



March 26, 2008

The Honorable John Dingell  
Chairman  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515-2215

The Honorable Timothy Murphy  
U.S. House of Representatives  
Washington, D.C. 20515-3818

Dear Chairman Dingell and Representative Murphy:

On behalf of ANCOR's 880 private providers of supports to more than 380,000 individuals with significant disabilities of all ages throughout the nation, we send our appreciation to you and offer our strong support for your legislation placing a one-year moratorium on harmful Medicaid regulations—Protecting the Medicaid Safety Net Act of 2008 (H.R. 5613).

ANCOR's private providers assist the states and the nation in supporting children and adults with significant cognitive, physical, mental, and sensory disabilities in communities of their choice—most of whom rely totally on Supplemental Security Income. It is more common than not that the individuals our providers support have a combination of disabilities and are among our nation's most vulnerable citizens. Medicaid is the lifeline for individuals with disabilities and, of course, is the nation's primary payer of long-term supports. We are deeply concerned by recent Medicaid rulemaking that we believe will harm states, providers of long-term supports, and, most importantly, people with disabilities.

Challenged daily with inadequate reimbursement rates; rising operational costs (heating, gasoline, health insurance) of providing community living and employment supports; a crisis in recruiting and retaining a stable, quality direct support workforce; and state cuts due the mounting economic slowdown, ANCOR members know that the affects of these CMS regulations on beneficiaries and providers will be harmful. ANCOR providers are already being told of state cuts in Medicaid reimbursements and elimination of service options so vital to home and community supports—all well in advance of implementation of these recent CMS regulations.

In several cases, these regulations actually interfere with fulfilling the promise of the U.S. Supreme Court's *Olmstead* decision, the Americans with Disabilities Act, Money Follows the Person, and national and state goals of rebalancing our long-term care delivery systems. The rehabilitation/habilitation and case management/targeted case management regulations actually undermine the efforts of individuals with disabilities, their families and the providers that support them in maximizing more cost-effective home and community supports. Some of ANCOR's providers report that they not only fear but have heard directing from their respective state agencies that the CMS regulations will result in unnecessary and more costly institutionalization; unduly add to the cost and burden of record-keeping and billing requirements thereby siphoning off limited resources better

devoted to providing supports; and impose restrictions upon states that will leave many Medicaid beneficiaries without supports they have received or will need in order to live successfully in the community. The health care-related provider tax interferes with a state's revenue authority, unnecessarily limits the class of providers that may be taxed, restricts the ability of states and provider to negotiate sources of matching funds, and appears to deliberately reduce the federal government's Medicaid liability by reducing state funds used to leverage federal funds. ANCOR believes that these three regulations also exceed Congressional intent expressly set forth in recent statutes.

ANCOR believes that all of these ill-advised rules interfere with the federal-state Medicaid administrative and financing partnership and fail to support underlying state practice, if not expressed Medicaid policy. We are troubled also by the administration's fiscal impact estimates, believing that they were not developed with a realistic appraisal of use of specific supports and their positive affect on cost-effective services nor their affects on states and providers. We believe that the costs to states and providers of adding personnel and technologies to address billing and reporting requirements, the potential cost for default institutional level of care, and other systems change costs were not factored into estimates. Regrettably, the scope and fiscal impact of these regulations caught state Medicaid agencies and other state entities by surprise and were not developed with input from states, providers or beneficiaries prior to promulgation. In combination, these regulations amount to enormous shift in costs to states and providers and threaten vital social, medical, and educational services to people with disabilities.

ANCOR urges swift passage of H.R. 5163 and offers our support for Congressional efforts to place a one-year moratorium on these regulations.

Sincerely,  
Suellen R. Galbraith  
Director for Government Relations