



May 7, 2021

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, Southwest
Washington, D.C. 20201

Dear Secretary Becerra:

The undersigned organizations have been working together throughout the COVID-19 pandemic to advocate and educate on issues important to disability service providers and the individuals with disabilities they serve. We would like to both congratulate you and welcome you to the Department of Health and Human Services. As organizations with a deep understanding of disabilities issues, we also want to offer ourselves as a resource for you during your tenure and to respectfully request a meeting with you at your earliest opportunity.

This pandemic has been particularly difficult for disability service providers and the individuals they serve. We want to acknowledge and thank the staff at HHS, CMS, and HRSA for their responsiveness and often Herculean efforts over the past year. Still, there is much work yet to be done. Although the country is reopening in fits and starts, many providers continue to face difficulties. Please allow us to share some of our concerns.

Retainer Payments

The retainer payments that were made available to providers in many states made a substantial difference. Unfortunately, the current sub-regulatory guidance limits the use of retainer payments to three 30-day periods. We ask that this guidance be amended or eliminated in order to give

states maximum flexibility to provide retainer payments more broadly in emergencies. While retainer payments generally are made available during emergencies of short duration, this pandemic and the extended period of emergency has highlighted the need for more flexibility to be built into the system.

Furthermore, as the Appendix K Waivers sunset, the Biden administration should make permanent several key provisions that have been extremely beneficial to providers and the individuals they serve, namely technology supports and access to and billing for services.

Technology Supports

Telehealth has proved to be enormously popular and has made a real difference in keeping individuals connected to their health care providers. We ask that telehealth be permanently extended. The pandemic has also given rise to the necessity of making additional remote options permanent. These include virtual training for staff, virtual case management, and acceptance of verbal and/or electronic signatures on care plans and service plans.

We also ask that your agency write a letter to state Medicaid directors providing explicit guidance to confirm that Medicaid payments are authorized for the use of innovative technology solutions to deliver services under the Home and Community Based Services (HCBS) program.

Access to and Billing for Services

The administration should permanently extend options for in-home day supports if chosen by the person receiving supports. This should include payments to legally responsible relatives for individualized and family supports such as in-home services and compare care.

Electronic Visit Verification

While recognizing that significant corrections to the Electronic Visit Verification (EVV) law may require congressional action, we do encourage HHS, to the extent possible, to extend electronic visit verification (EVV) implementation deadlines due to COVID-19. We ask that HHS issue guidance that (1) addresses concerns about privacy; (2) clarifies that EVV is not required in adult foster care, shared living arrangements and family caregiving settings; and (3) permits dual verification strategies.

Increased Access to HCBS Services

We also ask HHS to direct the Administration for Community Living and the HHS' Office of Civil Rights to identify racial and other inequities that lead to disparities in access to HCBS programs. It would also be beneficial if HHS would develop strategies for addressing those inequities, including but not limited to (1) requiring states to develop equity plans for their HCBS programs, (2) providing technical assistance, and (3) providing funding for outreach to Black people, indigenous people, and people of color, as well as the providers that serve them.

As we noted at the top of this letter, we would welcome an opportunity to talk with you about our concerns directly. We also stand ready to support you in any way we can. Please feel free to reach out to any or all of the people below.

Thank you very much for your consideration.

Sincerely,

Julie Christensen
julie@apse.org

Connie Garner
cgarner@easterseals.com

Nicole Jorwic
jorwic@thearc.org

Armando Contreras
acontreras@ucp.org

Kate McSweeney
KMcSweeney@accses.org

Sarah Meek
smeek@ancor.org

Laura Walling
laura.walling@goodwill.org

Douglas B. Walter
DWalter@lutheranservices.org