



February 20, 2009

Re: Consumer Workforce Council

Secretary John Michael Hall
Department of Aging
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1919

Honorable Secretary Hall:

As members of the REAL (Respected. Empowered. Accessible. Loyal.) Coalition, we are interested in your recent correspondence to several counties regarding the Consumer Workforce Council (CWC). As you know, this issue continues to be very contentious among stakeholders in the disability community and has caused concerns among several home and community-based services groups.

We are disappointed that this letter was sent at a time when stakeholders and legislators have been told by state officials in a letter from Secretary Vito dated Nov. 20, 2008 to the House Republican Policy Committee, that “no final decision has been made to move forward and we (the Administration) are still in the vetting process.” It appears that the Administration is indeed moving forward with the idea by inviting the dialogue with counties “to refine the concept and advance the interests of our direct care workforce” in a letter dated January 8, 2009 that was sent under the signature of Secretary Richman, Secretary Vito and yourself.

Due to the continuing concerns among stakeholders on this issue, we request that you do not sign an intergovernmental agreement until a full and fair vetting of the proposal has been conducted.

In addition, the leadership of the REAL Coalition would like to request a meeting with you to discuss these and other issues concerning the proposed creation of this entity that would have a large and lasting impact on our service delivery system. We will contact you in the near future to arrange a date and time. The REAL Coalition is also an alternative plan which may be able to accomplish the same goals as the proposed Council.

We share the administration’s concern for improvement of the direct care workforce and wish to ensure the future success of home and community-based services in Pennsylvania. We have a long history of advocacy for adequate funding to support these programs and we support the maintenance of consumer choice referenced in the letter.

However, we are concerned that the letter states that the creation of the entity will “create a public forum for these debates”. We strongly believe that the opportunity for input and public discussions should occur before any further action is taken on this proposal. We have a number of reservations and unanswered questions regarding the establishment of a Consumer Workforce Council, such as:

1. **Legality:** Creation of a Council or similar entity through an Intergovernmental Agreement represents a major policy shift in the delivery of home and community-based services without undergoing due legislative process. In addition, concerns remain regarding how such an entity will exist within the framework of current State and Federal labor law.

2. **Cost:** According to the CWC proposal, DPW and Aging will fully fund the Council’s statewide operating costs. In addition, the Council becomes the employer of record and a “joint employer” requiring significant liability insurance and tripling the cost of workers compensation. While no budget was included with the proposal, the costs for the increase in workers compensation alone in this model are estimated to be \$17 million. Should these funds be available to support a Council and the required additional insurance costs, we would prefer that they be used to increase direct care worker wages and benefits and, under no circumstances, should any added cost increases result in a reduction or loss of service to consumers.
3. **Change to the Consumer Model:** Many questions remain unanswered about how this proposed Council would impact the current consumer-directed model. The proposal does not specify how specific issues such as, employment of family members, co-employment status and workers’ compensation classification for purposes of workers’ compensation insurance or the legal status of current Fiscal Employer Agents or agency model providers would be addressed.
4. **Protection of Federal Funding** – It is imperative that any proposed changes have the appropriate approval from CMS prior to implementation and that all waiver amendments are developed with full stakeholder input.
5. **Consumer Choice** – We note that the proposal often refers to consumer choice in the context of the selection of a worker from the registry, while the option for a consumer or employee to not participate in the use of the registry is equally valuable and should be preserved.

Thank you for your consideration and we look forward to learning more about the Administration’s plans in regard to these critical issues.

Sincerely,

Members of the REAL Coalition

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Cc: Estelle Richman, Secretary of Public Welfare
Sandi Vito, acting Secretary of Labor & Industry
Donna Cooper, Governor's Secretary of Planning and Policy