

**HUMANISTIC ALTERNATIVES TO ADDICTION RESEARCH & TREATMENT, INC.
(HAART)**

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January 29, 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:

We write on behalf of Humanistic Alternatives to Addiction Research and Treatment, Inc. (HAART), a community-based nonprofit corporation which has been providing treatment to opiate-dependent adults in Alameda County since 1978. At HAART, more than 40 very experienced staff members provide Methadone maintenance, long-term detoxification, and professional counseling services to over 820 patients with a wide spectrum of needs, including perinatal patients, low-income patients, and those with physical and/or psychiatric disabilities at our opiate treatment facilities located at 20094 Mission Boulevard in Hayward, CA and 10850 MacArthur Boulevard in Oakland, CA. The Hayward clinic primarily serves patients from the suburban southern and eastern parts of Alameda County. Most of the Oakland clients live in the Oakland clinic's densely urban neighborhood of East Oakland and the city at large.

As is consistent with the national trend, Alameda County is experiencing a steep increase in prescription drug misuse and a resurgence of heroin use. HAART's services provide a lifeline to an increasing number of people in our community who, while out of treatment, have an increased likelihood of incarceration, higher numbers of emergency room visits, and an increased vulnerability to premature death. Members of the community in HAART's service areas also suffer from many socioeconomic factors, including overwhelming poverty, food insecurity, dauntingly high crime rates, and chronic disease. Many of these issues can be better managed, and in part, alleviated, by providing treatment to active opiate users. HAART currently partners with other community based organizations to provide HIV and Hepatitis C prevention, education,

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testing, referrals, and care as well as coordinating for overdose education and prevention services. HAART also communicates and collaborates with patients' primary care providers, connects patients with necessary social services, and provides treatment alternatives to criminal sentences.

HAART is strongly opposed to certain 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. HAART's biggest concern, based on 36 years of program operation, is that waiving federal access protections and granting individual counties the authority to limit services and set 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 wideeness and reasonable promptness, much of which formed the basis of a lawsuit filed by HAART 20 years ago (*Sobky v. Smoley*, U.S. District Court for the Eastern District of California, Case # Civ. S-92-613 DFL GGH). Prior to the *Sobky v. Smoley* lawsuit, Alameda County significantly, and without reasonable justification, artificially limited access to methadone treatment services by severely restricting the number of DMC slots and DMC funding *despite* the availability of funds. HAART, at one point, maintained a waiting list of 68-217 clients for several years due to slot restrictions imposed by the Alameda County Board of Supervisors, the results of which caused immeasurable harm to those desiring treatment, their families, as well as to the larger community. Additionally, the Alameda County Board of Supervisors frequently withdrew funding for existing slots and required HAART to close admissions for new Medi-Cal Methadone Maintenance clients as a condition of receiving continued Medi-Cal funds. After the lawsuit, Alameda County has largely complied with the permanent injunction that was issued. As a result, significantly more people have entered treatment and beneficiaries can access medically-necessary treatment without the waiting lists that were standard practice before the lawsuit.

This waiver, and the circumvention of the *Sobky vs. Smoley* injunction, will ultimately allow Alameda and other counties to return to their old ways of limiting access to treatment, providing unequal treatment, and denying care to hundreds, if not thousands, of people across the state without adequate alternatives. It has been our experience that the absence of consistent federal protections inherently yields the exercise of arbitrary policies biased against the populations we treat. As recently as 2014, Alameda County made an attempt to reduce access to treatment by delaying the approval of a DMC slot increase despite the need for services, stating the need to analyze the fiscal impact of more slots. Without federal protection, the likelihood of a favorable outcome for those requiring treatment would have been greatly diminished.

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We portend that this is a glimpse into the probable future across the state.

HAART's concern is that this waiver will result in California and Alameda County regressing back to a time of extreme limitations on methadone maintenance, an essential treatment for opiate-dependent individuals. After twenty years of success, California's proposed Organized Delivery System would now give back primary responsibility to choose providers, set rates, and control access to narcotic treatment programs to individual counties, including those that illegally denied medically necessary care to their residents for many years.

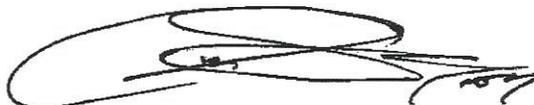
Given the historical record, there is no basis to believe county control over the funding and delivery of Drug Medi-Cal treatment to eligible beneficiaries will result in benefits to patients who seek to end their addiction. Certainly, county control will result in denial of treatment, delay in treatment, inconsistent standards of treatment, and likely increased emergency room visits, crime to feed addiction, and the death of patients who cannot obtain services promptly. We ask that CMS **NOT** do anything that may undermine the permanent injunction that was issued in response to overwhelming evidence of county efforts to limit access. Instead, we strongly suggest CMS require California to carve-out opiate treatment providers from this waiver. Such a carve-out will not preclude Alameda County from contracting with our program and offering OTP services to residents of Alameda County and it will ensure that residents will have access to these critical services.

If you would like more information, please do not hesitate to contact either of us. Thank you for your time and consideration.

Sincerely,



Michelle Burch
Executive Director
HAART



Chris Sobky, MS, MFT
Co-Executive Director
HAART