



# Leadership Council of Aging Organizations

December 10, 2008

Re. LCAO Aging Policy Recommendations to the Transition Teams

Dear President-elect Obama:

The Leadership Council of Aging Organizations (LCAO) writes today to offer our recommendations to the Obama Administration regarding federal administrative and legislative policies that will improve the lives of America's seniors and demonstrate a commitment to valuing how we grow old in America. The LCAO is a consortium of prominent national aging advocacy organizations that represents millions of older Americans. Together, we work to preserve and strengthen the well-being of America's older population. It is with this collective mission that we write to you today to call your attention to the needs of America's seniors.

As the first wave of 79 million baby boomers heads to retirement with less economic security than previous generations, we face the alarming prospect that many of our seniors will not have enough income to retire securely – if they can even retire at all. In the attached document, we outline these and more of the top issues facing America's seniors and provide specific recommendations on how to best tackle these tough challenges. When you consider initial ways for your Administration to demonstrate its commitment to improving the lives of America's seniors, please take these issues and recommended solutions into account. If you would like to discuss any of this material further, we encourage you to contact Sarah Byrne or Kaja Snell at 202-637-5399; they will guide you to the appropriate LCAO expert(s) in your area of interest.

We look forward to working with you to improve the lives of America's seniors.

Sincerely,

Edward F. Coyle  
Chair of LCAO

**Leadership Council of Aging Organizations**

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**LCAO Aging Policy Recommendations to the Transition Teams**  
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## *LCAO Aging Policy Recommendations to the New Administration*

### **I. Recommendations for Early Action**

This initial list recommends relatively straightforward, early “wins” that offer a strong political symbol of the Obama Administration’s support for America’s seniors.

#### **A. Office at the White House**

Create a White House Office on Older Adults (or the position of Domestic Policy Council Advisor on Older Adults) to develop, lead and coordinate the Administration’s policy agenda on crosscutting issues that assist and empower older Americans.

#### **B. Stimulus**

Include direct benefits to seniors in any economic stimulus package, including an increase in the Federal Medical Assistance Percentage (FMAP) and emergency funding for Older Americans Act senior nutrition and other programs that are struggling with rising food and fuel costs.

#### **C. Civic Engagement**

Formally support comprehensive volunteer service legislation that includes the expansion of and creation of service opportunities for older adults and boomers - a service-ready population that can offer immeasurable and meaningful resources to address our nation’s challenges.

#### **D. Medicaid**

Through regulation and legislative action reverse punitive Deficit Reduction Act long-term care eligibility rules such as allowing for the returning of gifts to reduce penalty periods (scored as zero by the Congressional Budget Office).

#### **E. Research**

Immediately increase appropriations for the National Institute on Aging at the National Institutes of Health to encourage research breakthroughs in age-related diseases.

### **II. Areas in Need of Critical Attention**

This list reflects precise issues that require the immediate attention and support of the Obama Administration.

#### **A. Digital Television Transition**

Millions of America’s seniors depend on the television for news, information and companionship but are unprepared for the impending transition from analog to digital broadcasts. The LCAO recommends providing additional funds for one-on-one direct assistance to ensure that vulnerable older adults are not left behind during the DTV (February 17, 2009).

#### **B. Reduce Prescription Drug Costs**

The cost of prescription drugs is soaring, forcing many seniors to choose between buying their medications and putting food on their table. The LCAO supports measures that give the Secretary of Health and Human Services the authority to use its bulk purchasing power to negotiate prescription drug prices.

#### **C. Halt the Demonstration Project**

The so-called “premium support” demonstration project would require traditional fee-for-service Medicare to compete, based on cost, with heavily subsidized private plans in certain areas thus severely undermining traditional Medicare by leading to dramatically varying Part B premium

amounts based on where a senior happens to reside. The LCAO supports efforts to stop the “premium support” demonstration, which is slated to begin in 2010.

