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Democratic Leader
United States Congress

Hon. Frank Pallone
Ranking Member, Energy
and Commerce
United States Congress

June 30, 2023

Dear Leaders McCarthy, Jeffries, McMorris Rodgers, and Pallone:

The undersigned organizations write to express opposition to extending the Medicaid state plan option to obtain federal Medicaid funds for services provided to adults with substance use disorder (SUD) in Institutions for Mental Diseases (IMD). This provision of the SUPPORT Act expires September 30, 2023.

On June 22nd, we marked the 24th anniversary of the Supreme Court's decision in *Olmstead v. L.C. (Lois Curtis)*. As disability rights organizations and *Olmstead* litigators, we celebrate the landmark decision affirming the rights of people with disabilities to receive services in the most integrated setting appropriate. We ask that you join us in committing to searching for solutions that enhance community integration for individuals with SUD, including the large number of individuals with SUD who also have a mental health disability.

The IMD exclusion generally prevents states from using federal Medicaid funds to pay for services for adults between the ages of 21 and 64 who are in mental health and substance use residential facilities with more than 16 beds. Medicaid reimbursement is available for mental health and substance use services provided in the community rather than in IMDs. We support maintaining the IMD exclusion because it has provided important incentives for states to develop needed community-based services and achieve community integration and implementation of the *Olmstead* decision.

Repealing the IMD exclusion is expensive, and offsets would need to be identified to fund this extension. IMD state plan amendments are not a good investment when there are still far too many barriers to obtaining services when and where people want and need them, in their own communities. We note that the IMD exclusion is a ban on certain larger settings, not on services. States can currently provide a wide array of services in integrated, community-based settings.

Regardless of where people begin their treatment, many need long-term access to community-based recovery and support services, such as outpatient medication for substance use disorders, related therapies and pharmacology, including methadone maintenance treatment in opioid treatment programs, peer support, substance use crisis intervention services including mobile crisis services, and case management services, to name a few. We believe that federal financial support is better spent on enhancing community-based services and reducing barriers to outpatient medication for substance use disorder.

Thank you for considering our concerns. If you have any questions, please contact Jennifer Lav, lav@healthlaw.org.

Sincerely,

Autistic Self Advocacy Network

Bazelon Center for Mental Health Law

Center for Public Representation

Disability Rights Education and Defense Fund

National Disability Rights Network

National Health Law Program