

April 2, 2020

Senate Majority Leader Fitzgerald  
State Capitol, Room 211 South  
Madison, WI 53707

Speaker Robin Vos  
State Capitol, Room 217 West  
Madison, WI 53708

Senate Minority Leader Shilling  
State Capitol, Room 206 South  
Madison, WI 53707

Assembly Minority Leader Hintz  
State Capitol, Room 201 West  
Madison, WI 53708

Governor Tony Evers  
115 East Capitol Drive #1  
Madison, WI 53702

cc: Members of the Legislature  
DHS Secretary Designee Palm

Dear Senators Fitzgerald and Shilling, Representatives Vos and Hintz, and Governor Evers:

Wisconsin has long been a leader in providing long-term supports and services for children and adults with disabilities and we appreciate your attention to these issues during the difficult times Wisconsin is now facing.

Disability Rights Wisconsin, the designated Protection and Advocacy System for the State of Wisconsin, writes this letter out of deep concern for its constituency, namely the residents of Wisconsin with physical, mental or developmental disabilities. As the COVID-19 public health crisis pandemic deepens, we have been waiting with growing alarm for Wisconsin to take the necessary actions to access all the tools and funding potential that the federal government has made available to states through the Centers for Medicare and Medicaid Services (CMS) waiver process. While Wisconsin is already implementing those measures offered through CMS blanket waivers, provisions which require no special request process, there are many strategies beyond these blanket waivers that are available to support Wisconsin's Medicaid and Children's Health Insurance Program (CHIP) in this time of crisis for which Wisconsin must request and receive approval from CMS.

These include 1135 Waivers which can be used to implement a range of flexibilities to assure Wisconsin residents, including people with disabilities, can continue to receive those services

---

131 W Wilson St  
Suite 700  
Madison WI 53703-3263  
608-267-0214  
608-267-0368 fax

6737 W Washington St  
Suite 3230  
Milwaukee WI 53214-5651  
414-773-4646  
414-773-4647 fax

217 W Knapp St  
Rice Lake WI 54868  
715-736-1232  
715-736-1252 fax  
800-928-8778 Toll Free  
disabilityrightswi.org

and supports they need to safely remain in their homes and communities. CMS suggests some things that can be accomplished through an 1135 Waiver. Among them, the waiver could allow providers to receive payments for services provided to affected beneficiaries in alternative settings, such as mobile testing sites, temporary shelters or other non-traditional or alternative care facilities; access the drawdown of federal financing match for payments, such as hardship or supplemental payments, to stabilize and retain providers suffering extreme disruptions to their business model; waive the requirement for actuarially sound Medicaid managed care rates for calendar year 2020 to give particularly smaller and more vulnerable providers like behavioral health providers, the ability to be paid if they have not been able to perform services due to quarantine; freeze of enrollment or eligibility changes that would result in a change in level-of-care; and allow the Children's Long-Term Supports program to pay above the waiver rates for access to critical services, such as support and service coordination, specialized medical and therapeutic supplies, respite care, adaptive aids, assistive technology and communication aids, child care, and supportive home care.

All of these and many more measures that will permit Wisconsin to flexibly respond to the needs created by this pandemic appear in Wisconsin Department of Health Service's proposed request. Additionally, a temporary suspension of certain provisions of Wisconsin's current 1115 Demonstration Waiver would allow Wisconsin to receive an enhancement of 6.2% in Federal Medicaid Assistance Percentage (FMAP) funds during the duration of the Covid-19 crisis.

As of today's date, 41 states have already presented their Waiver plan requests to CMS and had them approved, Wisconsin is not one of them. Wisconsin has yet to submit a request that will allow CMS to grant both the flexibility and extra funds that are so crucial to people with disabilities to help them remain safe and healthy during this crisis. We have been assured by the Department of Health Services that these plans stand ready for submission, awaiting only the appropriate action from the Legislature pursuant the provisions of Act 370.

It is vital that the Legislature come together in either an extraordinary or special session with all deliberate speed and act to remove this impediment standing in the way of the people with disabilities and mental health needs, and all Wisconsin residents who find themselves so vulnerable in this public health crisis, from receiving the supports and services that are so critical to their very survival. We understand that convening the Legislature during this health crisis does not come without risk, and we acknowledge the courage it takes to put the health and well-being of Wisconsin's citizens above your own, but Wisconsin's most vulnerable are relying on you.

Sincerely,



Lea Kitz  
Executive Director