



# Leadership Council of Aging Organizations

September 24, 2008

The Honorable Michael O. Leavitt  
Secretary  
Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Leavitt:

The undersigned members of the Leadership Council of Aging Organizations (LCAO) are writing to express our concern about the State of Rhode Island's recent Medicaid proposal through a Section 1115 waiver. LCAO is a coalition of over 56 national not-for-profit organizations concerned with the well-being of the 87 million Americans over age 50.

As advocates for older adults, we are troubled by Rhode Island's Medicaid waiver proposal and request that you allow additional time for public input before making a decision about the application and require the state to disclose more information to the public regarding certain elements of its plan before you begin deliberating. If implemented as currently proposed, this waiver would turn the Medicaid program into a block grant and could dismantle the program's successful federal and state partnership. It would also permit the state to make changes in benefits and eligibility in ways that are not allowed under current law, and may result in the termination of Medicaid eligibility for current nursing facility (NF) residents and enrollees of the state's home and community-based services (HCBS) waivers.

This waiver would convert Rhode Island's Medicaid program into a block grant by placing a global spending cap on the program. This goes against the intent of the Medicaid program, which is to provide health coverage and assistance to all individuals who meet the program requirements. Under the proposed waiver, Rhode Island would receive a set amount of federal funds each year, regardless of the amount the state contributes to Medicaid. This is a problem because it puts beneficiaries, providers, and the state at risk if health care costs or enrollment increases faster than projected. If this occurs, the state will

have little choice but to cut benefits, provider payments, or use state funds to fill the gap. Moreover, Rhode Island plans to limit its own spending to a percentage of the overall state budget, which heightens the risk that the state will have to cut eligibility and benefits.

We are also troubled by the absence of any detail in the waiver regarding the state's proposed clinical eligibility standards. Rhode Island asserts that the "most significant changes proposed [by the waiver] are on the long-term care side," and it makes its proposed three-tiered level-of-care standard a primary component of its long-term care "restructuring" plan. Thus, for purposes of evaluating the waiver, it is critical that the substance of the proposed tiers be revealed, but the waiver discloses nothing more than the names of the tiers (*highest* need, *high* need and *preventive* need). This is a stark omission. Without such information, the worst may reasonably be feared for the state's current and prospective long-term care population. Individuals meeting the state's current standard are guaranteed coverage for at least NF services, and may receive HCBS services if a waiver slot is available. However, if the state makes its "highest need" or "high need" standards more restrictive than its current standard, the eligibility of current enrollees will be threatened, while eligibility for prospective applicants drastically limited.

Furthermore, given the emphasis that Rhode Island is placing on the need to restructure its long-term care program, we request that you discuss with the state whether it has explored all of its available options. Both Congress and the Department of Health & Human Services have expanded opportunities recently for states to "rebalance" their long-term care programs independent of waivers. Before a state is permitted to take a drastic step toward a capped Medicaid program in which the state will rely most heavily on changes to its long-term care coverage to operate within its cap, the state should be strongly encouraged, if not required, to account for its consideration of its other options.

Another concern is that the proposed waiver gives Rhode Island the flexibility to cut back on eligibility and services for specific Medicaid populations in ways that are not usually allowed in Medicaid. While Rhode Island must continue to cover certain mandatory services, the state is requesting permission to change benefits and services for "optional populations," which include low-income seniors and people with disabilities eligible for the home and community-based waiver program. This means that Rhode Island has no commitment to ensuring that vulnerable persons retain access to vital Medicaid services. For example, the state could create waiting lists for mandatory and optional long-term care services under the state plan, which is not permitted under current law. This could set a dangerous precedent for other states.

Finally, we are concerned about the lack of transparency and public input in the entire waiver process. While Rhode Island's proposal was publicly posted on a website, the final negotiations will be made in private between federal and state governments without public input. In order to protect vulnerable and low-income individuals from harmful policy changes, we request that you provide time for additional review and input from Medicaid

experts, beneficiaries, and other interested citizens on the substance of this waiver *before* a decision is made about the waiver.

We appreciate your consideration of our views and your leadership on issues affecting vulnerable older adults.

Sincerely,

AFSCME Retirees  
Alliance for Retired Americans  
Alzheimer's Association  
American Association of Homes and Services for the Aging  
American Geriatrics Society  
American Postal Workers Union Retirees  
American Society of Consultant Pharmacists  
American Society on Aging  
Easter Seals  
Families USA  
Gray Panthers  
National Academy of Elder Law Attorneys  
National Active and Retired Federal Employees Association  
National Association of Area Agencies on Aging  
National Association of Nutrition and Aging Services Programs  
National Association of Professional Geriatric Care Managers  
National Association of State Long-Term Care Ombudsman Programs  
National Committee to Preserve Social Security and Medicare  
National Council on Aging  
National Senior Citizens Law Center  
NCCNHR: The National Consumer Voice for Quality Long-Term Care  
OWL, The Voice of Midlife and Older Women  
Service Employees International Union  
United Jewish Communities

CC: Sen. Max Baucus  
Sen. Jack Reed  
Sen. John D. Rockefeller IV  
Sen. Sheldon Whitehouse  
Rep. John D. Dingell  
Rep. Patrick Kennedy  
Rep. James Langevin  
Rep. Frank Pallone, Jr.