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November 6, 2023

Centers for Medicare and Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

RE: CMS-3442-P

To Whom It May Concern:

The West Virginia Developmental Disabilities Council (WVDDC) appreciates the opportunity to comment on the proposed minimum staff levels in nursing homes. The current federal nursing home regulations already address staff requirements. The current federal regulations under “§483.35 Nursing Services” requires nursing home to have sufficient staffing with the appropriate competencies to assure resident safety and to maintain or attain the highest level of well-being. Similarly, “§483.35(a) Sufficient Staff” requires nursing homes to provide services by sufficient numbers of nursing and direct care personnel on a 24-hour basis to provide nursing care to all resident in accordance with the resident’s care plan.

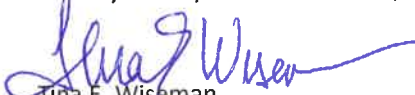
The WVDDC feels strongly that this proposed rule will have a negative impact on the continued ability for people with intellectual and development disabilities (IDD) to live, work and socialize in the home and community of their choice. In fact, this proposed rule may cause more people with IDD to move to inappropriate and expensive nursing homes. This may also have a negative effect on the state Medicaid budget which will ultimately hamper innovation, integration and inclusion for home and community-based services. The proposed rule will have the following unintended consequences:

- Exacerbate the caregiver workforce shortage in state Medicaid Home and Community-Based Services. These programs are responsible for diverting people away from inappropriate and costly institutional care, including nursing homes.
- Lead to more individuals turning to nursing home care earlier than needed due to a lack of access to services and supports in the community.
- Reinforce and escalate the longstanding Medicaid institutional bias.

The direct care work force has created a crisis in West Virginia. One aspect of this crisis is the record number of people with intellectual and developmental disabilities (IDD) that are stuck in state-operated psychiatric hospitals. We are seeing a higher number of people with IDD stuck in psychiatric facilities than at any time in the last 3 decades. These individuals have access to home and community-based Medicaid waiver, but those providers don’t have enough staff to provide support.

WVDDC is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities.

Thank you for your consideration,


Tina E. Wiseman
Executive Director

cc: Brandy Beery, WVDDC Chair