



January 28, 2015

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Clinic Manager  
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1825 E. Thelborn Street  
West Covina, 91791

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 112 patients who receive substance use disorder treatment services at our opiate treatment program located at 1825 E. Thelborn Street, West Covina. 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 sixteen years in operation, is that waiving federal access protections and granting Los Angeles 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. 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 Los Angeles County 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 Los Angeles County from contracting with our program and offering OTP services to residents of Los Angeles County.

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.

The proposed waiver would turn back the clock more than twenty years if CMS agrees to waive 42 U.S.C. §§ 1396a(a)(1)(statewideness), 1396a(8)(reasonable promptness), and 1396a(a)(10)(B)(comparability), for medication assisted treatment. These statutes provide the legal underpinnings of the Sobky injunction and remedial Plan. CMS should not take any action that will overturn or undermine a federal court injunction that is based on proof of systemic violations of law and severe, life threatening, hardship to medicaid beneficiaries.

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.

Despite the acknowledgment as the best treatment for opioid dependence, very few Prop 36 opiate users receive placement in NTP. In fact, as has been reported in the previous Prop 36 evaluation reports, NTPs have been used infrequently in Prop 36. Very few Prop 36 opiate users receive placement in NTP. Prop 36 opiate users who received NTP maintenance had the greatest reductions in their opiate use from treatment intake to discharge when compared to opiate users who received outpatient drug-free or non-NTP detoxification treatment. In contrast, across the same years, individuals seeking treatment for opioid use

disorders outside of the criminal justice system received NTP between 75% and 85% of the time.

The history with county administration and funding control has not been a good one for methadone treatment providers or for Drug Medi-Cal beneficiaries desperately in need of methadone maintenance treatment. Any further delegation of power to the 58 counties of California will result in more problems, and many patients will simply fall through the cracks as counties attempt to construct and administer their own programs, resulting in overdose, disease, incarceration and the death of some patients from the denial or delay of treatment and the effects of opioid addiction.

In summary, Aegis Treatment Centers' clinic in West Covina 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,



Curtis Lehmann  
Clinic Manager