



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:

I write on behalf of the 530 patients who receive substance use disorder treatment services at our opiate treatment program located at 7240 E. Southgate Dr. Sacramento, Ca. 95823. 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. Our concern, based on 10 years of operation, is that waiving federal access protections and granting Sacramento county authority to establish reimbursement rates will result in decreased access to critical, 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, Sacramento County limited access to services by limiting DMC slots as well as funding. After the lawsuit, the County complied with the permanent injunction and entered into direct contracts with providers. As a result, 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 Sacramento County to regress back more than 20 years. We ask that CMS **NOT** do anything that may undermine the

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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 Sacramento County from contracting with our program and offering OTP services to residents of Sacramento County.

MedMark Sacramento currently serves 530 individuals, 90% of which are Medi-Cal funded. MedMark serves the underprivileged of our community. Without our services 530 people would not get the treatment they need. This would also affect the 22 staff people employed in our Sacramento Clinic who are providing services.

We have been fortunate with Sacramento County and the support of Uma Zykofsky and Lori Vallone. All treatment providers meet monthly to provide input and get support. They have listened to our concerns regarding the waiver over the past few months.

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 is a step back. California's Proposition 36 is a good example of how county control over treatment will result in limited access. Prop 36, failed to refer any people to our NTP services. In Section 7 of the States Financing of the Special terms and Conditions it 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.

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In summary, MedMark Sacramento 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,

A handwritten signature in black ink, appearing to read 'Lisa Fitzpatrick', written in a cursive style.

Lisa Fitzpatrick  
Program Director  
MedMark Treatment Services