

June 15, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
U.S. Capitol Building, H-222
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
U.S. Capitol Building, S-230
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
U.S. Capitol Building, H-204
Washington, DC 20515

The Honorable Charles E. Schumer
Democratic Leader
U.S. Senate
U.S. Capitol Building, S-221
Washington, DC 20510

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

LeadingAge and our partners, the Visiting Nurse Associations of America (VNAA) and ElevatingHOME, on behalf of our nearly 6000 nonprofit aging services members who provide affordable senior housing, health care and personal assistance to older persons and persons with disabilities, present our **Five Essential Actions** for a next, and critically needed, COVID-19 relief package. Funds provided by the March 27th *Coronavirus Aid, Relief, and Economic Stability (CARES) Act* and April 24th *Paycheck Protection and Health Care Enhancement Act* provided a down payment toward meeting the immediate needs of aging services providers; much more is needed now and in the foreseeable future.

Based on our members' experiences in navigating the measures created by the previous coronavirus relief efforts, we strongly advocate that aging service providers need to be treated as a separate and independent entity, as they collectively encompass both publicly-financed affordable senior housing and privately financed housing, long-term care settings (like nursing homes, assisted living, memory care), continuing care retirement communities, adult day, home and community based services (HCBS), hospice, home health, all in service to the most vulnerable populations -- older persons, persons with health conditions, and minorities. This letter includes and expands on the requests made in our May 5th letter. We implore you to take immediate action; our communities and older adults need relief now.

Five Essential Actions

LeadingAge is advocating for urgently needed protections for older adults and staff in publicly and privately financed: housing, long-term care settings (like nursing homes, assisted living, memory care), retirement communities, adult day, home and community-based services (HCBS), hospice, and home health.

The only way to stop this unraveling catastrophe is to provide significant additional targeted relief, which includes:

1. **IMMEDIATE ACCESS TO AMPLE AND APPROPRIATE PERSONAL PROTECTIVE EQUIPMENT (PPE) FOR ALL PROVIDERS WHO SERVE OLDER AMERICANS.**
2. **ON DEMAND AND FULLY FUNDED ACCESS TO ACCURATE AND RAPID-RESULTS TESTING FOR OLDER ADULTS AND THEIR CARE PROVIDERS.**
3. **ASSURANCE THAT STATES WILL CONSIDER THE HEALTH AND SAFETY OF OLDER AMERICANS AS THEY REOPEN.**

4. **FUNDING AND SUPPORT FOR AGING SERVICES PROVIDERS ACROSS THE CONTINUUM OF CARE.**
5. **ENSURE PANDEMIC HERO PAY, PAID SICK LEAVE, AND HEALTH CARE COVERAGE FOR THE HEROIC FRONTLINE WORKERS WHO ARE RISKING THEIR OWN LIVES SERVING OLDER PEOPLE DURING THIS CRISIS.**

Centerpiece of LeadingAge Proposal to Act for Older Adults

It is a well-recognized fact that older individuals are at higher risk of severe illness and death from COVID-19 infection. The centerpiece of our request is three-fold. We urge Congress to create a dedicated \$100 billion fund, within the Provider Relief Fund, for all aging services providers, and a \$1.2 billion fund to support affordable senior housing providers. The third component is a \$10 billion aging services testing program to augment the general \$75 billion contemplated to be allocated to the Public Health Fund by the Heroes Act.

Taken together, these proposed efforts target relief and supports where they are needed most – where older people live and receive care. Rather than blame nursing homes and other aging services providers for COVID-19 infections and deaths, let's support them to turn things around.

\$100 billion dedicated to aging services within the Provider Relief Fund. We applaud the creation of the Provider Relief Fund for health care providers and are pleased that skilled nursing facilities, home health, and hospice providers have received some of those dollars. More is needed to replenish quickly diminishing resources and account for lost revenue and increased costs. In addition, Medicaid-only funded assisted living and home and community-based providers must receive help as well as well as those providers who are funded by private pay. The delicately woven safety net of aging services is fraying as providers face the real prospect of shutting their doors forever.

Funds **must** be separately appropriated for all aging service providers, to cover additional costs for PPE, cleaning supplies, staffing, and other needs associated with coronavirus and preparing for anticipated future waves of infection. Aging services providers need priority access to PPE and testing, without which our residents, clients, and staff continue to be at significant and avoidable risk.

