

July 3, 2023

The Honorable Chiquita Brooks-LaSure  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-4203-NC  
P.O. Box 8013  
Baltimore, MD 21244-8013

Re: **Ensuring Access to Medicaid Services NPRM (CMS 2442-P)**

Dear Administrator Chiquita Brooks-LaSure,

United Spinal Association would like to provide input and express support for the provisions of the proposed rulemaking: **Ensuring Access to Medicaid Services NPRM (CMS 2442-P)** especially as it relates to Home and Community Based Services (HCBS). This rule has the potential to bring about significant positive changes in the lives of Medicaid beneficiaries who rely on HCBS.

United Spinal is the largest non-profit organization representing wheelchair users in the United States, founded by paralyzed veterans in 1946. For over 75 years, we have been dedicated to enhancing the quality of life of over 5.5 million wheelchair users living with spinal cord injuries (SCI) and disorders, paralysis, neurological conditions, and mobility disabilities including veterans. We provide support and information to loved ones, care providers and professionals. United Spinal has over 61,000 members, 47 chapters, 120 support groups and 116 rehabilitation facilities and hospital partners nationwide. We work collaboratively with the 18 distinguished Spinal Cord Injury Model System Centers that support innovative medical care and research in the field of SCI. United Spinal is also a VA-accredited veterans service organization (VSO) serving veterans with disabilities. Access to these essential services has become dangerously limited, resulting in disparities and barriers to quality care for Medicaid beneficiaries across the country. Our Care Support Work Group shared many challenges in accessing providers and qualified care support workers (especially for those in rural areas), limiting constraints to self-directed care, increases in cultural bias or barriers in the assessment process, lack of insurance coverage for services at certain income levels, and the severe lack of transparency and complexities of navigating Medicare, Medicaid, and other health insurance systems.

By proposing this rule, CMS has demonstrated a commitment to address the existing challenges and improve access to HCBS. This is an encouraging step towards a more inclusive and person-centered healthcare system that recognizes the importance of supporting individuals in their preferred settings.

In particular, we commend the proposed provisions **establishing a new strategy for oversight, monitoring, quality assurance, and quality improvement for HCBS programs**. We believe that these quality assurance provisions should entail stronger training requirements and opportunities to improve and expand care. Potential outcomes would be eliminating cultural bias and barriers in the assessment process, ensuring cleaning and disinfecting best practices, and improving access to skilled therapy services which may include physical and occupational therapy, speech language pathology, and/or assistive technology professionals.

Furthermore, allowing individuals to be a part of the hiring, training, scheduling, and employee review process would ensure that **person centered service planning and management systems truly are strengthened**. Reviews should be conducted by the individual receiving services and liable family members, if necessary.

Consequently, all aspects of care support service should be reviewed monthly and/or as needed. This should include the care support provider and the whole team. If instances of re-training, or necessary transitions or absence of care should occur, individuals should be able to delegate liable family members to be part of the paid care support team. It is also necessary to expedite incident reporting according to severity and ensure the safety and quality of care by allowing for anonymous reporting. When incidents are reported that do not require immediate expulsion of the care support team additional supervision and training should be implemented. Consequently, while this rule **establishes that states should establish grievance systems**, true person-centered service planning and management systems should include stakeholders in building grievance systems. Moreover, we appreciate and support the proposed measures that **require at least 80% of the Medicaid payments for personal care, homemaker and home health aide services be spent on compensation for the direct care workforce as opposed to administrative overhead or profit.**

It is more important than ever to bolster the care support workforce now. In 2021, the turnover in home healthcare was about 64 percent (1). By 2030, the home care workforce will add about 1 million new jobs without workers to fill them (2). The only way to bolster the workforce is through professional and respectful compensation. According to the U.S. Bureau of Labor Statistics, the median wage for Home Health and Personal Care Aides is \$14.51/hr. Annually, the average salary is \$19,000 which is below the poverty level for a family of two, not to mention limited to no paid sick leave (3). Pay increases should be dependent upon the quality of service provided and the level of care given, with opportunities to advance through additional training. All care support workers deserve paid sick leave. These dedicated professionals play a vital role in delivering high-quality care and deserve recognition and support for their valuable contributions. to address the workforce shortage. However, we need to think beyond hourly wages to bolster the workforce. We can do this through student loan programs and working with higher education institutions including four-year colleges, community colleges, technical schools, and other educational systems to bolster the workforce by providing students the opportunity for class credits, clinical hours and/or work study.

United Spinal Association also supports all **rules that establish the publication of average hourly wages, waiting lists for 1915(c) waiver programs, service delivery timelines, HCBS quality measures, and rules that promote public transparency relating to the administration of Medicaid covered HCBS through public reporting of quality, performance, and compliance measures.** Transparency creates accountability and will enable the consumer to choose providers that best suit their needs holding service providers accountable thereby leading to improved patient outcomes and welfare.

While the proposed rule is undoubtedly a step in the right direction, I would like to encourage CMS to consider additional measures to ensure equitable access to HCBS for all Medicaid beneficiaries, regardless of their geographic location or demographic background by including consumers and care support workers in the **proposed advisory group to advise and consult on provider rates for direct care workers.** It is essential to address any potential disparities and actively engage stakeholders, including community-based organizations and advocacy groups, in the implementation and monitoring of the rule. The emphasis on person-centered planning and the inclusion of more community integration options will empower individuals to make choices that align with their preferences and foster meaningful connections within their communities.

While we strongly support the CMS proposed rule, United Spinal Association supports a full-scale approach. To that end, we support **The HCBS Access Act (S. 747/HR 1493)** which would require coverage of, and expand access to, home and community-based services under the Medicaid program, as well as award grants for the creation, recruitment, training and education, retention, and advancement of the direct care workforce and to award grants to support family caregivers. We also support **The Better Care and Better Jobs Act (S. 100/ HR 547)** which provides funds for the Centers for Medicare & Medicaid Services to award planning grants, develop quality measures, and provide technical assistance to states regarding specified HCBS improvements, particularly with respect to access, utilization, and the associated workforce. The bill also increases the Federal

Medical Assistance Percentage (i.e., federal matching rate) for HCBS in states that develop plans and meet specified benchmarks for improvements. The bill also makes permanent the Money Follows the Person Rebalancing Demonstration Program (a grant program to help states increase the use of HCBS for long-term care and decrease the use of institutional care), and certain provisions regarding Medicaid eligibility that protect against spousal impoverishment for recipients of HCBS.

With these rules, regulations, and policies in place, we have a significant opportunity to improve the lives of all those in need of care support services and promote the principles of choice, independence, and community inclusion. We urge CMS to carefully consider the feedback received and take necessary steps to finalize and implement this rule in a timely manner. Thank you for the opportunity to provide feedback on this important matter. If you have any questions, please feel free to contact Rebecca MacTaggart by email at [rmactaggart@unitedspinal.org](mailto:rmactaggart@unitedspinal.org) or by phone at 202-556-2076 ext. 7012.

Sincerely,

*Alexandra Bennewith*

Alexandra Bennewith, MPA  
Vice President, Government Relations

1. [Home Care Agencies in 2021 Saw Client Turnover Spike, Caregiver Churn Stay Flat - Home Health Care News](#) (Holly, Robert 2022)
2. [Key Facts & FAQ - PHI \(phinational.org\)](#) (Scales, Kezia PhD. and Stepnick, Lina, 2023)
3. [Home Health and Personal Care Aides \(bls.gov\)](#)