirmation of all denials, service limitations and reductions of authorization to providers [See Attachment II, Section VII.G, item 2.b. of plan contract].

- Compensation to individuals or entities that conduct utilization management (UM) activities must not be structured to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any enrollee. [See Attachment II, Section VII.G, items 1.b. and 1.c. of plan contract].

If you have questions about this letter, please contact your Agency contract manager.

Sincerely,

Shevaun Harris, Chief
Bureau of Medicaid Services

SH/sb