



BAART Programs

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January 23, 2015

Angela Garner
Deputy Director
Division of State Demonstrations and Waivers
Center for Medicaid and CHIP Services, CMS
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, MD 21244-1850

**Re: Proposed California Amendment to Bridge to Health Reform
Demonstration (No. 11-W-00193/9), Drug Medi-Cal Organized
Delivery System Waiver**

Dear Ms. Garner:

I write on behalf of the 382 patients who receive opioid use disorder treatment services at our medication assisted treatment (MAT) program located at 1313 Cutting Blvd., Richmond, CA, 94804. This program has been in operation since 1988, and presently employs some 23 staff members providing critically needed treatment and supportive services to hundreds of patients and their families living and working throughout Contra Costa County.

We are strongly opposed to sections of the California Bridge to Reform Demonstration (No. 11-W-00193/9) Amendment for Drug Medi-Cal Organized Delivery System Waiver, submitted by the California Department of Health Care Services. Whereas we enjoy a positive, supportive collaboration with our colleagues at Contra Costa County Alcohol and Other Drugs services

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administration, our concern, based on some 27 years of program operating experience, is that waiving federal access protections and granting counties authority to establish program reimbursement rates will result in decreased access to essential life-saving treatment services.

Specifically, the current proposal will waive beneficiary freedom of choice, equality in amount, duration and scope, state wideness and reasonable promptness, some of which form the basis of a lawsuit 20 years ago called *Sobky vs. Smoley*. Before that lawsuit, Contra Costa County limited patient access to our treatment services by establishing artificial restrictions on available DMC slots, with resultant constraints on treatment availability for Medi-Cal eligible persons in dire need of our rehabilitative services. Thankfully, after the lawsuit, our county complied with the permanent injunction. As a result, significantly more people entered treatment and beneficiaries historically and presently continue to access medically-necessary treatment on demand, without the extensive waiting lists that were standard practice before the lawsuit.

The California Bridge to Reform Demonstration (No. 11-W-00193/9) Amendment for Drug Medi-Cal Organized Delivery System Waiver appears likely to overturn the *Sobky vs. Smoley* ruling and cause California and the Contra Costa County treatment systems to regress toward the inefficient and ineffective funding systems in effect more than 20 years ago. Moreover, this waiver will undermine the intent and beneficial effects of the Affordable Care Act, which has significantly increased access to our treatment services over the past year, enabling provision of critically needed medical, psychological, and social support services to individuals and families within our communities experiencing the debilitating effects of opioid use disorder.

After twenty years of successful implementation of MAT services throughout the state, California's proposed Organized Delivery System would now give back primary responsibility for provider selection, reimbursement rate setting, and access to MAT services to the California counties, including those that illegally and unethically denied access to treatment for many years. In the proposed waiver

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(11-W-00193/9) Section 7: Financing of the Special terms and Conditions says counties will propose county-specific rates and the State will approve the rates. These provisions will likely result in unequal treatment of beneficiaries based on distinct determination of rates for differing counties, a system fraught with potential for harmful negative bias toward funding MAT program services. This will adversely affect treatment access and result in denial, delay, and limitation of services when rates are insufficient to attract sufficient providers to meet beneficiary needs and demands.

Furthermore, the counties have proposed reverting from the current fee-for-service system to an antiquated cost-reimbursement system. The current system provides incentives for efficiency and aligns payment for services with evidence-based services criteria, thus ensuring the best possible patient outcomes. Cost reimbursement, on the other hand, rewards inefficiency and greater costs with no connection to outcomes. Congress and most every other payor has moved away from cost reimbursement systems.

Given the preceding considerations, we ask that CMS **NOT** do anything that may undermine the legal findings or intent of the permanent injunction (Sobkey vs. Smoley) that was based on overwhelming evidence of county efforts to limit access. Instead, we suggest CMS require California to carve-out MAT programs (opioid treatment providers) from this waiver. Such a carve-out will not preclude Contra Costa County from contracting with our program and offering MAT services to our county residents.

In summary, Richmond BAART Programs requests that MAT programs be exempted from the Organized Delivery System waiver for the above stated reasons.

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If you would like more information, please do not hesitate to contact me. On behalf of our patients, their families, and the residents of West Contra Costa County who mutually benefit from our treatment services, I thank you for your consideration.

Sincerely,



Ulrika Williams, CATC
Clinic Director, BAART Richmond