We urge you to include the following Provider Relief Funding provisions from the Health and Economic Recovery Omnibus Emergency Solutions (Heroes) Act (H.R. 6800) in the next COVID-19 relief package:

- Create more structure and oversight for the Provider Relief Fund and related funding distribution to ensure that appropriate amounts of money are sent to the right providers with clear directions as to what the money can and cannot be used for;
- Allocate funding for states to establish strike teams to help with clinical care, infection control or staffing;
- Create a skilled nursing facility (SNF) payment incentive program for COVID-19--only facilities.

\$1.2 billion for affordable senior housing. COVID-19-related issues have significantly impacted the 1.1 million older adults who live in HUD-assisted apartment communities. Residents in HUD-assisted senior housing properties are facing triple jeopardy during this public health crisis. They are older, have lower incomes, and face significant health challenges, compared to other seniors in the community.

LeadingAge supports The Emergency Housing Assistance for Older Adults Act of 2020 (H.R. 6873), legislation that provides \$1.2 billion in COVID-19 relief for HUD-assisted multifamily housing. The bill would provide:

- \$845 million to cover the cleaning, disinfecting, PPE, meals, services, and staff costs incurred by affordable senior housing providers;
- \$300 million for Service Coordinators to ensure that more HUD-assisted senior communities have a Service Coordinator and to cover COVID-19 related costs of existing Service Coordinators;
- \$50 million for the installation and fees for wireless internet in HUD-assisted senior housing common areas and apartments to provide connection to telehealth, services that combat social isolation, and community programs; and,
- \$7 million for a one-year extension of HUD’s Integrated Wellness in Supportive Housing demonstration, which is set to sunset September 30, 2020.

We urge you to support the above \$1.2 billion for HUD-assisted housing residents in the next COVID-19 relief package, including these HEROES Act provisions:

- \$200 million for COVID-19 related expenses for HUD Section 202 Housing for the Elderly;
- \$750 million for Section-8 Project-Based Rental Assistance (45% of units are 62+); and
- \$300 million for Service Coordinators in senior housing.

\$10 billion to cover testing aging services employees. Testing is a critical component to ensuring identification and treatment of aging services clients, residents, and staff with COVID-19 and protection of others near them. We strongly urge Congress to establish a federally administered and financed aging services testing program for staff, and to ensure that older adults are in fact covered by their public or private insurance for all tests they need.

To be effective, employee testing must include reimbursement for providers to cover the ancillary costs of acquiring and administering tests and, as needed, repeated testing. Additional PPE must be procured to support increased testing. To be useful and effective testing in aging services organizations must be fast and accurate so providers can move quickly to stop widespread infection.

In addition, providers will need support to hire additional “surge staffing” to compensate for vacancies when COVID-19-positive staff must self-quarantine. Nonprofit aging services providers simply do not have the funds or budgeted resources to cover these unplanned and ongoing expenses. As a result, additional federal funding to ensure adequate staff coverage is critical for all aging services providers.

The national program must include quick access to testing for staff of affordable senior housing as well. While affordable senior housing providers are not health care providers and won’t administer tests, staff must have access to the free testing authorized by the CARES Act, and as noted above, insurance must cover all tests for residents.

We support the specific allocation of money for testing as proposed in Heroes; however, we strongly voice the need for aging services providers to be allocated their own testing fund of \$10 billion dollars.

At a minimum, the Heroes provision that allocates \$75 billion to the Public Health Fund for testing should be amended to include a specific allocation for aging services providers.

We urge you to include these provisions from the Heroes Act in the next COVID-19 relief package:

- Require the Secretary of HHS to quickly update the COVID-19 strategic testing plan from the Paycheck Protection and Health Care Enhancement Act.
- Require the Centers for Disease Control and Prevention to coordinate with all levels of government to establish and implement a national evidence-based system for testing, contact tracing, surveillance, containment, and mitigation of COVID-19.
- Require the President to appoint a Medical Response Coordinator to coordinate federal supply and distribution of medical supplies and equipment.

Additional LeadingAge Act for Older Adults Requests

Create a bipartisan Congressional Commission on the Future of Aging Services. The COVID-19 crisis has cast a spotlight on the longstanding gaps in aging and long-term care services in the United States. This Commission would identify these gaps and develop immediate actionable steps to better serve older Americans and prevent the kind of loss we have experienced in the pandemic.

Support aging services frontline workers with hazard pay and benefits and support aggressive recruitment of workers. Aging services frontline workers have kept America safe and running just as surely as have America's hospital workers. These heroic frontline workers in publicly and privately financed: housing, long-term care settings (like nursing homes, assisted living, memory care), retirement communities, adult day, home and community-based services (HCBS), hospice, and home health settings must be fairly compensated for their sacrifice. Doing so will enable providers to address long standing staffing shortages exacerbated by the pandemic.

