

June 12, 2020

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

RE: Legislative Proposals to Address COVID-19 Impact on Long-term Services and Supports

Dear Majority Leader McConnell,

We are writing on behalf of the National MLTSS Health Plan Association and the undersigned coalition of long-term services and supports (LTSS) stakeholders to ask for your support for important provisions included in H.R. 6800 (the HEROES Act) needed to address critical LTSS issues stemming from the COVID-19 pandemic. Furthermore, we are requesting that you consider additional policy positions not included in H.R. 6800 that would greatly benefit the populations most vulnerable to this virus.

We greatly appreciate the work you have done thus far to advance bipartisan efforts to respond to the effects of the COVID-19 outbreak. Many of the provisions included in earlier legislative packages, along with administrative changes advanced by the Centers for Medicare & Medicaid Services (CMS), are of great help to us in meeting the needs of older adults and people with disabilities.

Given these extraordinary circumstances more must be done to protect vulnerable populations and the systems of care that support them. We remain concerned about the terrible realities facing this country's congregate living facilities, including nursing homes, assisted living facilities, and skilled nursing facilities. In a recent announcement from the Centers for Medicare & Medicaid Services (CMS) related to enhanced enforcement actions in nursing homes, CMS stated that "as of May 24, 2020, about 12,500 nursing homes – approximately 80 percent of the 15,400 Medicare and Medicaid nursing homes ... reported over 60,000 confirmed COVID-19 cases and almost 26,000 deaths."¹ At the same time, more must be done to support those with functional limitations who receive services at home or in other parts of the community. Without critical home and community-based services (HCBS), vulnerable populations are more likely to end of in a more costly care setting, like the emergency department or a nursing facility, where they are also at greater risk to either contract or transmit COVID-19.

To address these concerns, we request further policy changes to: 1) support individuals with functional limitations to remain safe and healthy, 2) promote the safety of the LTSS workforce and equip it to meet growing economic and safety concerns, and 3) provide states with the resources and flexibility to meet the demands of this emergency.

¹ June 1, 2020 CMS Press Release. "Trump Administration Unveils Enhanced Enforcement Actions Based on Nursing Home COVID-19 Data and Inspection Results." Available <https://www.cms.gov/newsroom/press-releases/trump-administration-unveils-enhanced-enforcement-actions-based-nursing-home-covid-19-data-and>

Provisions included in H.R. 6800 that address our priorities:

We believe that H.R. 6800 includes several key policy changes that effectively address many of the needs faced by LTSS providers and beneficiaries. These sections include:

1. **Section 30101: COVID-19 Related Temporary Increase of Medicaid FMAP**
 - The HEROES Act appropriately increases the 6.2% FMAP boost originally passed in H.R. 6201 to a 14% one-year total in addition to the prior 6.2% boost. *This 14% FMAP increase could add \$297 million per quarter to your home state of Kentucky.* We strongly support this increase as a means of supporting state Medicaid funding streams. This increased support would help alleviate the budgetary pressures that states are experiencing during this national emergency, which would greatly improve the overall stability of individual Medicaid programs, including LTSS and HCBS services.
2. **Section 30103: Additional Support for Medicaid Home-and-Community Based Services During the COVID-19 Emergency Period**
 - We strongly support the additional targeted 10% FMAP increase for HCBS activities outlined in the HEROES Act. *This 10% FMAP increase could add \$50 million per quarter to your home state of Kentucky.* Since the passage of H.R. 6201 and the implementation of the 6.2% FMAP boost, we have not seen a corresponding increase in funding for HCBS providers and services. This has left many providers and services in jeopardy despite a continuing increase in demand. We believe that a targeted HCBS FMAP increase is necessary to ameliorate the ever-growing struggles faced by HCBS and LTSS providers and beneficiaries.
 - We also strongly support the qualifying activities outlined in this section. In particular, we appreciate the potential use of this increased FMAP to facilitate increased access to personal protective equipment as well as the opportunity for compensatory sick leave, family leave, medical leave, and hazard pay. We previously advocated for funding each of these measures as a means of ensuring stability of the critical HCBS workforce.
3. **Sections 170101–170104 Defining Direct Care Workers and Self-Directed Care Workers as “Essential Workers” Eligible for Premium Pay**
 - Individuals with functional limitations rely on a critical component of the health care work force— Personal Care Attendants (PCAs), Direct Support Professionals (DSPs) and other direct care workers—to maintain their independence and quality of life by assisting with activities of daily living (ADLs) like bathing, dressing, and feeding. By addressing these needs, direct care workers help vulnerable individuals with functional limitations avoid unnecessary and costly medical care. We ask you to help assure the continued viability of the LTSS workforce serving the most vulnerable among us.
4. **Additional Funding for Critical Programs**
 - Additional \$100 Million for the Administration of Community Living of which \$10 million is directed to activities for Developmental Disabilities Assistance. We support any measures that would allow the members we serve to receive wrap-around services that further augment our efforts to maintain their independence and quality of life in the home and community. ACL and the Aging & Disability

Networks are crucial in meeting the needs of vulnerable populations by supporting the foundations of the LTSS delivery system during the public health emergency.

Policies Not Included in H.R. 6800 to Support Those with LTSS Needs:

We continue to be incredibly concerned about the conditions of our country's long-term care and skilled nursing facilities and other congregate care centers. Although specific infection rates are difficult to identify, it is estimated that at least one-third of all U.S. deaths from COVID-19 have occurred in nursing home facilities.² Other reports tally that amount at nearly 40%.³ Importantly, this includes a combination of residents and workers. We appreciate that the HEROES Act includes targeted funding for a nursing facility strike team to help assess and address the needs of these facilities, but we believe more can be done. We urge you to support the provisions supporting facilities (Sections 30208 – 30211) and consider additional funding streams and other policy measures to help address this issue.

Thank you for your leadership and continued commitment to addressing the crisis that COVID-19 presents to all Americans. We remain extremely concerned about the potential impact of this national emergency on those who are most vulnerable. We ask that you act swiftly to bolster their needs by providing access to much-needed resources. We stand prepared to work with you and your staff to ensure the individuals we serve receive the best support possible. Please do not hesitate to contact us at any time with questions or for further information at mkaschak@mltss.org.

Sincerely,

National MLTSS Health Plan Association
The Arc of the United States
Association for Community Affiliated Plans (ACAP)
America's Health Insurance Plans (AHIP)
American Network of Community Options and Resources (ANCOR)
Blue Cross Blue Shield Association (BCBSA)
Medicaid Health Plans of America (MHPA)
National Association of Area Agencies on Aging (n4a)
National Council on Aging (NCOA)
National Council on Independent Living (NCIL)

² <https://www.nytimes.com/interactive/2020/05/09/us/coronavirus-cases-nursing-homes-us.html>

³ June 2, 2020 USA Today. "A national disgrace: 40,600 deaths tied to US nursing homes." Available here <https://www.usatoday.com/story/news/investigations/2020/06/01/coronavirus-nursing-home-deaths-top-40-600/5273075002/>.