

CMS NPRM Comments

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I am Mark Davis, President of the Ohio Provider Resource Association (OPRA). OPRA is a statewide trade association of providers of services to individuals with intellectual and developmental disabilities. Thank you for the opportunity to comment on the above-referenced NPRM, 76 Federal Register 21311 (April 15, 2011).

We appreciate CMS’s proposed changes regarding Person-Centered Planning and public notice requirements regarding significant changes to an HCBS waiver. Our comments will focus on the areas of Target Groups and HCBS Settings.

**Target Groups**

1. We are concerned about what combining target waiver groups would mean financially. Because many of the people with intellectual and developmental disabilities (IADD) served on HCBS waivers in Ohio are potentially higher needs individuals than other target groups discussed (aged, mentally ill) we are concerned that combining groups might result in a lowering of rates to address the needs of the people we serve, people with IADD. While we see that needs of the individuals must be met, even if combined under another waiver, we are concerned that the reality of implementation in the states will lead to lower rates for serving the high needs People with IADD, which means our concern is really about having the resources and support to appropriately serve these individuals.

**HCBS Settings**

1. We have significant concerns about CMS setting limitations beyond current law on what constitutes a home and community-based setting. Ohio has specific waiver services that promote inclusion in the community and are used to avert placing individuals in institutional settings that may be disallowed by these limitations. These services include: Respite that is available in an ICF and also in camp-like settings. Adult Day Services are available within 200 feet of an ICF. Homemaker/Personal Care is available in congregate care settings. All of these and more, may be disallowed by CMS’s proposed limitations. This would stifle people’s choice of where they receive services and significantly disrupt their lives. We strongly encourage CMS to limit HCBS settings only as in current law.

2. If CMS chooses to continue down this proposed course, we request that consideration be given to individuals currently receiving services and that all of these services be grandfathered in as acceptable HCBS settings.

3. While we are glad to see that CMS recognizes the legitimate desirability and choice for older individuals, disabled or not, to live in congregate settings, we think that that same choice to live in congregate settings should be extended to all people with developmental disabilities. Not to ignore Olmsted at all but to fulfill Olmsted and recognize that the least restrictive setting for a given individual may be a congregate setting and that campus settings, which are enjoyed by typical populations, are not in and of themselves bad or restrictive.

4We think that the reality of assistive technology and  Remote Monitoring in particular may lead to the conclusion that campus or cluster home living– as enjoyed by the typical population by choice – may be desirable in order to allow for the most unrestricted environment for individuals. In cases where a live direct support individual must be located in relatively close proximity to the individual in order to intervene for health and safety reasons in an emergency, cluster or campus living might be the desirable option. The rule should allow for changes in technology that might determine appropriate settings for the maximum person-centered experience of the individual.

Thank you for your consideration. You may contact me at [mdavis@opra.org](mailto:mdavis@opra.org) or 614-224-6772 for any additional information.