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Jason Crow, PhD
Clinic Manager
Aegis Treatment Centers, LLC
3707 East Shields Ave
Fresno, 93726

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 388 patients who receive substance use disorder treatment services at our opiate treatment program located at 3707 East Shields Ave, Fresno. 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 Fresno 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 California and Fresno County to regress back more than 20 years. We ask that CMS ***N O T*** 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 Fresno County from contracting with our program and offering OTP services to residents of Fresno County.

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.

Substance use disorders, especially drug addiction, carry a stigma. There is an uninformed belief that drug addicts are not deserving of scarce government resources and that methadone treatment simply substitutes one drug for another. The reality is that stereotypes, fear, and speculation will affect county control of narcotic treatment programs and administration of the Drug Medi-Cal system.

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The proposed appeals process for providers whose contracts 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.

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

In 2013, Merced County refused to increase the amount of Aegis's contract so that it could serve more Drug Medi-Cal patients for whom methadone maintenance was medically necessary. This issue was resolved when the California Department of Alcohol and Drug Programs convinced the County to allow the increase. Aegis experienced a similar problem with Stanislaus County in 2010-2011, when the County initially refused to renew Aegis's Drug Medi-Cal contract at all and, instead, put the contract process out to bid by other providers.

In summary, Aegis Treatment Centers' clinic in Fresno 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,

Jason Crow, PhD
Clinic Manager

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