



March 17, 2015

Department of Health Care Services
Waiver Renewal
Attn: Mari Cantwell, Chief Deputy Director
Health Care Programs
PO Box 997413, MS 0000
Sacramento, CA 95899-7413

Re: ACLU of California Comments on Inclusion of Housing-Based Services in California's Proposed Section 1115 Medicaid Waiver Renewal

The American Civil Liberties Union of California (ACLU of CA) appreciates the opportunity to provide input on California's Section 1115 Medicaid Waiver Renewal proposal. We write to express the ACLU of CA's strong support for the inclusion of Medicaid housing-based services as an initiative in the State's proposal.

The ACLU of CA is dedicated to protecting and advancing the civil rights and liberties of all Californians, regardless of race, wealth, health or housing status. We work to reduce the number of people entering or returning to the criminal justice system due to health reasons, such as mental illness and substance use disorders, and the resulting chronic homelessness.

The ACLU of CA has stated in previous letters why we are supportive of including Medicaid housing-based services in the waiver renewal. Inclusion of Medicaid funded shelter in the waiver renewal would represent a crucial shift away from our harmful and counterproductive approach of criminalizing these societal problems and towards a more inclusive public health approach. Access to safe housing is a social determinant of health, and the ability for Medicaid to pay for community-based housing should improve health outcomes for vulnerable populations¹ and reduce healthcare costs associated with high utilization of emergency rooms and hospitals.²

¹ See U.S. Interagency Council on Homelessness. (2013). *Permanent Supportive Housing*. Retrieved from http://usich.gov/usich_resources/solutions/explore/permanent_supportive_housing; Perlman, J. & Parvensky, J. (2006). *Denver Housing First Collaborative Cost Benefit Analysis and Program Outcomes Report*. Denver, CO: Colorado Coalition for the Homeless.

² Larimer, M. E. et al. (2009). Health Care and Public Service Use and Costs Before and After Provision of Housing for Chronically Homeless Persons with Severe Alcohol Problems. *JAMA*, 301(13), 1349-57 (estimating cost offsets of \$2,449 per person in the first six months); Moore, T. L. (2006). *Estimated Cost Savings Following Enrollment in the Community Engagement Program: Findings from a Pilot Study of Homeless Dually Diagnosed Adults*. Portland, OR: Central City Concern (estimating a \$15,006 per person annual cost saving for first year following enrollment); Culhane, D. P., Metraux, S., & Hadley, T. (2002). Public Service Reductions Associated with Placement of Homeless Persons with Severe Mental Illness in Supportive Housing. *Public Housing Debate*, 13(1), 107-163 (Placement in supportive housing resulted in reductions in service use of \$16,282 per housing unit per year).

Inclusion of housing as a covered Medicaid benefit for certain populations should also reduce jail admissions and harms caused by interaction with the criminal justice system.³ We are pleased to see that the Housing/Shelter Expert Stakeholder Group accepted our recommendation made in our letter dated January 27, 2015 to include incarceration in the definition of institutionalization as a qualifying criterion for eligibility to access the proposed housing benefits. This is crucial not only to assist with reentry and prevent return to incarceration, but also to prevent utilization of high-cost healthcare services by connecting people with the appropriate resources and level of care prior to the condition rising to an emergency.

However, we urge you to revise the Target Population for housing-based services delineated on page 25 in the Medi-Cal 2020 – 1115 Waiver Renewal Concept Paper to include release from both county jail *and state prison*. To include only beneficiaries released from county jail would ignore individuals who will be homeless upon discharge from state prison and who have similar health problems as many leaving county jail. Without access to housing, many of these individuals will utilize high-cost health care such as emergency rooms. Many would eventually be eligible for the proposed services after release, either because of utilization of high cost health services or return to county jail. Nonetheless, it is not prudent to wait until this point, both because it will continue to drive up costs and serve as a detriment to the individual’s overall health. In fact, people released from prison are 12 times more likely to die than the general population within two weeks of release.⁴ We therefore urge you to revise the Target Population to include beneficiaries released from state prison in addition to county jail.

Additionally, clarification is needed in the language of the waiver proposal. On page 287 of California Regulatory Notice Register 2015, No. 7-Z dated February 13, 2015, page 287, in the first paragraph under Section 4 entitled “Housing-Based Case Management and Supportive Services,” the proposal states, “This includes, but is not limited to, housing-based expenditures made with respect to Medi-Cal beneficiaries in facilities that meet the definition of an Institution for Mental Disease under Section 1905(a).” This language is confusing in that it seems to indicate that Medicaid could be used to pay for the actual housing expenses of a person residing in an Institution for Mental Disease. This does not appear to be what was intended by the Housing/Shelter Expert Stakeholder Workgroup and would be a major departure from what housing-based services are intended to cover. Instead, the workgroup discussed institutionalization as one of the criterion that would make a person eligible for community housing-based Medicaid services. To reflect this important difference, we recommend changing the language to, “This includes, but is not limited to, *community* housing-based expenditures made with respect to Medi-Cal beneficiaries *who have experienced periods of homelessness and/or institutionalization, including inpatient hospitalization, Institutions for Mental Disease under Section 1905(a), or incarceration.*”

Medicaid funding for supportive housing would provide the essential foundation to grow needed services and allow us to adequately address mental illness, substance use disorders, and homelessness through the health system, rather than the criminal justice system. This will ultimately result in healthier and safer communities and significantly reduced costs. Inclusion of housing-based services

³ See King County Department of Community and Human Services (2013). *Impact of Supported Housing on Acute Care and Jail Utilization*. Seattle, WA (“Eight of the nine programs showed reduced jail utilization, with reductions in bookings ranging from 27 percent to 56 percent and jail days from 23 percent to 63 percent”).

⁴ Binswanger, I. A. et al. (2007). Release from prison - a high risk of death for former inmates. *N. Engl. J. Med.* (356), 157-65.

in the Medicaid waiver is vital for advancing the civil rights and liberties of individuals with chronic health conditions and those experiencing chronic homelessness.

Thank you again for the opportunity to participate in the stakeholder process. Please do not hesitate to contact me if you have any questions.

Sincerely,

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cc: Jennifer Kent, Director, California Department of Health Care Services