

Congress of the United States

Washington, DC 20515

May 22, 2008

The Honorable Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services (CMS)
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Acting Administrator Weems:

We are sending this letter to ask your reversal, or at least a modification, of the Centers for Medicare and Medicaid's (CMS) position that individuals who are receiving home and community-based waiver services cannot be served by providers under more than one waiver program.

While on the surface, this may seem like a reasonable partitioning between waiver programs, it is contrary to meeting the needs of individuals with complex health problems that require interdisciplinary and cross-specialty services, often from providers participating in different waiver programs. As more and more specialized services – e.g., HIV/AIDS, mental health, developmental disabilities, and pediatric care – are enhanced by the acquisition of waivers, this CMS policy is creating barriers of growing severity to basic patient care.

For example, currently, about 900 HIV/AIDS patients in New York City receive services under the Long Term Home Health Care Program (under section 1915-c of the Social Security Act) to address their health related needs. These same patients also have a distinct set of needs relating to social, vocational, legal and/or residential aspects of their lives which fit the specialization of HIV/AIDS comprehensive case management services under another waiver program. Providers in the western part of New York as well as pediatric providers have similar cases. Because of the CMS policy, thousands of very sick and frail New Yorkers have to choose which program to participate in and face the loss of vital health or community support services.

CMS' position will also adversely affect many disabled children in New York who need case management services from a waiver program such as the Long Term Home Health Care Program and other specialized services from a waiver program under the State's Office of Mental Health or Office of Mental Retardation and Developmental Disabilities. Again, the two programs would work together to ensure that the basic care plan and any highly specialized service that a patient might require are efficiently provided and coordinated. In any other professional care analysis, such coordination is responsive case management and patient-centered service. By analogy, we don't require a patient's physician to be both a primary care doctor and a psychiatrist, and threaten to deny coverage if a patient needs to see both.

CMS' position is contrary to both the Administration's and Congress' efforts to rebalance the delivery of long term care services from institutional to home and community-based services and threatens the home health services received by potentially thousands of elderly and disabled New Yorkers. We are requesting that you reconsider your position so that individuals can be maintained at home with a plan of care and a combination of services that is appropriate to their needs. This is in the best interests of the Medicaid program as well as the individuals being served by these programs

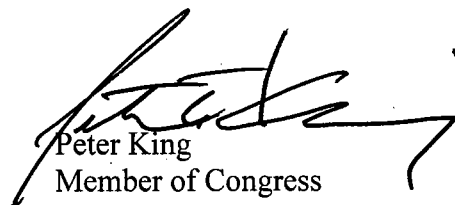
This matter is of utmost urgency and we implore you to either reverse this policy or at least create the necessary flexibility so that care planning can be coordinated among waiver providers where it is in the best interest of the patients, the system and taxpayers.

We look forward to your expeditious response.

Sincerely,



Eliot L. Engel
Member of Congress



Peter King
Member of Congress