



**VIA EMAIL: [www.regulations.gov](http://www.regulations.gov)**

February 26, 2013

Daniel R. Levinson, Inspector General  
Office of Inspector General  
c/o Congressional and Regulatory Affairs  
Department of Health and Human Services  
ATTN: OIG-120-N  
Room 5541, Cohen Building  
330 Independence Avenue, SW  
Washington, DC 20201

Dear Mr. Levinson,

**RE: File Code OIG-121-N**

As an association representing behavioral healthcare provider organizations and professionals, the National Association of Psychiatric Health Systems (NAPHS) appreciates the opportunity to provide comments on the notice of intent to develop regulations on "Solicitation of New Safe Harbors and Special Fraud Alerts" as published in the December 28, 2012, *Federal Register*.

#### **ABOUT NAPHS**

Founded in 1933, NAPHS advocates for behavioral health and represents provider systems that are committed to the delivery of responsive, accountable, and clinically effective prevention, treatment, and care for children, adolescents, adults, and older adults with mental and substance use disorders. Our members are behavioral healthcare provider organizations, including more than 700 psychiatric hospitals, addiction treatment facilities, general hospital psychiatric and addiction treatment units, residential treatment centers, youth services organizations, outpatient networks, and other providers of care. Our members deliver all levels of care, including inpatient, residential, partial hospitalization, and outpatient services.

#### **RECOMMENDATIONS ON COMPLIMENTARY TRANSPORTATION**

In December 2002, the Office of Inspector General (OIG) within the Department of Health and Human Services (HHS) published a notice of intent to develop regulations. One focus area for comment dealt with complimentary transportation. According to the notice, Congress in enacting Section 1128A(a)(5) of the *Health Insurance Portability and Accountability Act* (HIPAA) law, intended that the statute not preclude the provision of complimentary transportation of nominal value. The notice went on to say that "We have interpreted nominal value to mean no more than \$10 per item or service or \$50 in the aggregate. We are concerned that this interpretation may be overly restrictive in the context of complimentary local transportation." So the Department asked for comments on this matter.

NAPHS submitted comments at that time as well as in 2012 on this same issue, but there has been no change to the complimentary transportation policy. We still believe that changes are needed to

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the complimentary transportation policy, and we favor the creation of an exception for complimentary transportation. **It is our strong view that complimentary transportation is essential to ensuring that patients, especially those with severe mental illnesses and young people with serious emotional disorders, are able to receive necessary care, including both inpatient and outpatient.**

Complimentary transportation is very important for patients suffering mental disorders, many of whom are of low-income due to their life-long, serious disability. They may not be able to drive themselves to treatment due to the types of medications they are taking and due to the lack of a spouse or supporting person to drive them. Also, these patients may be incapable of navigating the public transportation system. Therefore, any changes in complimentary transportation should not only focus on economic need, but should also focus on the challenges many of these individuals face in getting to the care they so critically need. We also believe that any complimentary transportation exception should be flexible, based on local needs and conditions.

In addition, federal healthcare programs sometimes determine that appropriate residential care and treatment is only available at a facility a significant distance away, or perhaps even in a different state, from where a child or adolescent beneficiary lives. It has come to our attention that the programs do not always cover the cost of transporting the child or adolescent to the facility in this circumstance. That is the case even though the payors have approved the placement as necessary and pay for the actual care. Often, no family member or guardian is available to transport these young people to the facility, or the cost of doing so would pose an undue burden on the family because it has limited financial resources. An exception for complimentary transportation is crucial in these instances, therefore, to give these young people basic access to a residential level of care that everyone agrees they desperately need.

**We believe that an exception to complimentary transportation requirement would increase access to needed services, improve the quality of care for these patients, and reduce the overall costs of behavioral healthcare.**

We believe that after more than 10 years since the OIG first issued a notice on this subject, it is as important – or even more important – to create an exception for complimentary transportation for persons with severe mental disorders. In order to ensure access to medically necessary behavioral healthcare, getting these individuals to the right services, at the right time, and in the right setting has never been more critical.

We appreciate the opportunity to comment on the possibility of establishing an exception on complimentary transportation.

Sincerely,

/s/

Mark Covall  
President/CEO