

**Patti Killingsworth**  
**Vice President of Operations and Government**  
**Relations, AccentCare**

Answers to Questions for the Record  
Subcommittee on Health  
House Committee on Energy and Commerce  
*Supporting Access to Long-Term Services and Supports: An*  
*Examination of the Impacts of Proposed Regulations on Workforce and*  
*Access to Care.*  
October 25, 2023

The Honorable Earl L. “Buddy” Carter

- 1. What happens to rural areas if the 80/20 threshold is put in place? I have heard that businesses may need to close. If CMS’ policy is put in place, what would happen to these home health care workers if businesses were forced to close in my district?**

The intermittent nature of supports needed by individuals pose particular challenges for rural providers if the 80% requirement (i.e., that 80% of all Medicaid payments for specific HCBS must be spent on compensation for direct care workers) is enacted. Travel costs and time spent traveling between homes or other community-based locations where HCBS are needed already has a disproportionate impact on rural providers. These costs are typically not reimbursed by Medicaid. The 80% requirement would likely leave insufficient funds for rural providers to be able to cover these and other necessary administrative costs, leaving some rural providers unable to continue operation. Employees of an agency that ceases operation would be forced to seek employment elsewhere, while the individuals served by the agency would need to find a new provider and new workers to deliver their care. HCBS providers are already in short supply in many rural geographies. In a recent report on *Improving Health in Rural Communities*,<sup>i</sup> CMS reported that “rural residents are less likely to use HCBS than their urban counterparts, partly due to limited program availability in rural areas.” Unintended consequences of the proposed rule may thus result in individuals living in rural areas who need HCBS being unable to access needed care, forcing them to seek institutionalization.

- 2. Many people with disabilities hope to stay at home as long as possible and avoid institutional settings. They want to work, participate in their communities, and live the American dream. Right now, we are seeing major workforce shortages in the health and long-term care sectors. What impact do you think these rules will have on people with disabilities' access to services at home instead of institutions?**

While well intentioned, most providers and many states expect that the *Ensuring Access to Medicaid Proposed Rule* (CMS-2442-P—specifically the requirement that 80% of all Medicaid payments for specific HCBS must be spent on compensation for direct care workers) would have significant negative impact on access to these important HCBS. Some smaller providers may go out of business, and some larger providers could be forced to leave certain markets. The Partnership for Medicaid Home-Based Care shared findings from a survey of home care agencies which reported that more than half of those participating said they would go into the red if the rule were implemented. More than another third report that they would “narrow service offerings or geographies served.” And the vast majority (more than 92%) said they would have difficulty accepting new referrals.<sup>ii</sup>

In addition, the *Minimum Staffing Standards for Long-Term Care Facilities Proposed Rule* (CMS-3442-P) is likely to perpetuate and even exacerbate longstanding institutional biases in the Medicaid program through workforce policies that will drive a greater share of a common and limited direct care workforce and Medicaid LTSS expenditures away from community and to the institutional setting.

The unintended consequences of both proposed rules may thus result in individuals who need HCBS being unable to access needed care, forcing them to seek institutionalization.

---

<sup>i</sup> <https://www.cms.gov/files/document/fy-21-improving-health-rural-communities508compliant.pdf>

<sup>ii</sup> <https://homehealthcarenews.com/2023/08/home-based-care-providers-break-down-unintended-consequences-of-cms-proposed-medicaid-rule/>