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TO: Patrick Flood, Commissioner Department of Aging and Disabilities
FROM: Peter Cobb, Director, VAHHA
DATE: September 19, 2003

COMMENTS REGARDING THE 1115 MEDICAID WAIVER PROPOSAL

The Vermont Assembly of Home Health Agencies, the professional association of the 12 not-for-profit Medicare-certified home health agencies in the state, supports the 1115 Medicaid Waiver application. We strongly support the purpose of the waiver – to expand community-based services.

If approved, the waiver would constitute a “wholesale replacement of the existing long-term care Medicaid program in Vermont,” (page 4) because the Home and Community-based waiver (HBC) would become an “entitlement” program. Currently, those eligible for nursing home care are “entitled” to a nursing home placement but receive waiver services only if a “slot” is available. We support making the waiver an “entitled” service equal to nursing home care. We believe that most people in need of nursing home level care, if given the opportunity to receive home care and deemed appropriate, would choose home-based care.

VAHHA applauds the efforts by the Department of Aging and Disabilities (DA&D) to expand community-based services. We have, however, some concerns about the lack of specificity in the application and are looking forward to working with DA&D to construct a program that works, not only for home health, but also, and more importantly, for the people of Vermont. Among our concerns are:

Eligibility - Under the proposal, patients would be divided into three groups, highest need - those needing nursing home level services (including waiver services); high need - those not yet needing nursing home level care but in danger; and moderate need - those needing essential household support services such as homemaker. Some people currently listed as needing nursing home services would be dropped to the “high need” group and would not be eligible for nursing home or waiver payments. What is the impact on services to those in the two lower need categories if more people classified as highest need chose nursing home care rather than community-based care, since these services would be provided on a money available basis?

We want to make clear that as we start the 1115 Waiver, anyone currently residing in a nursing facility (with Medicaid as the payer source) and anyone on the Home-Based or Enhanced Residential Care Waiver will be “grandfathered” into this long-term care

program. As new individuals apply for the 1115 Waiver services, they will be assessed. This process will look at their strengths and needs, which will determine their eligibility for a specific group. Individuals coming to the Highest Need group will be entitled to care under this demonstration program. Those in the High Need group will receive services in a nursing facility (if that is their choice) or in a home-and community-based setting as funds become available. Because we are currently paying for care (nursing facility and waiver) for about 3300 individuals (2200 in nursing facilities and 1100 on HCBS waivers), which is the number that we expect to find eligible for the Highest Need and High Need groups, we fully expect to be able to serve the individuals in both those groups. If, as your question state, more individuals choose care in a nursing facility than anticipated, it will have an impact on our ability to serve all individuals in the High Need group. Note that this is exactly the situation today under our 1915© Waivers. If more money is needed for nursing home expenditures, then fewer people are served on the HCBS Waivers. This 1115 proposal gives us the best opportunity to alter that equation. We will set up a method of prioritizing individuals in this group, so we can ensure that care is delivered to those who need it most if funding is insufficient to serve everyone in the group. Based on national and state research on consumer preferences for long-term care, we do not expect that to be the scenario under this Waiver.

We are looking at ways to bring the Homemaker funds under the 1115 Waiver umbrella, and designate them for people in the Moderate Needs group. The effect of this move would be to increase the total amount of Homemaker funds available for services and make those services available to the Moderate Needs group without waiting for saving to accrue in the larger 1115 Waiver budget.

Homemaker/Preventive Services - VAHHA has concerns regarding DA&D's plan for adding homemaker services to the waiver core services. We are concerned that if more money is used by the highest need group than anticipated, the homemaker program could be reduced significantly. Many of our homemaker clients would no longer be eligible because many of them would fall into the High and Moderate need groups and receive homemaker (and other preventive services) only if "funds are available". We suggest carving out a large portion of the Homemaker allocation to be earmarked for services to people in the high to moderate needs group.

Please see the answer above.

Core Services: Although the goals of the proposal include to foster the development of stronger Home and Community-based (HCB) services through an expansion of the "HCB service infrastructure" and to give consumers more community-based options by offering a "comprehensive array of options" (page 3), there is no obvious enhancement of the current service options. The only addition, besides adding homemaker to the "core services" is the inclusion of paid "bed days" for residential homes. Otherwise there are no new core services proposed. Even the addition of Homemaker services to the "core services" is not really an enhancement because this level of service is already available to waiver participants as part of Personal Care Attendant duties. In fact, in the current HCB

waiver, an individual on the waiver cannot also receive Homemaker services because the services are so similar.

It seemed premature to predict in this proposal exactly what HCB services we could develop or enhance under this waiver, without knowing how quickly or in what amount savings would accrue. Our intent is to continue to find ways to develop and expand HCB services as we have with savings under Act 160. Those efforts might be different across the state, depending on the unmet needs identified in a particular area.

