



American Association on Health & Disability

110 N. Washington Street Suite 328-J Rockville, MD 20850
T. 301-545-6140 F. 301-545-6144 www.aahd.us

AAHD - Dedicated to better health for people with disabilities through health promotion and wellness



LAKESHORE

May 18, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services

Re: Comments on Proposed Rule: Nursing Facility - Preadmission Screening and Resident Review - CMS-2418-P; ID-CMS-0015-0002

Dear Administrator Verma,

The American Association on Health and Disability and the Lakeshore Foundation appreciate the opportunity to provide comments.

The American Association on Health and Disability (AAHD) (www.aahd.us) is a national non-profit organization of public health professionals, both practitioners and academics, with a primary concern for persons with disabilities. The AAHD mission is to advance health promotion and wellness initiatives for persons with disabilities.

The Lakeshore Foundation (www.lakeshore.org) mission is to enable people with physical disability and chronic health conditions to lead healthy, active, and independent lifestyles through physical activity, sport, recreation and research. Lakeshore is a U.S. Olympic and Paralympic Training Site; the UAB/Lakeshore Research Collaborative is a world-class research program in physical activity, health promotion and disability linking Lakeshore's programs with the University of Alabama, Birmingham's research expertise.

We join the larger disability community, through organizations such as the Consortium for Citizens with Disabilities (CCD), advocating federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of persons with disabilities in all aspects of society. Expanding access to Medicaid Home and Community-Based Services (HCBS) is an important mechanism promoting and supporting community inclusion and participation.

We write to comment on the CMS proposed rule regarding Preadmission Screening and Resident Review (PASRR). PASRR is an important tool to prevent people with disabilities from being unnecessarily placed in Medicaid-funded nursing facilities and to help nursing facility residents transition back to the community. Strong diversion and transition requirements are necessary to help ensure states comply with the Americans with Disabilities Act (ADA) and the Supreme Court's *Olmstead* decision.

We join other disability advocates conclusion that the CMS proposed rule would weaken PASRR, making it easier for states to admit people to nursing facilities and harder for people to transition back to the community from those facilities. We urge CMS to please reconsider and revise the proposed rule in light of the current pandemic and reissue it for public comment, keeping the ADA and *Olmstead* as the guiding principles.

We agree with some of the CCD leaders that three provisions, in particular, need to be revised: These are:

- (1) The proposed rule weakens PASRR's diversion goals. The proposed rule allows states to bypass preadmission screening and evaluation of community options for individuals prior to admission to a nursing facility if those admissions are readmissions, nursing facility transfers, acute hospital discharges, and "provisional admissions."
- (2) The proposed rule also weakens the process for transitioning nursing home residents back to the community. The proposed rule would allow states to stop working on the transition of a person back to the community if the person does not have a community option currently available.
- (3) The proposed rule would limit the services that nursing facilities have to provide once an individual is admitted. Without these specialized services, people will lose basic skills and be denied the opportunity to work on skills that would make it easier for them to transition back to the community. The proposed rule limits these services in two ways. The current regulation's requirement for an assessment of the need for specialized services in a broad array of social, vocational, educational, and communication areas would be replaced by assessments that focus almost exclusively on activities of daily living (ADL) and instrumental activities of daily living (IADL). In addition, the proposed

rule would eliminate any standard for determining what services must be provided and instead would allow states to drastically limit the type of specialized services they provide.

CMS needs to return to the drawing board and specifically address these concerns. Discussions and consultations with the larger disability community, including leaders of the Consortium for Citizens with Disabilities (CCD), is an essential activity to adequately address these concerns.

Thank you for the opportunity to comment. If you have any questions please contact Clarke Ross at clarkross10@comcast.net.

Sincerely,



E. Clarke Ross, D.P.A.
Public Policy Director
American Association on Health and Disability
clarkross10@comcast.net
Cell: 301-821-5410

Roberta S. Carlin, MS, JD
Executive Director
American Association on Health and Disability
110 N. Washington Street, Suite 328J
Rockville, MD 20850
301-545-6140 ext. 206
301 545-6144 (fax)
rcarlin@aahd.us

Amy Rauworth
Director of Policy & Public Affairs
Lakeshore Foundation (www.lakeshore.org)
4000 Ridgeway Drive
Birmingham, Alabama 35209
205.313.7487
amy@lakeshore.org