

What Does CMS' Realignment Really Mean?

by Lynn Shapiro Snyder, Leslie Norwalk and Stephanie Fox

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On March 24, 2010, the Secretary of the Department of Health and Human Services announced a major reorganization of the Centers for Medicare & Medicaid Services (CMS)¹. This announcement finalized a previous issuance dated February 16, 2010, from Charlene Frizzera, Acting Administrator of CMS. This restructuring is CMS' first major reorganization in approximately ten years. Its timing is no accident: with the historic passage of federal health reform, a new CMS is needed. Traditionally, CMS' organizational chart (see below) reflected a disproportionate emphasis on operations and policy. Going forward, topics such as strategic planning and program integrity become of equal importance to operations. The realignment's goal is to allow CMS to better focus on three areas: beneficiary services, program integrity, and strategic planning.

CMS' restructuring established the position of Principal Deputy Administrator (formerly Deputy Administrator) and created the Office of External Affairs and Beneficiary Services as well as four centers to be led by Deputy Administrators (formerly known as Directors): the Center for Medicare, the Center for Medicaid, CHIP and Survey & Certification, the Center for Program Integrity, and the Center for Strategic Planning. CMS has not had a Senate-confirmed CMS Administrator since June 2006. President Obama is expected to nominate Donald Berwick, MD, MPP, as CMS Administrator to fill the vacant position. Dr. Berwick is a Clinical Professor of Pediatrics and Health Policy at Harvard Medical School and founder of the Institute for Healthcare Improvement (IHI). Ms. Frizzera will continue to serve as Acting CMS Administrator and Chief Operating Officer until President Obama's nominated individual is confirmed by the Senate.

¹ 75 Fed. Reg. at 14,176

As part of CMS' reformation, CMS hired three new senior staff:

- In early March, **Marilyn Tavenner** joined CMS as the Principal Deputy Administrator. Ms. Tavenner most recently served as the Secretary of Health and Human Resources for the Commonwealth of Virginia. She spent most of her previous career with Hospital Corporation of America (HCA), starting as a staff nurse, becoming CEO of both Johnston-Willis and Chippenham hospitals, and finishing as Group President of Outpatient Services. She also served as Chairman of the Virginia Hospital Association and was a member of the Board of Trustees of the American Hospital Association.
- CMS has hired **Peter Budetti** as Deputy Administrator for the Center for Program Integrity. Mr. Budetti was an aide to Rep. Henry Waxman (D-Calif.) from 1984 to 1990, when Waxman was Chairman of the Energy and Commerce Committee's Health and the Environment Subcommittee. Mr. Budetti founded and directed the Center for Health Policy Research at George Washington University from 1990 to 1995, and most recently was Chairman of the Department of Health Administration and Policy in the College of Public Health of the University of Oklahoma Health Sciences Center. He also was formerly Chair of Taxpayers Against Fraud, a Washington, D.C., nonprofit agency that supports False Claims Act cases. Mr. Budetti is a pediatrician and a lawyer.
- **Anthony "Tony" Rodgers** has been appointed Deputy Administrator for Strategic Planning. Mr. Rodgers came to CMS from Health Management Associates, Inc., where he served as the principal consultant on health system strategic planning, health information technology, and health plan and system operations. He also previously directed Arizona's Medicaid agency, known as the Arizona Health Care Cost Containment System (AHCCCS). Prior to being appointed Director of AHCCCS, Mr. Rodgers was General Manager for WellPoint Health Networks, State Sponsored Programs. As general manager, he was responsible for both the Medicaid and the State Children's Health Insurance Program (SCHIP) product lines.

Although not confirmed yet, the following is a brief summary of **Dr. Donald Berwick**.

- In addition to his aforementioned positions of Harvard professor and founder of the Institute for Healthcare Improvement, Dr. Berwick was Chair of the Health Services Research Review Study Section of the Agency for Health Care Policy and Research (now AHRQ) and Chair of the National Advisory Council of the Agency for Healthcare Research and Quality. He served as Vice Chair of the U.S. Preventive Services Task Force and as the first "Independent Member" of the Board of Trustees of the American Hospital Association. Dr. Berwick is an elected member of the Institute of Medicine of the National Academy of Sciences and since 2002 has served on the IOM's Governing Council and as the liaison to the IOM's Global Health Board.

CMS Realignment

CMS' reorganization shifts its focus from placing operational priority on traditional fee-for-service and managed care to creating five centers, all with operational significance. This effort not only aligns with the federal health reform, but it also positions CMS to implement change as quickly as possible. Additionally, the realignment supports the CMS Administrator's office management efforts by bolstering the number of political staff members overseeing career employees. Specifically, the new structure created the following Centers and Offices:

Center for Medicare

The Center for Medicare combines the operations of Medicare fee-for-service, Medicare managed care, and the Medicare prescription drug benefit. The Center will report directly to the Administrator and be led by the Deputy Administrator, Jonathan Blum, and two Deputy Center Directors. Existing groups/staffs of the current Center for Medicare Management and Center for Drug and Health Plan Choice will be realigned intact under the new Center.

