March 17, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services

Mr. Calder Lynch
Deputy Administrator and Director
Center for Medicaid & CHIP Services

Re: COVID-19 crisis and assistance for I/DD service providers

Dear Administrator Verma & Director Lynch:

On behalf of the American Network of Community Options and Resources (ANCOR), I write to thank you for the recent guidance the Centers for Medicare and Medicaid Services (CMS) issued on flexibilities within Medicaid when addressing the COVID-19 outbreak, and to request additional guidance for programs supporting people with intellectual/developmental disabilities (I/DD). Specifically, we wish to address some areas of the Frequently Asked Questions (FAQs) sent on March 12, 2020, and to address other areas of concern.

1. The need for guidance on flexibilities available to both providers of day services facing the potential for closures, and the residential providers supporting individuals who access and rely on day services for several hours per day.

Many day services and residential supports are intertwined because they support the same people, with individuals going to day services from residential supports. With the recommendation of social distancing and small-group gatherings, a two-fold challenge is created for providers. Those who offer day habilitation, day services and employment services will face a significant loss of revenue, while those who offer residential supports will find their staffing challenges exacerbated by the need to provide 24/7 staffing.

We encourage CMS to issue guidance to states on devising plans that:

- Account for the individuals served who are displaced when programs close.
- Ensure day and employment program providers remain viable during this crisis so they can continue to play their vital roles in the community.
- Ensure residential services are funded for the additional daytime support that is provided.

2. The need for guidance on measures states can take to address Direct Support Professional (DSP) shortages, which are being exacerbated by the crisis.

We also offer recommendations to ensure that disability supports are not compromised during the COVID-19 pandemic. This pandemic is exposing long-standing vulnerabilities in disability supports, particularly the DSP workforce crisis. We are asking that CMS encourage and support states in the following areas:

- *Flexibility with employee processes*, including flexibility on background checks (such as provisional employment), new-hire onboarding, and provisions for the care of staff's children as schools and daycare centers are closed.
- *More flexible staffing ratios.* Some states have stringent staffing ratios that might not be sustainable as the disease spreads and available DSPs are compromised.

- *Paying family caregivers to offer residential supports and enabling temporary shared living alternatives for individuals and staff who are willing to do so.* Providers are asking states to forego the extensive home provider vetting process when a known employee can support an individual in the staff member's home with their family. An additional consideration is funding those agency expenses that remain static despite an individual's attendance or participation.
- *Phasing out higher wage rates a few months after the crisis.* Providers will need time to recruit more staff once higher wage rates allowed under the emergency end. We encourage CMS to recommend that states plan for this contingency.
- *Funding to cover overtime, hazard pay, other coverage strategies* as regular staff are absent due to illness or caregiver responsibilities

3. Across the country, providers are identifying numerous regulatory and procedural requirements that are confounding their ability to be flexible and responsive to the needs of those they support.

Some specific examples include:

- *Flexibility on individual care plans*, including for Individual Support Plan (ISP) renewals and related processing/documentation protocols, the ability to revise ISPs via phone call or email, flexibility on authorizations/utilization limits, and relaxing "live signature" requirements.
- *Flexibility on HCBS Final Rule vis-à-vis community access provisions* relative to self-quarantine, social distancing, etc.
- *Flexibility on licensed bed capacity* if people must be relocated due to staffing related issues.
- *Specialized telemedicine solutions.* Telemedicine can play an important role, but a simple, straightforward telemedicine encounter will not address the combination of medical, communication and behavioral challenges that face this population. In order to properly address this challenge, an innovative solution must have several key elements to eliminate the majority of unnecessary outside medical encounters including: 24/7 immediate access, specialized training of physicians to address the medical needs of the I/DD population, access to electronic medical records or whichever records system is used, formal documentation with delivery to necessary stakeholders, and communication method with primary care for the person.
- *Authority and funding for the use of technology* to supplant in-person visits from case managers, coordinators, staff check-ins, etc., where appropriate.
- *Suspension or delay of routine licensing and audit processes* and other procedural activity of the states.
- *Suspension of other regulatory requirements* as identified by states and states' key stakeholders.
- *The need for consistent payment to service providers* as general revenue and cash flow issues arise when individual attendance or program participation wanes. We urge you to direct states to hold harmless these safety-net organizations as we fear they will not withstand major financial shifts in revenue during this crisis.
- *Individual stimulus or financial support payments* as proposed by the administration must be set aside so as not to adversely affect means-tested state and federal benefits that many of our staff rely on.

These issues are not intended to represent a comprehensive list of systems provisions requiring flexibility but are examples of the requests we are hearing from providers on the frontlines as they manage and lead throughout this public health crisis. To that end, **we strongly urge CMS to issue blanket approvals on emergency waiver requests** as they come in so that providers of these critical services to people with I/DD can take the necessary steps to keep people healthy and safe.

Sincerely,

Shannon McCracken

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Vice President for Government Relations
ANCOR