The addition of Homemaker to the core services is, in fact, an addition, since that service would be added for the Moderate Need group under this 1115 Waiver. Without this research and demonstration waiver, we would not be able to include this group in a “long-term care” program. The Moderate Need group would not be offered personal care services, but based on their needs and wishes, their benefit package could include Homemaker services.

Resource/Copayments - The program would raise the limit on personal resources available for those eligible from \$2,000 to \$10,000. Persons with resources above \$2,000 would pay a copayment which would range from \$50 to \$100 per month. Is this copayment in addition to the current Medicaid patient share? If yes, can those in need afford to participate?

The co-payment would apply only to those in the Moderate Need group. Patient shares would be calculated for the Highest Need and High Need groups as they are calculated for Long-Term Care Medicaid today. The co-payment is not in addition to the Medicaid patient share.

Staff - What will be the qualifications of the DA&D staff who will determine eligibility, as this process includes a clinical assessment? Also, what would be the definition of “medically necessary” when applied to long-term care services? Currently home care services are ordered by the physician. What would be the relationship between the physician and the DA&D staff? Also, what is the appeals process should a provider disagree with the DA&D staffer’s decision on eligibility or on the ability of the system to meet the demand.

DA&D intends to hire Registered Nurses or perhaps Medical Social Workers who will be highly trained to do the assessments, explain options and perform presumptive eligibility determinations.

The determination of whether care is “medically necessary” will be the task of the DA&D local staff. The requirement for physician orders for home-care services and the relationship between the home health agencies and physicians in obtaining those orders would be no different than it is today.

There currently is no appeal process from a provider if he/she disagrees with a decision concerning eligibility or the ability of the system to meet demand. Appeals are entered by the consumer/participant. That process will not change.

ILA - What will be the role of the RN in the completion of the ILA?

As stated above, DA&D local staff will do the initial assessment, options counseling and plan of care. After that, the process will remain as it is today. If the individual chooses home-and community-based services, he/she will choose a case management agency. The case manager will complete the Independent Living Assessment (ILA). We will maintain the requirement that an RN complete the “Health Assessment” section of the ILA.

Policies - Will the policies relating to dual access of Hospice and Waiver services be relaxed so that waiver patients can also receive hospice care? This would promote objective # 4 on page 3 – improving quality of life, independence, and maintaining highest function.

Current policies allow waiver participants to also receive hospice care for those services not covered by the hospice benefit or in special circumstances described in the policy. We do not anticipate changing that policy.

Cash and Counseling - The program adds “cash and counseling” where clients receive vouchers or cash to purchase services directly. Part of the reason for this addition is to eliminate the “rigid state plan rules” that inhibit creativity. These “rigid rules” should be eliminated anyway, independent of cash and counseling. Also, will there be an aggressive review of the spending in this program to assure that the money is correctly spent?

A workgroup has been convened to help us work out the details for this program. We will build on the successful pilots in other states, funded by the Robert Wood Johnson Foundation. These pilots had mechanisms in place to address how care plans would be developed and managed. We are willing to continue the discussion about how to provide some more flexibility in the ways plans of care are now structured.

Case management - What process and tools will the DAD staffer use to inform clients of the choice in case management?

We will start with the brochure that was developed for the Options Education program and seek input from the case management agencies about other information that should be included. DA&D staff will be knowledgeable about both the home health agencies and the area agencies on aging.

Corrective Plan of Action - We are not sure what is meant by the term “corrective action plan”.

Corrective Action Plan for Services” means that DA&D would be responsible for designing a plan to bring expenditures back in line with budget projections, should it appear that we were on a trajectory to overspend. This type of plan usually means

taking actions such as freezing admissions to non-entitled services until spending is brought under control.

Home Care Tax - What will the impact be from this program on the revenues from the Medicaid tax? Home care agencies depend on this income and would be in dire straits if the income is reduced.

We do not anticipate any change in the Home Care Provider Tax.

Capacity - Home care is confident that we can meet the needs if there is a significant increase in demand for home care services. To be successful, however, additions to the waiver should be done thoughtfully.

We anticipate slow, but steady growth in this new long-term care program and are pleased to hear again that Home care is confident in their ability to meet the anticipated demand for home-based services.

Adult Day Services - This program should greatly expand the demand for adult day services. Will there be money available to meet the need?

We agree that there is a need to expand Adult Day Services to meet the growing demand. We would like to bring some of the Adult Day funding into the 1115 Waiver, in the same way we would like to include the Homemaker dollars. This will provide the opportunity to increase the amount of funding available for Adult Day services.