

COMMUNITY OF VERMONT ELDERS

Joan Senecal
Department of Aging and Disabilities
103 South Main St.
Waterbury, VT 05671-2302

Re: Demonstration Waiver Proposal

Dear Joan:

Please accept the following as COVE's comments on the above draft. The comments are meant to be general, but we expect you will be receiving more specific comments from others in the aging network who either are members of COVE or with whom we frequently collaborate. Moreover, as implied below, we expect to have further opportunities to comment as proposed protocols and greater details of the waiver become available.

At the outset we wish to commend Patrick, you and the Department for both undertaking this important creative proposal and bringing it this far, including through a change in Administrations. I can remember discussing the concept with Patrick several years ago and his enthusiasm for the idea has never waned. His ability to successfully work with all the stakeholders should also be commended. COVE strongly supports his efforts and the fundamental concept underlying the waiver.

Future Input/Oversight

We have attended several of the regional background presentations, met personally with Department staff and attended yesterday's hearing. It appears clear to all that many details remain to be decided in the protocols and implementation of this proposal. As such, we are especially concerned that consumer input and oversight opportunities remain. If enacted, this waiver will represent a sizeable investment of resources by any standard, and clearly needs greater formality than the present HCB Waiver.

Specifically, we would like to see a formal Advisory Committee established to work with the Department during the negotiation phase w/ CMS, the initial implementation phase and, perhaps, even ongoing through the life of the waiver.

We are strongly committed to comprehensive involvement in development and implementation of this proposal, as evidenced by the 7 work groups currently engaged in planning key aspects of the proposal. The Department of Aging and Disabilities Advisory Board will continue to be the primary place for oversight and discussion of the proposal, and updates on the proposal will occur at every monthly Advisory Board meeting.

We would also suggest that there be legislative oversight of this waiver as there is with the 1115 VHAP Waiver. Perhaps that same committee could formally or informally include this new waiver within its oversight charge.

We fully expect that the legislature will exercise close oversight of this long-term care program. The Department has already met once with the Health Access Oversight Committee and expects to have on-going communication with this group. We fully expect a great deal of legislative review in the upcoming session.

Finally, the time has come for regulations governing the HCB Waiver. As stated above, this program will be reaching many more people and many more dollars are in play. It would be surprising to see any program of this magnitude- especially one with federal matching funds- to not be subject to the APA, and the protections and input it provides.

A work group will have its first meeting on November 18 to begin the process of discussing and planning for regulations. The meeting will be held from 1-4 p.m. in the Cyprian Learning Center, Waterbury Office Complex.

Waivers

The proposal request waivers from many of the rules governing the traditional Medicaid program (e.g., eligibility, benefits, cost sharing, etc.) but provides few specifics as to what ultimately will be proposed and why. As such, it is hard to provide COVE's position on these rule waivers at this time. We do, however, have some preliminary concerns and hope to share them with you, as we better understand what is being proposed.

Money

We note you project substantial savings through this proposal and it is your intent and hope to reinvest those savings in expanded home and community based long-term care services. We are concerned, however, that you subject such reinvestment to state legislative approval. We question why you cannot make such reinvestment a condition of the waiver such that to not reinvest would be precluded by the waiver. While the Vermont Legislature could never be totally bound to a specific appropriation, making reinvestment a condition of the waiver would provide a powerful incentive.

The intent of the proposal to re-invest savings is very clear, and consistent with existing state law as provided by Act 160. The Department does not believe that this Waiver proposal could be written to prevent the Vermont Legislature from taking budgetary actions it might feel are necessary.

There has also been a fair amount of discussion about the need to "prime the pump" and not waiting for the nursing home savings to materialize before expanding community services. Not only were community services short changed over the last several years as millions in Act 160 savings were diverted to the general fund, but we have a unique

opportunity given the one time increase in FMAP funds that arrived in Vermont at the very end of last session. Some of this surplus should be now used to reverse the diversion of Act 160 funds and to prime the pump for this proposal.

This discussion no doubt will occur in the upcoming legislative session but is not part of this proposal.

We also support your preliminary thinking of somehow segregating existing general funds such as homemaker monies. There needs to be a way to match those general funds yet at the same time ensure that existing recipients are grand fathered in and do not lose services.

Miscellaneous

We understand your concern and the need for greater statewide uniformity in assessments as this program grows. We also understand your willingness to work with others in developing the appropriate and flexible protocols to maintain local input and efficiencies in this function. Nevertheless, there is still a level of discomfort that going to a state employee gatekeeper may prove bureaucratic and potentially wasteful. Thus, as you look at all the possibilities around assessments, we would hope that you would still consider, as one possibility, somehow improving the existing local assessment system to meet the program's consistency and accountability needs.

The Department has come to believe that the use of state staff to determine eligibility and develop the initial care plan is necessary to ensure as much consistency as possible since part of this program creates an entitlement for the Highest Need group. We also believe it will speed up eligibility and be a significant improvement for consumers who will not have to wait for paperwork to wend its way from the community assessor to the state for approval and back as it does now. Having said that, we are committed to working closely with the community agencies to ensure that this change results in a positive change.

Thank you.

Sincerely,

Michael Sirotkin

Cc: Tim Palmer