

VIA EMAIL: www.regulations.gov

February 27, 2012

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-120-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 29, 2011, *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, but there has been no change to the complimentary transportation policy. We still believe that changes are needed to 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, are able to receive necessary follow-up outpatient care.**

Generally, patients requiring acute outpatient care have typically been recently discharged from a hospital setting or are experiencing acute debilitating symptoms that impair their ability to function independently. For many of these patients, to deprive them of complimentary transportation arrangements would be to deprive them of care. Without outpatient care, these individuals will deteriorate or relapse and then require inpatient care, which is costly to both the patient and to Medicare and Medicaid. Access to outpatient treatment is essential to keeping patients in community-based settings.

Complimentary transportation is very important for patients suffering mental disorders, many of who 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.

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 nearly 10 years after the OIG 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. Our outpatient treatment programs have become more effective and we have less inpatient capacity nationally; therefore, 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