



A Partnership of The Arc & United Cerebral Palsy

March 17, 2008

The Honorable John Dingell
Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20510

The Honorable Tim Murphy
U.S. House of Representatives
Washington, D.C. 20510

Dear Chairman Dingell and Representative Murphy:

On behalf of children and adults with intellectual disabilities (formerly referred to as mental retardation), cerebral palsy and millions of persons of all ages with other disabilities and their families, we want to express our strong support for H.R. 5613 which will impose a one year moratoria on significantly harmful regulations recently imposed by the Centers for Medicare and Medicaid Services (CMS).

Although all of the CMS regulations will ultimately adversely impact all Medicaid beneficiaries, three are particularly harmful to persons with disabilities, especially to those with developmental disabilities we represent.

First, the case management/targeted case management rule is currently being implemented with little guidance from CMS. Since it took effect on March 3rd, states have begun to take steps to cut critical services for people with disabilities. Therefore a moratorium on this rule must be passed immediately. This rule is especially important to our constituency because it makes it significantly more difficult for individuals with developmental disabilities transitioning from institutions to the community by limiting federal reimbursement for transitional case management from the last 180 days of an individual's institutional stay to the last 60 days. In many cases, due to the lack of affordable and accessible housing and challenges in securing support services, it is difficult to impossible to transition to the community in 60 days.

Second, the rehabilitative services option proposed rule restricts the scope of eligible rehabilitation services and eliminates coverage for day habilitation services for individuals with developmental disabilities. The proposed rule appears to prohibit people with "mental retardation and related conditions" from receiving nearly all services through the rehabilitation option. In particular, longstanding day habilitation programs for persons with developmental disabilities would be eliminated (these programs enable

an individual to maximize independent living skills) under the rehabilitation and clinic options.

The only way that Medicaid could pay for habilitation services would be through waiver programs or ICF/MR programs. Since waiver programs are capped with waiting lists, this would reduce the number of individuals who can access these critical services. In addition, since eligibility criteria for the rehab option differs from eligibility for the waiver, there will be some people who will lose services if habilitation is covered only through the waiver.

Third, we believe that the final school based administration/transportation rule could have a devastating impact on not only Medicaid eligible children with developmental disabilities, but all children with disabilities who receive special education services. This rule prohibits Medicaid payments for administrative activities (including outreach, enrollment and support in gaining access to Medicaid's Early, Periodic, Screening, Diagnosis and Treatment (EPSDT) benefits services) performed by schools and transportation of school-age children. School districts believe that this rule, if implemented, would force them to significantly reduce related services (e.g. physical, occupational and speech and language therapies) and classroom aides provided to students with disabilities in special education.

Each of these regulations will have a very harmful impact on our constituency, who as you know, are among the most vulnerable members of our society. Taken together the impact will be devastating. These cuts come at a time when most states are experiencing significant budget shortfalls due to the slowdown in the economy. No state, no matter how prosperous, can afford to absorb these cuts without significant cost shifts which will affect not only our constituents but all Medicaid beneficiaries and providers.

As the National Governors Association has recognized in its unanimous support for moratoria on all of the Medicaid regulations, our nation cannot afford to cut these vital services at this time. Therefore we applaud you for your leadership in introducing this critical legislation and stand ready to work with you and your staff to secure its passage.

Sincerely,

A handwritten signature in black ink that reads "Paul G. Marchand". The signature is written in a cursive style with a large initial "P" and "M".

Paul Marchand
Staff Director
The Arc and UCP Disability Policy Collaboration