



June 9, 2010

David Maxwell-Jolly, Director
Department of Health Care Services
1501 Capitol Avenue
Sacramento, CA 95814

Dear Director Maxwell-Jolly,

I have been out of town and unable to attend the meetings you and legislative staff have held this week with organizations concerned about the proposed trailer bill language relating to the enrollment of seniors and persons with disabilities in Medi-Cal Managed Care Plans under the 1115 Waiver. As we have discussed, AARP has significant concerns about the proposed language.

We have been encouraged to clearly communicate “bottom line” recommendations to speed the process of getting to a reasonable conclusion. In this spirit, we offer the enclosed amendments, which focus on the issues we find of most concern:

- Choice – While we have been assured there will be choice for beneficiaries, it is not at all clear from the language that will be the case. This is such an important principle, we want to see some very specific language guaranteeing beneficiaries a choice among qualified plans, and not just when they first enter an organized delivery system. It is just as important that beneficiaries be able to vote with their feet at least once a year in an open enrollment period, and that plans know that they are likely to lose members if they do not perform satisfactorily in the eyes of consumers.
- Plan Readiness – We have significant concerns that seniors and persons with disabilities will be rushed into systems that are not ready to provide the services that they need. The implementation plan references additional standards that will be required of plans that want to serve seniors and persons with disabilities, but the proposed trailer bill language appears to contemplate enrollment starting February 1, 2011 regardless of whether plans have been determined ready to enroll this population. We believe it is critical to have a process whereby the department makes an explicit determination that plans are ready and that enrollment not commence until that time.
- Transition – The transition of persons into an organized delivery system must be done very carefully. We acknowledge and appreciate the provisions in the trailer bill which enable a beneficiary to continue to see an established provider on an out-of-network basis. With some clarifying language, this should help ease some transitions. However, where there is a provider change we think it is very important for the assessment to be completed and the care plan developed by competent professionals as soon as possible, particularly for those with recent or complex health care needs.

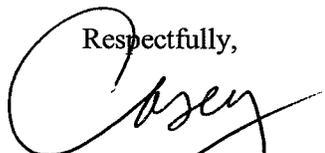
- Care Coordination – Care coordination is particularly important for this population. We think it is critical to include in the legislation the essential components of care coordination expected of plans seeking to serve this population. We are suggesting the basic criteria developed in 2005 and presented to the SPD Technical Workgroup by the Lewin Group.
- Public Input – The trailer bill language proposes to exempt the Department from the requirement that regulations be adopted through the normal public process. The statutory requirements concerning the promulgation of regulations provide important protections designed to ensure rules impacting the public that are clear and consistent with statutory authority. Particularly with a vague statute as is proposed, it is critical that the Department be held to the standards applicable to all other state agencies when adopting rules the public is legally required to follow. We have no objection to allowing the Department to adopt emergency regulations so they can get the program started quickly, but it should not be entirely exempted from this process designed to protect the regulated public.

Furthermore, we believe it is inappropriate to authorize the Department to override statutory provisions in their negotiations with CMS over the terms and conditions of the waiver.

We also believe that the contracts with plans, in which there will be many important provisions, should be presented to the Stakeholder Advisory Committee in a public session so that there is an ability to comment on the new provisions before they are implemented.

I would be pleased to meet with you to further discuss our concerns and proposed amendments.

Respectfully,



Casey L. Young
Senior Legislative Representative
AARP - California

Enclosure

cc: David Panush, Office of the Senate Pro Tempore
Sumi Sousa, Office of the Assembly Speaker
Tom Porter, AARP CA State Director