Center for Medicaid, CHIP and Survey & Certification

The Center for Medicaid and State Operations (CMSO) is renamed the Center for Medicaid, CHIP and Survey & Certification. The Center will report directly to the Administrator and be led by the Deputy Administrator, Cindy Mann, and two Deputy Center Directors. Existing groups/staffs will remain in the renamed Center except for the Medicaid Integrity Group, which will be realigned under the Center for Program Integrity.

Center for Program Integrity

The Center for Program Integrity realigns the (Medicare) Program Integrity Group of the Office of Financial Management (OFM) and the Medicaid Integrity Group of the CMSO. The consolidation of Program Integrity could suggest a sharing of insights and more standardization around fraud and abuse issues related to both programs. The Center for Program Integrity will report directly to the Administrator and be led by the Deputy Administrator, Mr. Budetti, and the Deputy Center Director. The two groups will move intact under this Center and be renamed the Medicare Program Integrity Group and the Medicaid Program Integrity Group, respectively.

Center for Strategic Planning

The Center for Strategic Planning realigns the Office of Research, Development, and Information (ORDI) and the Office of Policy (OP). This Center will report directly to the Administrator and be led by the Deputy Administrator, Mr. Rodgers. Existing groups/staffs in ORDI and OP will be realigned intact under this new Center.

Office of External Affairs & Beneficiary Services

The Office of External Affairs & Beneficiary Services realigns the Office of Beneficiary Information Services (OBIS) with the Office of External Affairs (OEA), thereby allowing CMS to integrate and better leverage its communication, call center, and Web resources; ombudsman services; and extensive network of partners to enhance service to beneficiaries. This Office will report directly to the Administrator and be led by the Office Director, Teresa Niño, and two Deputy Office Directors. Existing groups/staffs in OBIS and OEA will be realigned intact within the new Office.

Freestanding Offices

The following five Offices will remain intact and continue to report directly to the Administrator: the Office of Equal Opportunity and Civil Rights (OEOCR), responsible for issues of equal employment opportunity and civil rights; the Office of Legislation (OL), responsible for congressional and legislative interaction, evaluation, and analysis; the Office of the Actuary (OACT), responsible for CMS' actuarial program and analysis of health care financing issues; the Office of Clinical Standards and Quality (OCSQ), which serves as the focal point for all quality, clinical, and medical science issues and policies; and the Office of Strategic Operations and Regulatory Affairs (OSORA), which manages CMS' decision-making and regulatory process, and which will be renamed the Office of Executive Operations and Regulatory Affairs (OEORA) to more accurately reflect the work of that organization. In addition, the realignment formalizes the current role of the Chief Operating Officer (COO) and the Deputy Chief Operating Officer (DCOO) with responsibility over all CMS operations – namely, information systems, contracts and grants, finance, e-health standards and services, human capital management, and the Consortia.

Newly Prominent Centers

The realignment effectively elevates program integrity as well as innovation, research, and demonstration activities to an agency operational level. This change suggests an increased focus on fraud and abuse as well as demonstration efforts that could take on a new level of importance in broader CMS policymaking. With the newly appointed political leadership, these Centers can anticipate greater political oversight.

CMS' choice to lead the Center for Program Integrity, Mr. Budetti, an individual with extensive health care fraud experience and a background that includes formerly chairing Taxpayers Against Fraud, demonstrates that the Center's activities may shift emphasis from education to combating fraud and abuse.

Furthermore, CMS' selection for leadership of the Center for Strategic Planning, Mr. Rodgers, correlates with language in the federal health reform legislation authorizing CMS to develop innovative payment models and pilots under the Medicare program. These new pilot arrangements are very similar to traditional Medicaid waivers, providing for customization and budget neutrality. As someone experienced with and instrumental

to state-based efforts to develop novel Medicaid payment and delivery arrangements, Mr. Rodgers' expertise is expected to help guide CMS as it works to implement new Medicare payment models.