#### **D. Consumer Protections**

The LCAO seeks clarification on the rules and consumer protections (e.g., hardship waiver protections) in the Deficit Reduction Act (DRA) eligibility changes. This clarification would allow states to implement the DRA in a manner that encourages the use of personal assets to pay long-term care costs and avoids unfairly punishing individuals who are innocent of wrongdoing.

#### **E. Medicaid Regulations**

The LCAO asks for a reversal of the proposed and final CMS Medicaid regulations currently subject to moratoria established in Public Law No: 110-252 through April 1, 2009.

### **III. Further Recommendations**

The following recommendations reflect additional, long-term priorities of LCAO.

#### **A. Appropriations**

1. Older Americans Act appropriations must be significantly increased in FY 2010. The Older Americans Act (OAA) provides critical community-based services, prevents unnecessary institutionalization, protects vulnerable nursing home residents, saves money and improves the quality of life for millions of older adults. Over more than the past decade, budget freezes and cuts have eroded the purchasing power of OAA funds at a time when the senior population and need is exploding.

2. Other federal programs that support seniors and caregivers should be adequately funded in FY 2010 as they play key roles in helping older adults stay healthy and living as independently as possible in their homes and communities, including:

- a) Social Services Block Grant;
- b) Community Services Block Grant;
- c) Low Income Home Energy Assistance Program;
- d) Senior Housing / Section 202;
- e) National Family Caregiver Support Program;
- f) Senior Transportation Programs; and
- g) Senior Corps, Community Service Employment for Older Americans, and other Senior Volunteer Programs.

#### **B. Medicare**

This section shares LCAO’s recommendations, based on the expertise of our members, for preserving and improving this successful, vital program which has made health care affordable for millions of older Americans who would otherwise be forced to go without.

1. Fiscal challenges should be addressed as part of cost containment efforts throughout the health care system. Recommended improvements include: (a) allowing early retirees to buy in to Medicare; (b) authorization of a care coordination component in Medicare; (c) coverage of dental and hearing services; (d) addition of a catastrophic stop-loss for cost-sharing; (e) increasing fraud enforcement activities; and (f) eliminating the 2-year wait for coverage for Social Security Disability Insurance (SSDI) recipients.

2. Medicare should not reduce access by raising the eligibility age or means-testing eligibility.
3. Overpayments to Medicare Advantage plans should be eliminated, as recommended by the non-partisan expert Medicare Payment Advisory Commission (MedPAC).
4. The budget should eliminate the asset limits for the Medicare Savings Program (MSP) and Part D Low-Income Subsidy (LIS) programs and allow “cross-deeming” for the MSP and LIS.
5. The Qualified Individual (QI) program should be made permanent and income eligibility should be aligned with the Part D LIS program at 150 percent of poverty.
6. Require system-wide use of health care IT and fund comparative effectiveness research.

### **C. Medicare Part D**

The Medicare drug benefit should be improved by:

1. Adding a uniform, nationally available drug benefit to traditional Medicare;
2. Reducing the number of plans;
3. Reducing reassignments by changing the way the benchmark premium is calculated;
4. Stopping random assignment for individuals who are dually eligible by implementing a system that ensures they are enrolled in plans that cover their medications;
5. Simplifying the appeals and coverage determination process to require plans to cover medications unless it is shown they are not medically necessary;
6. Extending CMS contracting authority so that Medicare Part D contracts automatically renew unless discontinued every year for 3 years. The annual rebidding creates instability and places seniors at risk because they either have to change plans every year or pay higher premiums; and
7. Authorizing standard benefit design packages for Part D and Part C to minimize confusion and make comparisons easier.

### **D. Medicaid**

1. FMAP - The budget should provide state fiscal relief to states considering drastic cuts to Medicaid, due to state budget shortfalls, by temporarily augmenting the current level of federal support for state Medicaid programs (FMAP) in order to stave off the counter-cyclical cuts to this safety net program when people affected by an economic downturn are seeking help.
2. Use administrative mechanisms within your authority to:
  - a) Clarify that the penalty period specified under the DRA for Medicaid eligibility for long-term care should start regardless of care setting and should keep running if there is a break in use of Medicaid by the beneficiary; and
  - b) Exempt “innocent transfers” – gifts made by people who didn’t anticipate they would need nursing home care – from DRA’s transfer penalty provisions.

