

Congress of the United States
Washington, DC 20515

September 24, 2013

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Ms. Tavenner:

We write to express our considerable concern with the recent proposed regulation regarding Medicaid Home and Community-Based Services (HCBS) waivers [76 Federal Register 21311 (April 15, 2011), REVISED 77 Federal Register 26362 (May 3, 2012)] and the adverse impact these proposals could have on our constituents with the most significant disabilities served by community rehabilitation programs (CRPs).

Congress authorized HCBS waivers for individuals with significant disabilities who would otherwise require a level of care provided in institutional settings. Our constituents are concerned that the language included in the proposed regulation will have the effect eliminating or severely restricting longstanding and award winning programs such as those that are offered by Opportunity Village and other community rehabilitation programs in Nevada and that are expressly authorized by the HCBS provisions of the Medicaid statute and regulations. We are also very concerned that these regulations could restrict state flexibility to respond to identified needs of Medicaid beneficiaries. More specifically, our constituents are concerned that if the proposed language is adopted, the following program options could be severely restricted or completely eliminated:

- The provision of home and community-based services explicitly authorized under Section 1915(c) of the Social Security Act (Medicaid), including center-based day habilitation programs providing critical prevocational services, day treatment programs, and psychosocial rehabilitation programs.
- The provision of home and community-based services in group homes for people with disabilities in which community rehabilitation programs have adopted reasonable policies governing their operation designed to respect the individual's rights and at the same time respect the rights of other residents.
- The provision of home and community-based services to residents with disabilities in supported living arrangements authorized under and meeting the requirements of HUD Section 811 and Section 202 multi-family housing units.

- The provision of home and community-based services in group homes set around a courtyard (like Opportunity Village's proposed "Village @ Engelstad") where individuals with disabilities have many needed services and supports built into their day-to-day living and have transportation and other assistance to access the general community.
- The provision of home and community-based services in programs like Opportunity Village's Oakey campus, located adjacent to a public institution even though the program is also adjacent to other buildings, such as local community colleges and universities, stores and businesses, and residential communities.


These programs have long provided individuals with the most significant disabilities the opportunities and flexibility that they need to thrive, and have been of great service to their families and guardians as well. As you review this proposed regulation, we urge you to ensure that these individuals continue to have access to the Medicaid home and community-based services and supports that have long proven successful.

We look forward to hearing from you about these very critical issues. Should you have any questions or concerns, please contact James Langenderfer in Congressman Joe Heck's office at (202) 225-3252 or via email at james.langenderfer@mail.house.gov. We appreciate your timely consideration of this request.

Sincerely,



JOE HECK, D.O.
Member of Congress



DINA TITUS
Member of Congress



MARK AMODEI
Member of Congress



STEVEN HORSFORD
Member of Congress