We strongly support opportunities to ensure federally funded pandemic hazard pay, paid sick leave and health care coverage for frontline aging services workers. We also strongly support increased pay for health care workers, including recruitment efforts. Finally, recognizing that educational institutions that currently train students to be certified nursing assistants may not be available after the pandemic is deemed over, we urge you to include the Ensuring Seniors' Access to Quality Care Act (S. 2993) that addresses the ability of good performing nursing homes to train staff on-site.

We urge you to include these provisions from the Heroes Act in the next COVID-19 relief package:

- Implement a Heroes Fund that provides pandemic hazard pay for aging services workers in the form of additional pay for frontline workers.
- Temporarily ease certain immigration-related restrictions to allow immigrant physicians, nurses, and critical health care workers to better assist in the fight against COVID-19.
- Add 'caring for adult family members' to 'caring for children' as grounds for leave.
- Make all employers eligible for payroll tax relief for paid leave.
- Allocate \$850 million in funding for childcare and adult day health care through the social services block grant.

Provide Medicare reimbursement for home health visits conducted via telehealth. One of the positive lessons of the COVID-19 crisis to date has been the resounding success of telehealth. The massive gains for consumers, who are able to visit providers across the care system (physicians, advance practice nurses, physician assistants, therapists, etc.) are health delivery game changers, long overdue. Yet home health services alone must be conducted in person to receive equivalent Medicare reimbursement. We

ask that Congress amend the law to allow telehealth visits count equivalent to in-person visits for the purposes of payment during this and any future emergencies.

Provide for broadband services to enable health care delivery to everyone. Amend the Federal Communications Commission’s Rural Healthcare Program to allow home health agencies and HUD Section 202 Housing providers eligible for funding for telecommunications and broadband services necessary for the provision of health care. This is key to ensuring access to telehealth in rural and frontier areas, both during and after this public health emergency.

Support “tele-visiting” for isolated nursing home and other residents. Isolation among older individuals, especially nursing home residents during the pandemic, has reached its own pandemic proportions. We urge you to support the telehealth provisions included in the Heroes Act that designate funding for telehealth equipment to assist nursing homes with “tele-visitation” for families of residents. We urge Congress to allow this funding to be utilized for equipment that can be used both for “tele-visitation” and for care provision. We recommend that Congress incorporate the entire ACCESS Act (S. 3517/H.R. 6487) in the next package to address these additional issues but also expand it to include other settings like assisted living, memory care, home-based care, and HUD Section 202 Housing.

Make additional changes to the Paycheck Protection Program and the Main Street Lending Program to support aging services providers. The Paycheck Protection Program (PPP) and updates included in the PPP Flexibility Act have provided a lifeline to small business and not-for-profit organizations across the country that otherwise may have collapsed as a result of the COVID-19 pandemic. We appreciate this commitment to small entities, which includes thousands of not-for-profit aging services providers.

Additionally, we ask Congress to make the following revisions to the Paycheck Protection Program:

- Eliminate the 60/40 rule on use of loan proceeds and/or allow borrowers greater flexibility on non-payroll costs, including purchasing personal protective equipment (PPE), as outlined in the May 21 announcement from Senator Collins’s office.
- Allow prospective borrowers to apply for PPP loans beyond the June 30 deadline.
- Expand eligibility for PPP loans to municipally owned nursing homes and aging services providers.
- Include language affirming that not-for-profit organizations that provide HUD-supported affordable housing and services are and have been eligible for PPP loans.

We urge further action in future COVID-19 legislation including provisions from the HEROES Act that:

- Extend eligibility for the Paycheck Protection Program to nonprofits of **all sizes**. Many aging services providers operate multiple sites and have more than 500 employees.
- Carve out 25% of remaining PPP dollars (more than \$100 billion as of June 4) for not-for-profit organizations and set aside half for not-for-profit organizations with 500 employees or fewer.
- Ensure that any interest accrued from PPP loan principal is not calculated on a compound basis. This will help ensure borrowers do not incur high long-term costs as a result of their PPP loan.

In addition to these provisions specific to PPP, we urge Congress to adopt Section 110604 of the Heroes Act, which expands the Main Street Lending Program to not-for-profit organizations and includes specialized, low-cost loans to these entities.

Medicare Accelerated Payments. We support the H.R. 6837 that would allow the Secretary to waive repayment of accelerated/advance payments in cases of demonstrated hardship and at a minimum encourage that the next package contain the Heroes provision that lowers the interest rate and extends the repayment timeline for these payments.