## **E. Retirement Security**

Previously, many of America's seniors counted upon Social Security, pensions and savings to get them through their retirement years. Today, barely 15 percent of workers in the private sector are covered by a pension and almost 30 percent of retirees have no retirement savings of any kind. Moreover, in every aspect of income security, women are disproportionately affected and thus more likely to live in poverty in old age. Without further action, meaningful retirement security will be out of reach for most of America's seniors. With this in mind, the LCAO recommends the following actions in the defined areas:

**1. Social Security** - The LCAO strongly opposes any effort to replace all or part of Social Security's guaranteed benefit with the unreliable returns of private investment accounts. Incorporating private investment accounts into the Social Security system cannot be done without undermining the basic income security of current and future retirees, survivors and the disabled. We recommend that the administration commission a study to examine the racial and gender disparities in the program, and enact solutions that help, not hinder, this successful social insurance program.

**2. Pensions** – The LCAO supports efforts to extend pension coverage and workplace retirement savings opportunities to the millions of Americans currently without them, most notably lower-paid and part time workers. Additionally, we recommend the following measures:

- a) Support legislation that stops companies from abusing bankruptcy laws to escape their pension obligations;
- b) Discourage employers from using the current financial crisis as a pretext for freezing or terminating their defined benefit plans by supporting amendments to the Pension Protection Act of 2006 that require employers who freeze their defined benefit plans to also freeze all non-qualified deferred compensation arrangements for their management and other highly-paid employees;
- c) Support legislation that requires giant mutual-fund companies and other 401(k) providers to more clearly disclose the fees shareholders are paying each year; and
- d) Support legislation that ends the unfair tax penalty for seniors who do not take a minimum withdrawal from their depleted retirement accounts.

**3. SSI** - The Supplemental Security Income (SSI) program provides a basic safety net for millions of low- income elderly, blind and disabled individuals. Under SSI, enrollees who demonstrate severe economic need are eligible for financial assistance to help meet the basic cost of food and shelter. The LCAO recommends the following with the caveat that any consideration of changes to the program should not adversely affect low-income priorities:

- a) The general and earned income exclusion in the SSI program should be increased as well as the asset/resources limits.
- b) An effective outreach program must be developed and funded.
- c) The application and appeals process for SSI should be simplified to be more appropriate for the population SSI serves.

**4. Women** - Women still earn only \$0.77 compared to every dollar earned by men. Women represent 58 percent of all Social Security recipients at age 65, and by age 85 comprise 71 percent. In 2005, only 28.5 percent of all women aged 65 and older received a pension.

Sixty-one percent of working women today do not have pension plans, while seventy-six percent of women who are now retired receive no pension benefits. With this in mind, the LCAO recommends the following actions:

- a) Support improvements to programs that help women achieve economic security in old age;
- b) Support improvements to Social Security that take into consideration the time women spend out of the workforce or in lower paid or part-time jobs caregiving while caring for children and older family members;
- c) Support expansion of programs that help low-income boomer and older women plan for retirement and protect their limited resources, such as the AoA-funded National Resource Center for Women and Retirement;
- d) Support pay equity; and
- e) Host a briefing or write a Grey Paper to highlight the issues affecting women in retirement.

#### **F. Financing & Quality of Long-Term Services & Supports**

Our current system forces people into institutions inappropriately and requires many to spend-down into poverty before receiving needed help. The LCAO recommends that the new Administration should:

1. Creates a Long-Term Services & Supports (LTSS) public program that allows all people the opportunity to contribute to and prepare for the costs of LTSS. LCAO has jointly crafted LTSS financing principles with the Consortium of Citizens with Disabilities (CCD) [<http://www.lcao.org/docs/ltc/112008pr.pdf>];
2. Support improvements in nursing home quality standards by: (1) establishing federal minimum nurse staffing standards; (2) providing adequate funding to meet these levels; and (3) collecting and report nurse staffing levels and turnover and retention rates; and
3. Medicaid recipients in assisted living facilities should have the same rights and protections as nursing home residents. The new Administration should direct federal agencies to implement changes to the enforcement process recommended by the GAO to strengthen oversight of quality standards, and should support legislation to improve fairness in arbitration, transparent business practices, and accountability for use of public funds.

