

disABILITY LAW CENTER

OF VIRGINIA



Protection & Advocacy for Virginians with Disabilities

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April 10, 2020

By email and first class mail

The Honorable Ralph Northam
Office of Governor
P.O. Box 1475
Richmond, VA, 23218

On behalf of Virginians with disabilities, I write to express grave concern that the Commonwealth of Virginia has not yet submitted anything to the Centers for Medicare and Medicaid Services to modify our Medicaid waivers in the face of the COVID pandemic. Virginia's unconscionable delay in doing so is putting the lives of thousands of very vulnerable Virginians at serious risk of harm and even death.

The disAbility Law Center of Virginia (dLCV) is the federally mandated protection and advocacy agency for Virginians with disabilities. dLCV is working diligently to advocate for, and protect the rights of, people with disabilities during the COVID-19 pandemic. Along with our advocacy partners, we are paying particularly close attention to the impact of COVID-19 on Medicaid beneficiaries. As you know, thousands of Virginians (both children and adults) rely upon Medicaid funded home and community based waiver services as an alternative to costly and restrictive, and now dangerous, institutional care in nursing facilities and intermediate care facilities. Your administration must take swift action to ensure these Virginians have the flexibility they need to continue to safely receive services and supports in the community.

One of the primary tools available to the Commonwealth to ensure Medicaid waiver recipients, and the providers that support them, have the flexibility they need during this unprecedented health emergency is Appendix K. Appendix K is a standalone appendix that states can utilize during emergency situations to request amendments to approved 1915(c) waivers. Nearly 25 states – including several that were late to declare states of emergency -- have already submitted their Appendix K requests and received the requisite approvals from CMS.

Even though you declared a state of emergency on March 12th – nearly a full month ago -- Virginia has not yet submitted this important document.

We urge you to finalize and submit Virginia's Appendix K to CMS, *today*. Thousands of Virginians with disabilities, families, and providers are counting on your leadership on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Colleen Miller', with a stylized flourish at the end.

Colleen Miller
Executive Director

Cc via email:

Daniel Carey, Secretary of Health and Human Resources
Marvin Figueroa, Deputy Secretary, HHR
Karen Kimsey, Department of Medical Assistance Services