



Leaders in Aging Well at Home

July 3, 2023

Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave. SW
Washington, DC 20201
<https://www.regulations.gov>

RE: Response to CMS Medicaid Access Rule (Docket No. CMS-2442-P)

Dear Administrator Brooks-LaSure:

USAgings appreciates the opportunity to provide feedback on the Ensuring Access to Medicaid Services proposed rule.

USAgings is the national association representing and supporting the network of Area Agencies on Aging (AAAs) and advocating for Title VI Native American Aging Programs that help older adults and people with disabilities live with optimal health, well-being, independence and dignity in their homes and communities. Our members are the local leaders that develop, coordinate and deliver a wide range of home and community-based services, including information and referral/assistance, case management, home-delivered and congregate meals, in-home services, caregiver supports, case management, long-term care ombudsman programs and more to millions of Americans each year. These services are funded primarily by Older Americans Act, although AAAs leverage a range of federal, state and local funding to implement cohesive systems of care in their communities, including Medicaid home and community-based services (HCBS) in which many AAAs play a critical role. To achieve their missions, AAAs hire direct care workers—either directly or via contracts with workers themselves or home care agencies—to provide the in-home supportive services millions of older adults rely upon to remain aging well at home.

We are pleased to provide feedback on the components of the proposed rule that address improving access to HCBS and increasing compensation for the direct care workforce.

Improving Access to Home and Community-Based Services

USAgings applauds CMS for working to improve access to Medicaid HCBS for the older adults and people with disabilities who rely upon it to live and age well at home and in the community. Medicaid HCBS reduces unnecessary

institutionalization for older adults and historically, a majority of AAAs have played a key role in their state's Medicaid HCBS programs. They have done this by performing assessments, leading case management activities and coordinating services. And it should be noted that all AAAs offer similar HCBS through the Older Americans Act, often preventing or delaying older adults from spending down to Medicaid.

Due to inadequate re-balancing by many states, which favors the less desired and more costly institutional care, as well as inadequate federal Medicaid funding, there are too many waitlists for HCBS, leaving older adults and people with disabilities struggling to live and age well at home and in the community. This also places an undue burden on any family caregivers of beneficiaries which may result in older adults being forced to enter institutional care unnecessarily to receive the support they require.

While it does not directly address this lack of federal and state resources for HCBS, having more robust data on waitlists and other unmet needs would be helpful in ongoing rebalancing efforts and ensuring that policymakers at all levels have accurate information on the populations not being appropriately served by this critical health and long-term care program.

Recommendation: We agree with the CMS proposal for states to annually describe how they maintain waitlists, report if people are periodically rescreened for eligibility, and report how many people are on the waitlist, how long they stay on it and for what services. This may help to fill the current gaps in measuring unmet needs nationally and by state.

Workforce Compensation: Payment Adequacy and Transparency

Another factor driving waiting lists, and a troubling force that is exacerbating Medicaid HCBS beneficiaries' access to quality care, is the current workforce crisis. Our 2022 report, [How the Nation's Workforce Shortages Make it Harder to Age Well at Home](#), revealed that scores of older adults across the country are at risk of being placed on Medicaid and non-Medicaid waiting lists for many critical and much-needed services such as in-home assistance with bathing and dressing; meal delivery and preparation; grocery shopping; and transportation to medical appointments.

USAgings agrees with CMS that low wages for the direct care workforce contribute to a shortage of workers and high turnover rates, and that we do not have the long-term services and supports workforce that our nation needs right now. As the older adult population continues its historic rise due to the aging of baby boomers and increased life expectancy, these services and supports will be required to an even larger degree in the near future.

Regardless of the size of the communities they serve, USAging members report the same problems: not enough direct care workers (DCWs) to provide the care their clients currently require; tremendous turnover among the existing labor force; and

rising wages in other industries that make it difficult to compete for workers. In addition to direct care workers, many AAAs and their community partners face difficulties recruiting and retaining other aging professionals such as social workers, case managers and program specialists, further straining the aging and disability networks' human capital infrastructure that supports the local provision of HCBS.

Despite these challenges, AAAs are diligently working to fill the gaps created by this workforce crisis, prevent service gaps for older adults and innovate programs and policies in order to boost workforce participation. AAAs have shared they are utilizing a wide range of strategies including but not limited to increasing DCW compensation, changing benefits where possible, adding non-traditional support for workers such as access to transportation or emergency funds, adding flexibility to schedules to respond to worker needs and more. Many of our members, including AAAs in Michigan, Ohio and Arizona, are heavily involved in statewide advocacy or marketing efforts to address direct care workforce shortages and compensation rates. While they do not have the power that states do to adjust wages to attract more talent, AAAs are doing all they can to improve the workforce shortages in every community in the country.

For this reason, USAging deeply appreciates CMS' interest in elevating, supporting and expanding our nation's caregiving workforce, including through increasing wages. We support expanding training programs to encourage more workers to go into aging services and direct care work, as well as increasing the appeal of the direct care career path via expansion of other benefits like retirement and health care, and other innovative approaches.

However, USAging is concerned about CMS's proposal to consider instituting a rule whereby a set percentage of each provider payment would be allocated for DCW wages. Specifically suggested is an 80 percent minimum, which, while a well-intentioned remedy for this difficult workforce issue, could create many unintended consequences that strain the Medicaid HCBS system and ultimately lead to reduced access to HCBS for older adults and people with disabilities. Negative consequences of too-rigid or unrealistic minimums could include undue burden administrative and financial burden on AAAs, provider organizations and state Medicaid programs. For instance, would there be sufficient funding remaining for oversight, supervision of DCWs, training and other administrative efforts that drive the delivery of quality services and support the DCWs' role? Furthermore, we are concerned that the resulting financial and administrative impact on providers, especially smaller or rural providers, may reduce the number of available providers, further exacerbating the workforce issue and reducing HCBS access for older adults and people with disabilities.

Recommendation: USAging encourages continued public discussion on whether a minimum percentage of provider rates should be dedicated to workers' compensation. Unfortunately, at this time, we do not believe there is enough data to know if 80 percent is the correct figure—in general or for all states. USAging recommends CMS study the potential

effectiveness and impact of a minimum-percentage provision before taking action.

However, if any minimum-percentage provision is included in the final rule, we strongly encourage CMS to start small (in the percentage) and test this approach carefully, gathering additional data about unintentional harms as well as successes. USAging also recommends that CMS clarify what is included in direct care worker compensation, which we believe should be as expansive as possible to capture the true benefit to the employee. For instance, are all benefits, cash and non-cash, included? Could the value of training programs leading to some sort of certification or designation be captured in the overall compensation package? USAging is also curious as to why nurses were included in CMS's categorization of DCWs for the purposes of this proposed rule. To ensure all Americans can age well, we need all hands on deck, from aging services professionals to DCWs to acute health care workers. But to expand access to HCBS, it's important to focus on the low-wage, hands-on workers who provide the daily care millions of us require to remain at home.

Thank you for this opportunity to comment. We welcome a discussion on the experiences of our members in improving the aging services and direct care workforces and we thank you for your leadership on behalf of the older adults and people with disabilities who are served by Medicaid HCBS waivers. If you have any questions, please contact Amy Gotwals, Chief, Public Policy and External Affairs, at agotwals@usaging.org or Olivia Umoren, Director, Public Policy and Advocacy, at oumoren@usaging.org.

Sincerely,

A handwritten signature in cursive script that reads "Sandy Markwood".

Sandy Markwood
Chief Executive Officer