

November 12, 2010

VIA ELECTRONIC SUBMISSION

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS 2325-P
P.O. Box 8016
Baltimore, Maryland 21244

Re: **FILE CODE: CMS-2325-P**
Medicaid Program; Review Process for Section 1115 Demonstrations

Dear Sir or Madam:

The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. We thank you for the opportunity to comment on the proposed rule on the review and approval process for Section 1115 demonstration projects that was published in the Federal Register on September 17, 2010.

NSCLC has joined in and strongly supports the joint comments to be submitted by the Center for Budget and Policy Priorities and other advocacy groups. Our additional comments are limited in scope.

1. Additional Stakeholder Mechanisms.

As discussed in the jointly-filed comments referenced above, NSCLC endorses the general parameters of the proposed regulations. We note, however, that the regulations address only the basic rights of stakeholders to be heard, requiring just two public meetings and an opportunity for written comments before submission of a waiver request and one public meeting for implementation review.

While these procedures are critically important so that all stakeholders can raise issues and concerns, they are limited. Compliance with the proposed regulations alone would not be the optimal way for states to involve stakeholders in a demonstration. It is our experience that the most successful demonstrations worked well because stakeholders played an integral part in every aspect of the demonstration from the beginning of the project design through every stage of implementation.

In our view, the extent to which a state has set up and used mechanisms for on-going and in-depth stakeholder engagement in the demonstration ought to be a factor in the evaluation by CMS of any demonstration proposal submitted by a State. Although appropriate mechanisms for integrating stakeholders into a demonstration could vary depending on the demonstration, e.g., an advisory board, a governing board, a stakeholder workgroup, etc., in all cases there is value for such mechanisms in every demonstration.

So that CMS has the information available to adequately evaluate state plans for stakeholder involvement beyond the comment periods discussed in the regulations, we propose that CMS add a new subsection (ix) to proposed Section 431.412 as follows:

(ix) A description of current or anticipated mechanisms for stakeholder participation in project design or implementation, if any, beyond that required by Section 431.408.

2. Medicare Transparency Rules

We note that Section 1332(a)(4) of the Affordable Care Act requires the Secretary to establish a process for public notice and comment for state requests for waivers of Exchange provisions of the Act and that Section 1332(a)(5) calls for a process to coordinate waiver requests under Sections XVIII, XIX and XXI of the Social Security Act. In light of these provisions, we ask particularly that CMS move expeditiously to establish regulations similar to these proposed Medicaid transparency regulations to govern waiver requests related to Medicare rules, whether or not those Medicare requests are intertwined with Section 1115 waivers. State interest in waivers of Medicare rules appears to be significant and the need for rules to ensure transparency in the Medicare waiver process is as immediate as that for Medicaid 1115 waivers.

Thank you for the opportunity to comment on these proposals. If any questions arise from these comments, please contact Georgia Burke gburke@nsclc.org.

Sincerely,



Georgia Burke
Directing Attorney