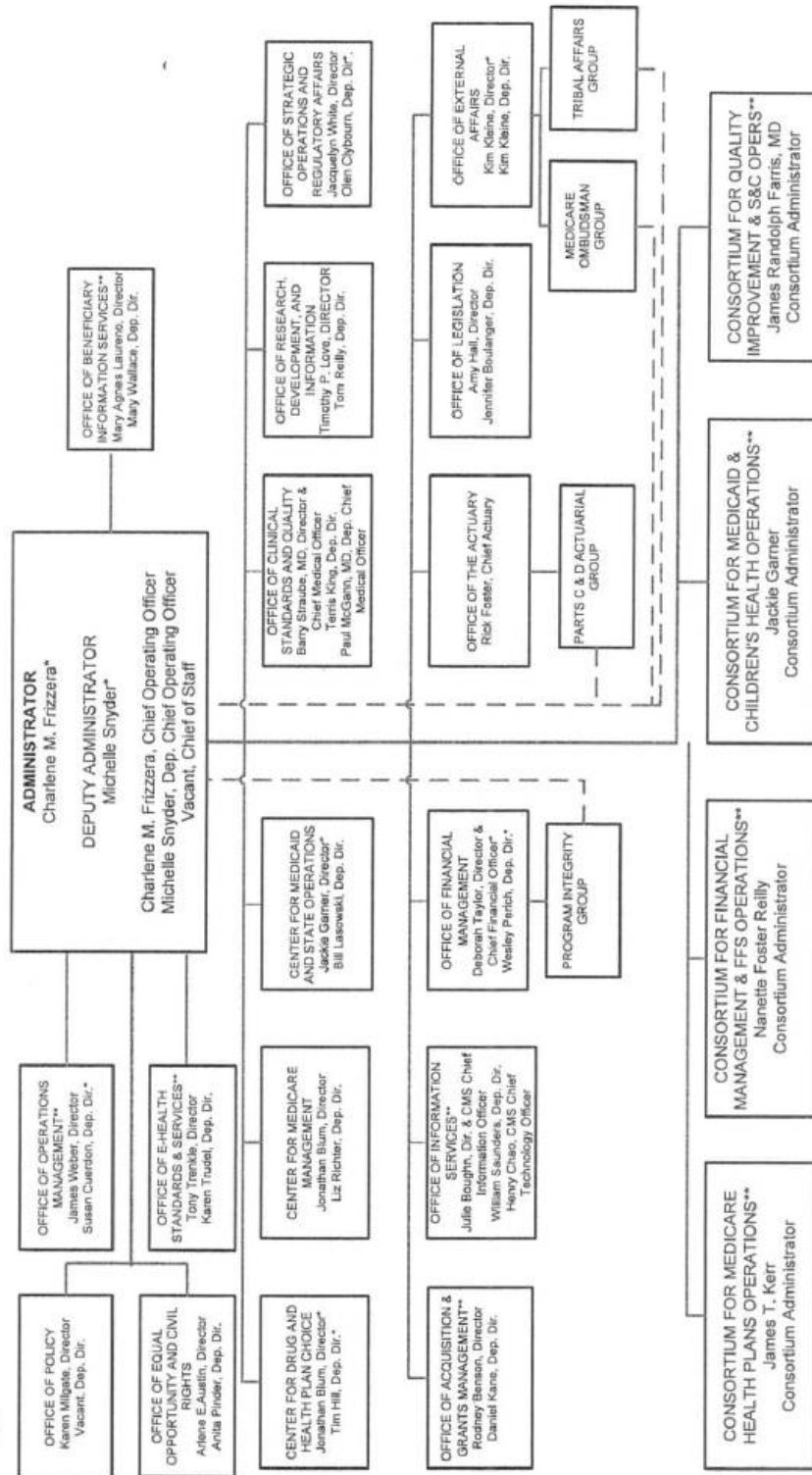
Before and After

To depict these changes, below are the former and current CMS organizational charts.

For alternate text document, go to <http://www.cms.hhs.gov/CMSLeadership/>



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES**



Realignment of the Centers for Medicare & Medicaid Services

Office of the Administrator

Charlene M. Frizzera, Acting Administrator
Marilyn Tavener, Principal Deputy Administrator

Center for Medicare

Deputy Administrator,
Jonathan Blum
Two Deputy Center
Directors

Combines the current
Center for Medicare
Management and
Center for Drug and
Health Plan Choice

Center for Medicaid, CHIP and Survey & Certification

Deputy Administrator,
Cindy Mann
Two Deputy Center
Directors

Retains the Center for
Medicaid and State
Operations (CMSO)
existing groups/staff
except for the Medicaid
Integrity Group, which
will be realigned under
the Center for Program
Integrity

Center for Program Integrity

Deputy Administrator,
Peter Budetti
Two Deputy Center
Directors

Realigns the
(Medicare) Program
Integrity Group of the
Office of Financial
Management (OFM)
and the Medicaid
Integrity Group of the
Center for Medicaid
and State Operations
(CMSO)

Center for Strategic Planning

Deputy Administrator,
Anthony "Tony"
Rodgers

Realigns the Office of
Research, and
Development, and
Information (ORDI)
and the Office of
Policy (OP)

Office of External Affairs & Beneficiary Services

Office Director,
Teresa Nifo,
Two Deputy Office
Directors

Realigns the Office of
Beneficiary
Information Services
(OBIS) with the Office
of External Affairs
(OEA)

The following five Offices will remain intact and continue to report directly to the Administrator:

Office of Equal Opportunity and Civil Rights (OEOCR)

Office of Legislation (OL)

Office of the Actuary (OACT)

Office of Clinical Standards and Quality (OCSQ)

Office of Strategic Operations and Regulatory Affairs (OSORA), which will be renamed the Office of Executive Operations and Regulatory Affairs (OEORA) to more accurately reflect the work of that organization.

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This Client Alert was authored by Lynn Shapiro Snyder, Leslie Norwalk and Stephanie Fox. For additional information about the issues discussed in this Client Alert, please contact one of the authors or contributors or the EpsteinBeckerGreen attorney who regularly handles your legal matters.

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EDITOR

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