



March 25, 2021

Secretary Xavier Becerra  
Department of Health & Human Services  
200 Independence Ave. SW  
Washington, DC 20201

Acting Administrator Liz Richter  
Centers for Medicare & Medicaid Services  
7500 Security Blvd.  
Baltimore, MD 21244

Dear Secretary Becerra and Acting Administrator Richter:

On behalf of the American Network of Community Options and Resources (ANCOR), I encourage to swiftly issue guidance on the Medicaid Home and Community-Based Services (HCBS) provisions of the recently enacted American Rescue Plan (ARP). Strengthening the Medicaid HCBS program is essential to saving lives in the disability community, which has been particularly hard-hit by the pandemic.

ANCOR is a national, nonprofit trade association representing more than 1,600 community-based providers of services to people with intellectual / developmental disabilities (I/DD). Combined, we support over one million individuals with disabilities, and work to shape policy, share solutions and strengthen community. The Direct Support Professionals (DSPs) our members employ are on the frontlines of the pandemic. DSPs support people with disabilities to remain safe at home—rather than in large-scale congregate settings where they are more likely to contract COVID-19—by assisting with essential tasks such as grocery shopping, performing daily hygiene routines and making good health decisions.

The HCBS program funds the majority of the disability supports in the United States that enable people to live in the community. During the pandemic, HCBS has been a lifeline to a community particularly vulnerable to the worst effects of COVID-19. The increased expenses of keeping everyone safe is making the HCBS program more fiscally fragile than it was before the pandemic.

The ARP included a 10% FMAP bump to strengthen and expand access to Medicaid HCBS with explicit “supplement not supplant” language. We urge CMS to create a simple process and clear guidance for states to ensure that the funds are dispersed quickly and spent in a manner that reflects Congressional intent. Guidance should detail allowable uses for the funding and a clear definition of “supplement not supplant.” See below for specific recommendations:

- **Defining “supplement not supplant”** – Any state investment in HCBS during the single year of funding should grow by the percentage of the FMAP increase (10%) to reflect the new federal investment. State reporting should be required to ensure that the new funding is spent on Medicaid HCBS. As some state legislatures are currently negotiating their FY 2022 budgets and beyond, ANCOR members are concerned that some states may reduce their upcoming HCBS expenses along with provider reimbursement rates on paper to save general revenue and use the FMAP increase of 10% to fund the “savings” realized in their general revenues.

- **Securing state authority to administer a new temporary benefit** – If a state chooses to administer a new temporary benefit (e.g. respite or other caregiver support) with these funds, CMS approval should be done through an Appendix K to ensure expedited approval.
- **Allowable uses** – States should be urged to closely work with stakeholders, including consumers, providers, and workers, on the investment of funds in a reasonably expediated approach to address the specific needs in their state. States should be encouraged to fund measures that include, but are not limited to, bolstering the direct care workforce, increasing access to and use of technology and remote supports, and promoting the safe provision of services with social distancing and PPE. CMS should specifically note that funding may be used for important investments in the service infrastructure to support the administration, quality, and availability of HCBS. PRF guidance on allowable expenditures was ever changing and subject to confusing interpretations. Relative to American Rescue Plan HCBS financing, HHS has a new opportunity to help community-based providers in the field by communicating clearly and consistently.

We look forward to working with you to roll out this much needed funding quickly and in a targeted manner. Should you wish to discuss these recommendations further, please do not hesitate to me at [smeek@ancor.org](mailto:smeek@ancor.org) or (202) 258-4462.

Sincerely,



Sarah Meek  
Senior Director of Legislative Affairs

Cc: Anne Marie Costello, Center for Medicaid and CHIP Services  
Alissa DeBoy, Center for Medicaid and CHIP Services  
Melissa Harris, Center for Medicaid and CHIP Services  
Rachel Pryor, Department of Health & Human Services  
Anne Reid, Department of Health & Human Services  
Alison Barkoff, Administration for Community Living  
Kim Knackstedt, White House Domestic Policy Council