MedMark SERVICES, INC.™

January 28, 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:

Thank you for the opportunity to comment on the California Bridge to Reform Demonstration (No. 11-W-00193/9) Amendment for Drug Medi-Cal Organized Delivery System Waiver. I am an operator for MedMark Treatment Centers. I operate six narcotic treatment programs in Northern California. We provide services to over 2400 patients daily.

I would like to start by expressing my concern and serious opposition 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. My concern, based on over 10 years of operating Narcotic Treatment Programs nationwide, is that waiving federal access protections and granting the counties authority will result in major patient problems pertaining to access. The result of these access issues will be increased crime, increased stigmatization for methadone patients and increased patient deaths.

It's clear that the California Bridge to Reform Demonstration Amendment (No. 11-W-00193/9) is a dangerous step backward as it relates to Narcotic Treatment. The

current proposal will have many negative impacts including waiving beneficiary freedom of choice, equality in amount, duration and scope and reasonable promptness, some of which form the basis of a lawsuit 20 years ago called Sobky Vs. Smoley. The result of Sobky Vs. Smoley was remarkably positive for improving access in California. Specifically, the ruling resulted in significantly more people have entered treatment and beneficiaries can access medically-necessary treatment on demand, without the waiting lists that were standard practice before the lawsuit.

This waiver is likely to overturn that lawsuit and cause California and the five counties that we operate in to regress back more than 20 years. It will also off-set the really positive impact of the Health care reform (the Affordable Care Act) which significantly increased access to OTP services.

We ask that CMS ***NOT*** do anything that may undermine the permanent injunction that was based on overwhelming evidence of county efforts to limit access. Instead, we suggest CMS require California to carve-out opiate treatment providers from this waiver. Such carve-out will not preclude Solano, Fresno, Sacramento, Alameda or San Joaquin County from contracting with our programs and offering OTP services to residents of these counties.

In conversations with the County officials that I work with, I often hear the same concerns when I inquire about eliminating access barriers to methadone treatment. They say that their County Board does not understand and/ or support methadone and that the county would rather spend their substance abuse dollars on residential treatment or mental health services as opposed to paying for methadone services. With the waiver, the counties would be able to select and eliminate methadone providers. Furthermore, I am concerned that the proposed appeals process for providers whose contract are terminated is superficial and extremely limited, only allowing appeals when a county determines they have an adequate network, but not in the case of a county that simply wants to limit funding or a county that simply wants to use a pretext to reduce access. Moreover, there are no metrics for determining network adequacy.

Of the 58 counties in California, 56 of them have merged their alcohol and drug department with their mental health department to form a behavioral health department. Unfortunately, only 2 of those counties currently have a Director that has experience in alcohol and drug treatment. I recently received notification from a county that said while our clinic has a wait list of over 50 patients that those patients can go to a clinic 5 miles away that has 200 open slots. While 5 miles may seem reasonable on paper, it is not accessible for patients who do not have transportation or have serious health issues.

Despite the 45+ years of research proving the effectiveness of methadone treatment, it remains stigmatized. An example of methadone stigmatization from a well- intended leader is when Rudi Giuliani became Mayor of New York City. He vowed "to wean all of the city's methadone patients off it in three months", for ideological reasons rather than budgetary. He said he hoped to replace methadone programs with complete abstinence, a more "moral" means of treatment. In my conversations with county officials, it appears that they share the former Mayor's perspective. Fortunately; Mayor Giuliani did an about face on the issue after facing immediate criticism and reading letters written to him from several people in the methadone advocacy movement, scientists and researchers and doctors. Gen. Barry McCaffrey said it best when he commented on Mayor Giuliani's proposal. He said "The problem isn't that there are too many methadone programs, it is that there are too few....Close down methadone programs and (addicts) will be back on the streets, back on drugs, and back on welfare."

After twenty years of success, California's proposed Organized Delivery System would now give back primary responsibility to choose providers, to set rates, and to control access to narcotic treatment programs to all California counties, including those that illegally denied care for many years. This proposal as it is written now will be disastrous for methadone treatment patients and programs.

Section 7. Financing of the Special terms and Conditions says counties will propose county-specific rates and the State will approve the rates. This will affect access and result in denial, delay, and limitation of services when rates are insufficient to attract sufficient providers to meet beneficiary needs and demands. This provision will also result in unequal treatment of beneficiaries based on the rates paid in different counties. 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, ensuring the best possible patient outcomes. Cost reimbursement, on the other hand, rewards inefficiency and greater costs with no connection to outcomes. That is why Congress and most every other payor has moved away from cost reimbursement systems.

In summary, MedMark Treatment Centers requests that narcotic treatment programs be exempted from the Organized Delivery System waiver for the above stated reasons.

If you would like more information, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

Nicole Benoit

Nicole Benoit
Regional VP of CA OTP Operations