

October 23, 2012

Ms. Melanie Bella
Director, Medicare-Medicaid Coordination Office
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 315H-01
200 Independence Ave, SW
Washington, D.C. 20201

Dear Ms. Bella:

Thank you for your ongoing willingness to meet with consumer advocates representing people who are dually eligible for Medicare and Medicaid benefits. We appreciate the opportunity to engage in dialogue with you and your colleagues at the Medicare-Medicaid Coordination Office (MMCO) about the demonstrations, including commenting on the proposals, guidance documents and the Memoranda of Understanding (MOU). We continue to be hopeful that well designed, focused demonstrations can improve care for dual eligibles, reduce costs and provide models for replication around the country.

As you know from meetings with the advocates and previous correspondence, we have several concerns related to the demonstration proposals. These include the large size and scope of the demonstrations, passive enrollment, state and plan readiness, selection of plans, continuity of care and transitions, quality measures appropriate for the long-term care services and supports population, oversight and evaluation, and rebalancing and reinvestment of savings. In addition to these concerns, prior to the release of additional MOUs, we want to underscore the importance of including an independent ombudsman in each demonstration. Specifically, we urge CMS and each state to specify the following in the MOU:

A detailed written plan for establishing and funding an independent ombudsman that will receive and respond to complaints, monitor overall demonstration activity, and identify systemic problems in the demonstration.

We believe that it is *essential* for consumers to have an independent advocate who will provide individual assistance and represent enrollees on larger systemic issues in front of plans, the state and CMS. This office will require adequate funding to perform these duties. It is also essential that an independent stand-alone ombudsman office is established and designated for the dual eligible demonstrations. Wisconsin has already moved in this direction, establishing the Wisconsin Family Care/IRIS ombudsman program.

While states will want to develop ombudsman models that best suit their needs, we recommend that key elements are included in all ombudsman programs: 1) information and assistance in pursuing complaints and appeals; 2) negotiation and mediation; 3) case advocacy assistance in interpreting relevant law; 4) reporting on patterns of non-compliance by plans as appropriate; and 5) individual case advocacy in administrative hearings and court proceedings relating to program benefits. We know from our conversations that the MMCO supports the concept of an ombudsman and several of the state proposals have mentioned the desirability of including one. However, only by including explicit language in the MOU can we be confident that an ombudsman will be established in each demonstration.

We appreciate your team's hard work to make sure that the demonstrations succeed, which we also support. Thank you for your commitment to improving health care for the dual eligible population.

Sincerely,

National organizations

AARP

AFT RETIREES

American Association on Health and Disability

American Society on Aging

ANCOR

The Arc

Center for Medicare Advocacy, Inc.

Community Catalyst

Direct Care Alliance

Disability Rights Education and Defense Fund

Easter Seals

Families for Better Care

Families USA

LeadingAge

Lutheran Services in America Disability Network

Medicare Rights Center

National Academy of Elder Law Attorneys

National Alliance on Mental Illness

National Association of Area Agencies on Aging

National Association of Nutrition and Aging Services Programs

National Association of Professional Geriatric Care Managers

National Association of State Long-Term Care Ombudsman Programs

National Coalition on Care Coordination

National Committee to Preserve Social Security and Medicare

National Consumer Voice for Quality Long-Term Care

National Council on Aging

National Council on Independent Living

National Health Law Program

National Hispanic Council on Aging

National Senior Citizens Law Center

PHI-Quality Care through Quality Jobs

Services and Advocacy for GLBT Elders

United Spinal Association

California

California Council of the Blind

California Health Advocates

Center for Health Care Rights

Congress of California Seniors

Disability Rights California

Western Center on Law and Poverty

Connecticut

Connecticut Legal Services, Inc.
Greater Hartford Legal Aid, Inc.
New Haven Legal Assistance Association

Colorado

Colorado Center on Law and Policy
Colorado Cross-Disability Coalition

Florida

Florida CHAIN

Illinois

AgeOptions
AIDS Foundation of Chicago
Health & Medicine Policy Research Group

Massachusetts

Boston Center for Independent Living
Disability Policy Consortium
Disability Advocates Advancing our Healthcare Rights
Massachusetts Advocates for Nursing Home Reform
Massachusetts Law Reform Institute
Massachusetts Medicare Advocacy Project on behalf of clients

Michigan

Mental Health Association in Michigan
Michigan Campaign for Quality Care
Michigan Consumers for Healthcare
Michigan Poverty Law Program

Missouri

Legal Services of Eastern Missouri
Missouri Disability Coalition on Healthcare Reform

New York

Association for Community Living
Bronx Independent Living Services
BWICA Educational Fund, Inc.
Center for Disability Rights, Inc.
Center for Independence of the Disabled, New York
Disabilities Network of New York City
Empire Justice Center
Harlem Independent Living Center, Inc.
Legal Services NYC-Bronx
Long Term Care Community Coalition
New York Association of Psychiatric Rehabilitation Services
New York Legal Assistance Group

New York Self-Determination Coalition
New York StateWide Senior Action Council, Inc.
New Yorkers for Accessible Health Coverage
Regional Center for Independent Living
Self-Advocacy Association of New York State, Inc.
Selfhelp Community Services, Inc.
Wheels of Progress
Women's City Club of New York

North Carolina

Center for Elder Justice and Policy
Legal Services of Southern Piedmont
North Carolina Justice Center

Ohio

Ohio Association of Area Agencies on Aging
Universal Health Care Action Network of Ohio

Oklahoma

Oklahoma Policy Institute

Oregon

Disability Rights Oregon

South Carolina

South Carolina Appleseed Legal Justice Center

Tennessee

Tennessee Justice Center

Texas

Center for Public Policy Priorities
Southern Disability Law Center
Texas Legal Services Center

Vermont

Vermont Legal Aid, Inc.

Virginia

Blue Ridge Independent Living Center
disAbility Resource Center of Rappahannock, Inc.
Virginia Association of Centers for Independent Living
Virginia Poverty Law Center

Washington

The Arc of Washington State
Disability Rights Washington
Northwest Health Law Advocates

Washington Developmental Disabilities Council
Washington State Long-Term Care Ombudsman Program

Wisconsin

Disability Rights Wisconsin
Wisconsin Aging Network

cc: Marilyn Tavenner
Jonathan Blum
Richard Gilfillan
Cindy Mann