



March 28, 2014

Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Administrator Tavenner:

The National Federation of Independent Business writes regarding the recent Medicaid Program rule covering Home and Community-Based Settings (HCBS) published in the January 16 edition of the *Federal Register*. Specifically, we ask that the Centers for Medicare & Medicaid Services (CMS) clarify in forthcoming guidance on non-residential HCBS that Adult Day Services (ADS) are presumed to meet the HCB requirements.

NFIB is the nation's leading small-business advocacy association, representing members in Washington, DC, and all 50 state capitals. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. NFIB represents about 350,000 independent-business owners who are located throughout the United States, including ADS facilities.

ADS facilities are typically small businesses that serve a crucial role in the community by providing quality care for adults in need. Like any small business, these companies rely on regulatory certainty so that they know how they are viewed by regulating entities. In this particular industry, small businesses rely on being an eligible Medicaid HCBS provider as part of their business model. In the recent final rule, CMS declared that it was considering additional guidance on what types non-residential facilities would qualify for the Medicaid HCBS program.

NFIB believes that ADS facilities should be presumed to meet the HCBS goals CMS has set forth in the new rule. In addition to meeting these goals, these facilities fill an important family and community economic role whereby the patient's caretaker – typical the patient's child – is able to maintain a job during the day and ensure the patient can live at home rather than a residential institution.

NFIB hopes CMS takes this opportunity to clarify that ADS facilities qualify for the HCBS program and recognize the important role they fulfill in America's communities. Without such clarification, many such small businesses will not be able to continue to provide quality service for those in need.

Sincerely,

A handwritten signature in black ink that reads "Susan Eckerly". The signature is fluid and cursive, written over a white background.

Susan Eckerly  
Senior Vice President  
Public Policy