



June 24, 2010

The Honorable John Perez
Speaker
California State Assembly
State Capitol, Room 219
Sacramento, CA 95814

Re: AB 342 (Perez) – 1115 Waiver – (OPPOSE, UNLESS AMENDED)

Dear Speaker Perez,

AARP has reviewed the June 22, 2010 amendments to SB 208 (Perez) relating to the renewal of the Medi-Cal 1115 Waiver, and regrets that we must oppose this version of the legislation unless further amendments are adopted.

We have been involved in the Department of Health Care Services stakeholder processes related to this effort and have been hopeful that adequate protections would be a part of the proposal to move this vulnerable population into managed care plans. Unfortunately, we believe that the proposal reflected in the June 25, 2010, amendments falls far short of what we believe is needed.

Fundamentally, AARP believes that seniors and persons with disabilities should have a choice of plans that have been determined ready to serve this high needs population if their right to select the medical provider of their choice is to be waived. While there are general statements in the legislation that plans will be determined ready, we have no confidence that the department has or will have adequate standards by which to judge plan readiness. Our fear is that the rush to enroll this population in order to score budget savings will trump the effort to ensure plans adequately assess the needs of this population and transition them into networks that can serve their needs.

We have submitted specific language to address these issues, but it was rejected. In short, the amendments we believe are needed would specifically provide that the enrollment of seniors and persons with disabilities in a county shall commence only after the department certifies that at least two plans serving the county have met each of the standards promulgated by the department as necessary to serve this vulnerable population. We have had many discussions concerning the additional requirements plans should meet to serve this vulnerable population, and they are outlined in the department's waiver application, but for some reason there is resistance to adding into the legislation a clear, direct provision that conditions the enrollment of seniors and persons with disabilities on compliance of plans with these provisions.

We are also very concerned with the reliance on telephonic assessments of this vulnerable population, who tend to have multiple conditions, which can be very difficult to evaluate over the telephone. It appears that there is a determination to treat this population like the much younger and healthier population now mandated into Medi-Cal managed care. This is inappropriate. There needs to be an in-person assessment within a relatively short time after enrollment. Plans should not be enrolling this vulnerable population at a pace that precludes them from performing a proper assessment and developing a care plan on a timely basis.

We are also very concerned about the language that proposes to exempt the Department from the requirement that regulations be adopted through the normal public process. The statutory requirements concerning the promulgation of regulations provide important protections designed to ensure rules impacting the public that are clear and consistent with statutory authority, and that those impacted have an opportunity to review and comment before they permanently take effect. Particularly with a vague statute as is proposed, it is critical that the Department be held to the standards applicable to all other state agencies when adopting rules the public is legally required to follow. We have no objection to allowing the Department to adopt emergency regulations so they can get the program started quickly, but it should not be entirely exempted from this process designed to protect the regulated public.

Furthermore, we believe it is inappropriate to authorize the Department to override statutory provisions in their negotiations with CMS over the terms and conditions of the waiver. This provision alone may make the enactment of this legislation an exercise in futility. Again, we do not have an issue with a provision that allows the waiver to move forward despite a conflict for a period of time so long as the statute and terms and conditions are reconciled within a reasonable period. We also believe that the contracts with plans, in which there will be many important provisions, should be made public before they take effect. These contracts impact not just the department and the plans, but the hundreds of thousands of consumers who will be receiving care under the contracts. There should be some transparency in the contracting process so the interested public can make comments and raise concerns before the contracts take effect.

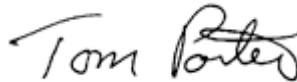
Finally, we believe that there should be a strong data and public reporting requirement for this demonstration project. In five years, when the next waiver renewal is before the legislature, we will all want to understand clearly the results of moving this population into managed care. This should include utilization, outcome, and cost data, before and after the enrollment of this population into managed care plans.

We strongly encourage you to take the time necessary to craft amendments that will address these issues.

Respectfully,



Jeannine English
AARP California State President



Tom Porter
AARP California State Director

cc: Members, Senate Health Committee
Peter Hansel, Chief Consultant, Assembly Health Committee
Joe Parra, Consultant, Assembly Republican Caucus
David Panush