

January 7, 2016

Cynthia Coffman, Esq.
Attorney General of the State of Colorado
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 10th Floor
Denver, Colorado 80203

Re: Master Plan of Conversion, Total Community Options, Inc. d/b/a InnovAge

Dear Attorney General Coffman:

I am writing to convey concerns over the conversion of PACE programs to for-profit entities, as is being proposed in Colorado. PACE is a unique program serving people who have almost nothing else; they are very sick or disabled and also dually eligible for Medicare and Medicaid. The PACE program is responsible for whatever they need in medical care, housing, personal care, food, transportation, socialization, caregiver support, and anything else. PACE programs traditionally are not tremendously profitable, because the needs of their population are so substantial and the program is at risk for providing for them. They have operated much more as community investments, and they have mostly done a remarkably good job in serving very sick and disabled older persons.

Moving a PACE program to a for-profit arrangement puts the interests of investors in competition with the needs of the population served. Generating enough financial returns to keep investors interested becomes essential, rather than just building an operating reserve and serving the enrollees. In times when investors expect double-digit returns, the funds available to meet human needs will decline. If investors are just perpetually hungry for more, the PACE managers will have to cut service availability to the limit of what will cause outrage in the community or among the staff and families. This is true in part because we have very limited metrics to monitor quality of care for persons who are expected to worsen and die. It is very hard to show that a PACE program, like a hospice program, is risking too much suffering by failing to diagnose and treat a dental problem in a 90 year old, or is misunderstanding an enrollee's request to be left alone as a mandate to avoid hospital transfer. I believe it is possible to monitor the quality of care in PACE, but it will require new metrics that relate to setting and delivering on the patient's goals and priorities. In the meantime, the trust of the community will be difficult to grow and sustain when they realize that part of the "pool" of financial resources is diminished by the expectation of investors to realize reliable and substantial returns.

These concerns are made more salient by the passage of the "PACE Innovation Act" less than two months ago. PACE had been left out of the current array of reforms because it was established by Congress and was not included in the domain of programs that the Centers for Medicare and Medicaid Services (CMS) were able to alter with innovations. Thus, PACE has been almost unchanged for twenty years. Now, the PACE Innovation Act allows CMS to offer innovations and update and improve PACE. This will almost certainly result in opening new populations for PACE to enroll, whether disabled persons under age 55, dually eligible persons over 55 not yet eligible for nursing home care, or Medicare-only persons over 55 with substantial illness and disability. So, the PACE that has been known as a tiny gem program for a few thousand persons may be able to branch out to serve many persons with disabilities and aging. One

January 8, 2016

Error! Reference source not found.

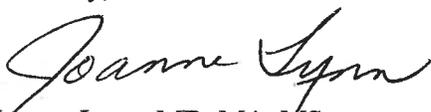
Page 2

might well be concerned that Colorado would move many people into a capitated for-profit plan that has very limited quality metrics and limited obligations to be transparent about its service array or finances.

If Colorado chooses to enable this transition, then the state could impose a number of conditions that would make it safer. First, it could require that the converted organization develop, with the state, a set of more informative metrics. The National PACE Association has been working toward these ends, and a concerted effort in league with persons in your universities who understand quality metrics could engender a more reliable set quickly. Two strategies with particular application in this setting are to interview family caregivers about the reliability of services and the match with the patient's preferences and to follow-back from deaths to detect any practice of inattention that resulted in earlier deaths and to monitor the overall quality of care. Second, the state should require that the converted organization not change its scope in any upcoming demonstrations until those demonstrations (with non-profit PACE providers elsewhere) have shown what expansions serve people well and how to regulate them, and CMS has made those changes a permanent part of PACE. Third, enrollees and their families (and others who care about them) need to have ready ways to voice concerns and raise possibilities for improvements, including non-punitive ways to voice concerns over quality or fraud. In addition to assurances and methods made available to concerned persons (such as post cards and on-line comments), the state should require funding an Ombudsman to visit centers, call enrollees and caregivers, and keep a close monitoring function on the quality and reliability of the services. Fourth, the state should require annual surveys on-site, including examination of the finances and staffing, to assure that all enrollees have comprehensive care plans and that the services specified in the care plans are actually provided.

Taking care of a very needy population as a for-profit endeavor in a constrained financial situation (as is inevitable with persons poor enough for Medicaid) entails a difficult balancing act between the interests of investors and the needs of the clients. The number of seriously ill and disabled persons will more than double in the next few decades. It is very important that Colorado establish strong standards for care and that Colorado enforces them diligently. PACE could be a large part of the answer as to how to take good care of one another as the numbers of frail elderly people grow, but it could be a scourge if left out-of-sight and unregulated.

Sincerely,



Joanne Lynn, MD, MA, MS

Director, Center for Elder Care and Advanced Illness