



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:

I write on behalf of the 505 patients who receive substance use disorder treatment services at our opiate treatment program located at 1143 Missouri Street, Fairfield and 1628 Broadway Street, Vallejo, CA 94590. 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 program operation, is that waiving federal access protections and granting Solano county of 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, Solano county limited access to our services by limiting DMC slots as well as funding. After the lawsuit, the county complied with the permanent injunction or the state 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 the California and Solano county (county of operation) to regress back more than 20 years. 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 County from contracting with our program and offering OTP services to residents of Solano County.

MedMark Fairfield and MedMark Vallejo both currently serving 505 individuals, 80% of which are Medi-Cal funded. Both clinics in Solano County serves the underprivileged of our community. Without our services in Solano County 505 individuals would not get the treatment they needed. This would also affect the 22 staff people employed in our Fairfield and Vallejo Clinics who are providing services.

Health care reform (the Affordable Care Act) has significantly increased access to OTP services. This waiver will undermine the intent of the ACA.

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.

The provisions for state oversight do not provide strong nor swift state intervention when a county fails to provide adequate access.

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.

California's Proposition 36 is a good example of how county control over treatment will result in limited access. Under Prop 36, Solano County not referred single person to NTP services, as documented in Prop. 36 outcome studies conducted by UCLA.

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 – Fairfield and Vallejo 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,



Rajwant K. Lally
Program Director