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## CMS Notifies States of Limited MOE Flexibility in HCBS Waiver Programs

In August, the Centers for Medicare & Medicaid Services (CMS) issued a letter to state Medicaid agencies regarding the states' authority to make changes to their home and community-based services (HCBS) waiver programs in lieu of the Affordable Care Act's Medicaid maintenance-of-effort (MOE) requirement. Some advocates have expressed concern that the letter signaled a willingness on the part of CMS to offer states more room to make cuts in their HCBS waiver programs.

However, as explained in the most recent policy issue brief of the National Senior Citizens Law Center, the discretion CMS identifies in the letter is very narrow and is qualified by a CMS warning that what is permissible under the Affordable Care Act's Medicaid MOE mandate may still be in conflict with other provisions of federal law, such as the Americans with Disabilities Act.

Advocates in states that may be contemplating cuts to HCBS waiver programs should be aware of the limits of the states' authority to make changes, both under the Affordable Care Act and other sources of federal law.

The policy issue brief may be found here....

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