

- Continuation of beneficiary status for purposes of Medicare and Medicaid coverage during periods of suspense for noncompliance and after eligibility or entitlement is terminated after 36 months of benefits are paid, as long as the individual remains disabled.

Many of these provisions are effective for benefits payable for months beginning March 1, 1995. Implementing regulations for certain statutory provisions must be issued by February 11, 1995, 180 days after enactment, and are included in these interim final rules. For those statutory provisions not requiring final regulations by February 1995, principally those concerning representative payment, we will publish a separate notice of proposed rulemaking (NPRM) in the **Federal Register**.

These interim final regulations affect all disabled individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability, including those who were found eligible for title II or SSI benefits before March 1, 1995. By March 1, 1995, the Social Security Administration (SSA) will have sent notices to these individuals of the changes in the Act which affect them, as required by section 201 of Pub. L. 103-296. At the same time, SSA also will have sent notices to the representative payees of these individuals who have them.

Congressional Direction to Consult With Experts

Section 201 of Pub. L. 103-296 directed the Secretary to consult with drug and alcohol treatment professionals in formulating regulations defining appropriate treatment for individuals subject to the new provisions and establishing guidelines for the review and evaluation of compliance and progress. On August 24-25, 1994, SSA convened a meeting in Hunt Valley, Maryland of substance abuse treatment professionals from across the nation to gain their individual views on devising the new and revised regulations. During this meeting, a wide range of substance abuse-related topics was discussed, but the focus was on the legislative requirements to treat and monitor this disabled population. In addition, SSA has written directly to numerous professional organizations, individual treatment professionals, public advocacy organizations, RMAs, and others with knowledge of substance abuse-related issues seeking their views on treatment and compliance questions and issues to gain balanced input on

general contemporary treatment philosophies.

On October 17, 1994, SSA published in the **Federal Register** a Notice of Intent with Request for Comments (59 FR 52380) to solicit public comments about the legislative requirements imposed by Pub. L. 103-296 and the regulations SSA is required to promulgate. The comment period closed on November 16, 1994.

The comments we have received from all of these varied sources have proved to be invaluable in revising the rules relating to individuals under a disability when drug addiction or alcoholism is a contributing factor material to the determination of disability.

What the Experts and Other Public Commenters Told Us

We solicited the views of experts in the field of substance abuse treatment, as required by Pub. L. 103-296. We received valuable input from treatment professionals and administrators at the August 24-25 meeting and subsequently received written comments from many of the attendees. While we were interested in receiving the views of the experts and other members of the public on all issues related to the DAA provisions, we sought specific input from the discussions and the Notice of Intent published October 17, 1994, on the following issues:

- The definition of "appropriate" treatment for DAA;
- The definition of when treatment is "available";
- How to define and evaluate "progress" in treatment;
- How to evaluate "compliance" with treatment;
- The frequency with which RMAs should monitor an individual's compliance with his/her treatment plan;
- The definition of "good cause" for an individual's failure to comply with the treatment requirements; and
- The costs and benefits to be realized from the provisions.

In response to the Notice of Intent, we received comments from 56 individuals and groups. Commenters from State and local governments ranged from State RMAs to Social Service Agencies, Medicaid Agencies, and county government offices. Two national associations of directors of State governmental entities also provided comments. In addition, several treatment facilities, legal services organizations, and individual attorneys commented on the Notice of Intent.

We have carefully considered all of the comments in developing these interim final regulations.

Appropriate Treatment

Most commenters defined appropriate substance abuse treatment as a continuum of services to individuals with alcohol and other drug problems. Many commenters believed that appropriate treatment is that which serves the individual's needs in the least restrictive setting consistent with an individualized treatment plan. A significant number of commenters expressed the view that appropriate treatment can be defined only on an individualized basis by treatment professionals since there is no one modality that will work for every client disabled based on DAA. Accordingly, various commenters advised SSA to refrain from promulgating specific regulatory guidelines. Rather, they suggested that the determination of "appropriate" treatment should be within the purview of treatment professionals, circumscribed by very general guidelines provided by SSA. Many commenters stated that client participation in 12-step programs such as Alcoholics Anonymous is not, in and of itself, appropriate treatment. While such programs may be part of an overall treatment plan, because of their nature, they are not treatment.

Available Treatment

Many commenters believed that the definition of "availability" of substance abuse treatment should be a broadly inclusive definition to assure that the client can in fact avail himself or herself of appropriate treatment. Many commenters offered a list of factors that should be used in determining availability of treatment: location of the facility, availability and affordability of transportation, child care, the client's general health, particular condition and circumstances, language and cultural appropriateness.

There was a division among commenters as to whether one component of "available" should be whether the treatment was without cost to the client. Some commenters were of the view that treatment must be without cost in order to be "available." Others thought that the client should be required to make some investment in the treatment program by paying for some or all of the cost of treatment, depending upon the type of treatment and the client's circumstances.

Evaluating Progress in Treatment

Generally, commenters posited that it would be difficult to construct one definition or method by which to measure individuals' progress in treatment. A large organization of State