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Michelle Baass
California Department of Health Care Services (DHCS)
1500 Capitol Ave
Sacramento, CA 95814

Re: California's 2022 – 2026 Renewal of the Home & Community-Based Alternatives Waiver

Dear Director Baass:

Thank you for the opportunity to comment on California's 2022 – 2026 Renewal of the Home & Community-Based Alternatives Waiver (HCBA Waiver). Improving and expanding Medicaid funded Home and Community-Based Services (HCBS) is a priority for the Biden Administration and for the undersigned members of the California House Delegation. HCBS helps seniors and people with disabilities remain in their own homes and communities and live with dignity and independence. Avoiding institutional placement is of paramount importance for seniors and people with disabilities; this is particularly true now given the disproportionate impact of the Covid-19 Pandemic on individuals living in institutions. While Covid-19 cases in nursing facilities account for only three percent of cases nationwide, nursing facility deaths are thirty-five percent of the country's total deaths, at 170,000.¹ Moreover, nursing facilities with higher numbers of Black or Latino residents had higher rates of death, further demonstrating how Covid-19 has compounded the structural inequities facing communities of color.²

There has never been a more important time to invest in and improve existing HCBS programs like the HCBA Waiver. We are concerned, however, that the Department of Health Care Services' (DHCS) Waiver Renewal draft does not go far enough to serve California's seniors and people with disabilities. We recommend the following steps to address these concerns:

- 1. Increase capacity by adding slots to the Waiver:** It is unclear how DHCS determines how many people can be served by the Waiver. There is no doubt that California's seniors and people with disabilities who need nursing facility or higher level of care struggle to stay in their own homes and that there is a need to expand the HCBA

¹ Data as of February 2021, see, <https://www.aarp.org/caregiving/health/info-2021/nursing-homes-covid-statistics.html>

² See, [Racial and Ethnic Disparities in COVID-19 Cases and Deaths in Nursing Homes | KFF](#)

Waiver.³ In addition to increasing capacity, DHCS should add priority enrollment for adults at the subacute level of care or those at imminent risk of institutionalization if unable to access services available only through the HCBA Waiver. Analysis of the need for this increase must be included in the five-million-dollar Federal Money Follows the Person (MFP) Grant DHCS received from CMS.⁴

- 2. Reduce the time it takes to apply, enroll, and receive services:** Although in the past there has been a waiting list for the Waiver, open Waiver slots are currently available. Nevertheless, there are significant delays in processing applications due to Waiver Agency capacity, in addition to the fact that the allowable timelines to process an application are too long. Currently a Waiver Agency has 60 days to assess an applicant for eligibility, and then another 90 days after the assessment to develop and submit a Plan of Treatment to DHCS for approval. Individuals who desperately need services to avoid institutionalization are waiting many months –some almost a year--to receive services. We also recommend that DHCS eliminate unnecessary extended nursing facility stays by changing the requirement that an individual have been in a facility for 60 or more days before they can enroll in the Waiver. We recommend eligibility for the Waiver begin after a 30 day stay in cases where the facility stay is expected to last more than sixty days and the applicant requires Waiver services to return home.
- 3. Improve Waiver Agency services so that participants get what they need:** Waiver Agencies report that the reimbursement rate for the comprehensive care management they provide is not sufficient. As a result, participants don't receive adequate support and information, leaving people without the care they need. DHCS must provide Waiver Agencies with both increased funding and a mechanism to pay for needed services and gap-filling as required. DHCS must also address unnecessary delays in the delivery of services by automating and streamlining the Treatment Authorization Request (TAR) and Claims systems. Further, DHCS must work to recruit new providers to expand the capacity and variety of specialties and experience of waiver agencies. This should include enlisting Supported Living Services Agencies and organizations with expertise in serving children living with medical complexity as well as ventilator-dependent adults, and seniors with Alzheimer's disease or dementia.
- 4. Increase community awareness of the Waiver:** There is a woeful lack of knowledge in the community about the existence of the HCBA Waiver. It is critical that DHCS increase outreach and awareness regarding the HCBA Waiver benefit to Counties, Managed Care Organizations, hospitals, and nursing facilities. DHCS should do so through All Plan Letters, and All County Welfare Directors Letters to ensure that providers in the HCBS and Long-Term Services and Supports (LTSS) systems understand that the program exists, who it serves, and how to apply. In addition, DHCS

³ Indeed, the California State Auditor found that 40,000 seniors and people with disabilities who receive In Home Supportive Service (IHSS) go without enough care every month. In Home Supportive Services is largest non-waiver HCBS program in the country, and provides personal attendant care in people's homes. See, <https://www.auditor.ca.gov/reports/2020-109/summary.html>

⁴ <https://www.dhcs.ca.gov/services/ltc/Pages/CCT.aspx>

should conduct trainings on the HCBA Waiver to community groups serving seniors and people with disabilities; require that Waiver Agencies work with their local Aging and Disability Resource Connection (ADRC) programs; and ensure that the “No Wrong Door” effort outlined in DHCS’ Home and Community-Based Services Spending Plan includes access to the HCBA Waiver.⁵

- 5. Enable spouses and parents to provide Waiver Personal Care Services (WPCS):** Before the Covid-19 pandemic, DHCS prohibited parents of minor children and spouses from providing WPCS to participants; DHCS continues to do so in the Waiver Renewal. This prohibition is currently suspended during the Covid-19 pandemic through the Department’s Appendix K requests. The ability for a parent or a spouse to provide WPCS to their family member has been extremely important to families with members who receive Waiver services, as finding an appropriate provider outside the family can be challenging, particularly for families with limited English proficiency. DHCS should end this prohibition post-pandemic, and can do so under the terms of the Waiver.⁶

- 6. Ensure that Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services are available from other sources:** The Waiver Renewal makes many references to services under the Waiver not being available to children under age 21 because the services are available through ESPDT. There are some services for which this is just not true—for instance, Medical Equipment Operating Expenses. And WPCS is available to children under the current Waiver and would not be available from any other source as currently configured. It is imperative that DHCS work with other Medical delivery systems, including Managed Care Organizations, to ensure that *in fact* there is a mechanism for children to get these services.

Thank you for your consideration of our recommendations.

Sincerely,



Nanette Diaz Barragán
Member of Congress



Alan Lowenthal
Member of Congress



Raul Ruiz
Member of Congress



Brad Sherman
Member of Congress

⁵ See, <https://www.dhcs.ca.gov/Documents/DHCS-HCBS-Spending-Plan-Web-Package-7-12-21.pdf> at p. 18.

⁶ See, CMS STATE MEDICAID MANUAL § 4442.3.B.2; and Page 42, Application for a 1915(c) Home and Community-Based Waiver Instructions, Technical Guide and Review Criteria (Published August 25, 2020) <https://www.hhs.gov/guidance/document/application-ass1915chome-and-community-based-waiver-instructions-technical-guide-and>



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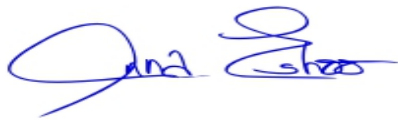
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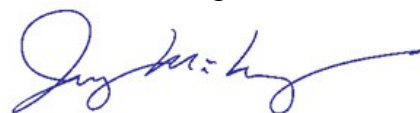
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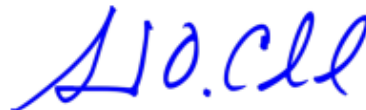
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