Strengthen the Medicaid program's role as a lifeline for older people. While Congress has made significant progress in supporting Medicaid beneficiaries throughout the pandemic (e.g., the Families First federal funding increase), there is much work to be done to ensure that older Medicaid beneficiaries will continue to access the care they need, and that states have the resources necessary to reimburse providers for these services.

To that end, we encourage Congress to include the following provisions from the Heroes Act in the next COVID-19 legislative package:

- Increase the Federal Medical Assistance Percentage (FMAP) from 6.2 percentage points as enacted under Families First to 14 percentage points, from July 1, 2020 through June 30, 2021.
- Increase the FMAP specifically for home and community-based services by an additional 10 percentage points.
- Prevent the Secretary of Health and Human Services from finalizing the Medicaid Fiscal Accountability Regulation (MFAR) until the end of the COVID-19 public health emergency. The proposed MFAR if finalized would cut federal Medicaid funds when they are most needed.
- Maintain eligibility maintenance of effort provisions included in Families First to prevent states from restricting eligibility for Medicaid HCBS.
- Eliminate cost-sharing for Medicaid beneficiaries for COVID-19 treatment and vaccines.

We also ask Congress to include the following additional provisions in future COVID-19 legislation:

- A maintenance of effort requirement for provider rates to protect access to Medicaid.
- Direct federal funds to Medicaid adult day services providers to keep them operational.
- Permanently extend the Money Follows the Person program and HCBS spousal impoverishment protections.
- Suspend FMAP reductions for Medicaid home health/personal care electronic visit verifications.
- Further prevent the issuance of a final MFAR for at least two years following the end of the COVID-19 public health emergency.

Provide administrative relief to efficiently meet COVID-19 emergency demands. Congress must focus on policies that enhance our members' ability to continue to provide high-quality care amid the all-hands on deck COVID-19 crisis.

- **Nursing homes.** Transparency is essential. Nursing homes should report diagnoses, deaths, PPE supply, etc. But we implore Congress to mandate a **singular reporting mechanism with uniform measures**. Having to report to CDC as well as multiple state and local agencies is a huge administrative burden that takes away from resident care and leads to confusing, contradictory data that will not be useful for future preparedness planning.

Further, we urge you to include the requirement that CMS report demographics of COVID-19 cases by nursing homes in Nursing Home Compare, as called for in the Heroes Act.

The Administration has eliminated the 3-day in-hospital requirement for Medicare coverage of skilled nursing home care; we urge that Congress make this permanent or at a minimum eliminate the use of observation days to prevent otherwise eligible beneficiaries access to skilled care once the pandemic is deemed over, by incorporating the Improving Access to Medicare Coverage Act of 2019 (S. 753/H.R. 1682) in the next bill.

- **Hospice services.** Hospice providers are working to adapt their care to the conditions of the crisis. One phenomenon is that patients are being kept in inpatient beds longer due to an inability to safely discharge or transfer patients. The same challenges occur when a caregiver in the home needs respite but is fearful of sending their loved one to an inpatient setting. We ask that the hospice respite benefit be expanded to include home respite care paid at the same rate as inpatient respite and that the inpatient respite benefit along with this new home respite benefit be able to be offered by a hospice for more than 5 consecutive days during the public health emergency.

We also urge the inclusion of a funding stream or authority to use relief funds for community support to provide bereavement and delayed grief reaction services for both individuals and in group settings. We would recommend that the parameters for participation be limited to programs, including hospice providers, with a history of providing grief counseling and/or trauma informed care to their communities as well as requiring that programs have licensed staff delivering the services.

- **Home health care.** In the current environment, physicians, advanced nurse practitioners, and physician assistants are increasingly unavailable to sign home care documents, making even electronic signatures extremely difficult to obtain. Having the flexibility to rely on documented verbal orders and eligibility certifications would expedite safe discharges and referrals to home care – and enable services to be billable. We ask that Congress include H.R. 7006 to allow verbal orders for home health eligibility and billing for the duration of the Public Health Emergency.

In conclusion, we cannot allow our older adults and the people who serve them to be treated with lack of dignity and respect, or to be demonized because of their age or frailty or race or nationality. We appreciate Congress’s strong commitment to working on behalf of older Americans amid the COVID-19 crisis and we stand with you to act urgently to provide the support older adults and aging services providers so desperately need and deserve.

For further information, please contact Ruth Katz, Senior Vice President, Policy, rkatz@leadingage.org.

Sincerely,



Katie Smith Sloan
President and CEO LeadingAge
Acting President and CEO, VNAA/Elevating Home