



March 25, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
U.S. Capitol Building, Room: S-230
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
United States Senate
Hart Senate Office Building, Room: 419
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
U.S. Capitol Building, Room: H-232
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
U.S. Capitol Building, Room: H-204
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

On behalf of the National Association of State Medicaid Directors and ADvancing States, we are writing to request state administrative relief in the upcoming legislation regarding coronavirus disease 2019 (COVID-19). Specifically, **we request a delay in the deadline for full compliance with the 2014 Home and Community-Based Services (HCBS) Final Rule.** Our associations collectively represent the government agencies responsible for administering a wide range publicly funded health care and long-term services and supports for older adults and people with physical disabilities in every state and territory.

We first want to express our appreciation for the relief packages that have been introduced and passed thus far. We are grateful that you have provided additional funds to support Medicaid and OAA nutrition programs, and that you have acted swiftly to provide resources for research and testing to mitigate the ongoing spread of COVID-19. As our nation collectively works to address the pandemic, it is requiring our members in each state to reassign their staff and divert their limited administrative resources towards this pressing issue. The current situation requires extensive efforts from the state agencies to develop and submit necessary federal waivers, monitor service closures, establish alternate delivery mechanisms, implement back-up plans, and respond to individual members who are in crisis.

Because of these unexpected strains on the program administration, staff are unable to spend time operationalizing new federal requirements and will therefore be unable to meet the deadlines originally anticipated in federal and state planning. In 2014, the Centers for Medicare and Medicaid Services (CMS) published a rule that outlines standards and criteria that settings of care must meet in order to be considered HCBS.¹ The decision to create standards that support and promote the independence and

¹ <https://www.federalregister.gov/documents/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>



community integration of individuals receiving LTSS is laudable; however, the regulation requires significant policy, programmatic, and staffing restructuring at the provider level as well as substantial state work to establish requirements and monitor compliance. In the midst of the crisis, states and providers are focused on ensuring the safety of the people they serve and are not able to engage in such drastic overhauls of their daily business.

Recommendation: Delay the effective date of the HCBS Settings requirements by no less than 1 year.

We appreciate the ongoing bipartisan efforts to address COVID-19. We and our members remain committed to assuring that the health and welfare of the individuals we serve are maintained. If you have any questions regarding this letter, please feel free to contact Damon Terzaghi at dterzaghi@advancingstates.org or (202) 674-8582.

Sincerely,

Martha A. Roherty
Executive Director
ADvancing States
241 18th Street, South
Suite 403
Arlington, VA 22202-3414
202-320-7419 (cell)
202-898-2578 (office)

Matt Salo
Executive Director
NAMD
601 New Jersey Avenue, NW
Suite 740
Washington, DC 20001
202-599-8360

Cc: Members of the U.S. Senate
Members of the U.S. House of Representatives