#### **G. Strengthen the Geriatric Health and Long-Term Services and Supports Workforce**

The Institute of Medicine of the National Academies reported in April 2008 that the nation faces an impending health care crisis as the number of older patients with more complex needs outpaces the number of geriatric specialists. Additionally, a quality LTSS system requires a well-trained, respected, and adequately compensated direct care workforce. Quality care is threatened by the current high turnover and vacancy rates, resulting in a chronic shortage of qualified LTSS direct care workers. The LCAO recommends:

1. Health care reform should promote policies designed to provide affordable coverage for LTSS workers;
2. Federal payment systems for LTSS should include incentives for providers to increase wages, improve benefits, promote consistent assignment, and employ staff at appropriate levels;

3. Initial training standards for direct care workers need to be strengthened to include caring for residents and clients with special needs; and
4. Fully fund geriatric health professions programs.

## **H. Family Caregivers**

The lack of support for family caregivers often causes premature institutionalization, while reducing wages and business productivity by increasing worker absenteeism, promotion refusals and movement from full-time to part-time work. The cost of uncompensated family care is estimated to be \$375 billion annually. The LCAO recommends: (a) providing funding for Lifespan Respite Care programs; (b) increasing funding for the National Family Caregiver Support Program; (c) providing funding for caregiver assessments; and (d) offering tax credits for family caregivers.

## **I. Improving Access to Medicaid Home & Community Services**

The Medicaid program is our nation's largest payer for LTSS, and costs are growing rapidly. An estimated 75 percent of this amount is spent on institutional care for older adults and adults with physical disabilities. Home and community-based services (HCBS) are often in short supply, with significant waiting lists and unmet needs. These services are often less expensive per person than institutional care. The LCAO recommends that the new Administration should take steps to improve access to Medicaid HCBS, particularly those that maximize consumer direction, by:

1. Strengthening the HCBS State Plan Amendment Option included under the Deficit Reduction Act;
2. Mandating protections for spouses of Medicaid HCBS recipients from impoverishment; and
3. Allowing those in need to retain more of their assets and still be eligible for Medicaid HCBS.

## **J. Elder Justice**

The tragedy of elder abuse, neglect, and exploitation within institutions and in the community is an ongoing national disgrace. The LCAO recommends that the new Administration act quickly to end elder abuse by:

1. Supporting the Elder Justice Act, a bi-partisan proposal that would: provide first time dedicated funding for adult protective services; require immediate reporting of elder abuse in nursing homes; provide important training to help in the reporting of elder abuse at the community level; and ensures the coordination of programs at all levels of government.
2. Ensuring the adequate funding and training of state-based ombudsman programs, Adult Protective Services infrastructures and other programs that detect and investigate cases of elder abuse, and provide assistance to elder abuse victims and older persons at risk for victimization.

## **K. Care Coordination and Other Health Programs for Older Americans**

To maximize the return on investment in health care services for older Americans, care should be coordinated across settings and services. LCAO recommends the following to achieve improved quality of care and cost savings:

- 1.** Include care coordination in services to the 75 percent of Medicare beneficiaries with chronic conditions and Medicaid recipients with such conditions;
- 2.** Improve access to proven health-promotion and disease-prevention services for seniors;
- 3.** Expand the availability of geriatric-specific medication therapy management services for high-risk participants in these programs; and
- 4.** Increase funding for State Health Insurance and Assistance Programs, Area Agencies on Aging, State Long-Term Care Ombudsman Programs and Title VI Native American aging programs to help Medicare and Medicaid beneficiaries make informed choices among Medicare and long-term care options and improve their access to reliable health information and advocacy.