



July 30, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave. SW
Washington, DC 20201

Calder Lynch
Deputy Administrator & Director
Center for Medicaid & CHIP Services
200 Independence Ave. SW
Washington, DC 20201

Dear Administrator Verma and Deputy Administrator Lynch:

As providers of services to people with disabilities, we were concerned to see CMS's recent FAQ guidance updated on June 30, 2020 retroactively restricting the length of the state's authority to issue retainer payments. Throughout this public health crisis, disability service providers have been working tirelessly to keep the people they support safe and healthy in the face of staffing shortages, program closures and quarantine mandates.

Access to stable funding via the retainer payment provision outlined in Medicaid regulation has been crucial to helping providers successfully navigate this pandemic. These payments are essential to keeping people with disabilities safe and healthy, maintaining provider solvency, and ensuring staff members continue to receive salaries. Due to the scope of this crisis, many states requested and received the authority to extend this emergency provision for up to three consecutive periods (each period equal to the reserve bed hold days as defined in the individual State Plans). At this time, the allowable renewal periods have been exhausted and providers are facing a dramatic impact on funding available to cover fixed costs, hazard or enhanced pay for staff, and atypical pandemic related expenses.

Although we understand that the limited term of this authority was appropriate for past crises, the ongoing nature of this pandemic restricts providers' ability to safely resume supports and services at a time when extreme caution continues to be recommended for at-risk individuals by the Centers for Disease Control. In consideration of the ongoing crisis and as an increasing number of states are facing serious spikes in virus positivity, hospitalizations, and mortality rates, we ask that HHS employ its

regulatory authority to waive the limit of three consecutive 30 day periods for retainer payments for the duration of the Public Health Emergency. As it appears that we will collectively be trying to manage through this crisis for the foreseeable future, providers of Medicaid funded disability services are in dire need of this ongoing support.

Sincerely,

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cc: Sen. Chuck Grassley
Sen. Ron Wyden
Rep. Frank Pallone
Rep. Greg Walden