



Deb Whitman, Chair

March 17, 2020

The Honorable Mitch McConnell, Majority Leader
The Honorable Chuck Schumer, Minority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi, Speaker
The Honorable Kevin McCarthy, Minority Leader
United States House of Representatives
Washington, DC 20515

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

The Leadership Council of Aging Organizations (LCAO) is a coalition of national nonprofit organizations working for the well-being of America's older population and committed to representing their interests through public policy.

As these last few weeks have shown us, the public health crisis of the coronavirus is both a health and an economic threat to the people we represent and serve. It is heartening to see our country's awareness of the particular peril faced by older people and those with serious health conditions as well as for the people who live and care for them.

I. Support the Families First Coronavirus Response Act, H.R. 6201.

In the midst of this crisis, we are greatly encouraged by the bipartisan agreement passed in the House, the Families First Coronavirus Response Act, H.R. 6201. We urge its quick passage in the Senate. As a first step to address these health and economic threats, paid sick and family leave, extensions of unemployment insurance, food assistance for those most in need, more cost-free testing, and additional funds for health services for families and communities are essential. These reforms must be instituted quickly and continue through the duration of the pandemic.

Expanding our system of safety nets will provide families the ability to withstand the realities of sickness, job loss, increased health care costs, and caregiving needs caused by the pandemic. Reducing or eliminating payroll contributions to Social Security and Medicare will not serve any of these purposes and does not aid the unemployed. Reducing the payroll tax would only serve to harm the long-term financial



solvency of the nation's disability and retirement system at a time when it is needed the most. Social Security has effectively provided disability and retirement benefits to workers and their families, both in good times and in bad. Medicare is our leading health care insurance program for millions of people 65+ and those with disabilities, providing critical health care services to our most vulnerable people. When considering legislation to address the impact on workers and their families during the pandemic, please keep the focus on the policies that will directly help families deal with the coronavirus emergency now.

After passage of the Families First legislation, the next policy steps Congress must take is to immediately strengthen access to and the services of our existing health and long-term services and supports networks.

II. Support the Aging Network's Critical Role in the Fight Against the Virus and Its Impacts.

One of the most important steps that Congress can immediately take to ensure that older adults—in particular those who are facing isolation and are sequestering—receive the home and community-based services and supports they need to stay healthy is to invest in Administration for Community Living programs, such as the Older Americans Act (OAA). Congress must ensure that during this crisis states and local Aging Network services providers have the discretionary funding needed to maintain and expand service capacity to older adults nationwide. The OAA is the backbone of our nation's home and community based supports system, providing older adults with much-needed services, such as ombudsman programs (which promote the rights of residents in nursing homes and assisted living facilities), home care, nutrition supports, case management, caregiver support, transportation, health promotion and disease prevention, legal services, and elder abuse prevention. Aging Network staff and volunteers across the nation are serving and will continue to serve older adults during this crisis, but they need additional resources to do so.

1. Older Adult Service Providers Must be Provided Health and Safety Equipment.

While many states recognize that local Aging Network providers are part of the critical health care workforce and therefore public health agencies must plan to distribute safety and infection control equipment to this workforce, some states do not. We need to assure that federal emergency supplies and direction are provided to the Aging Network. They must be given the protective equipment they need in order to safely serve vital functions such as home-delivery of meals, in-home personal care or protecting the rights of nursing home residents while protecting themselves and others in their communities. Equipment must go to all long-term services and supports providers, whether home care workers, senior center or residential providers. A recent survey by the Premier Alliance has identified that one-third of senior living facilities don't have a supply of specialized face masks used to protect workers from contracting the coronavirus, and that nearly 70 percent of skilled nursing and assisted living facilities that responded indicated they had limited or no ability to access more masks. About 60 percent of facilities said they had limited or no ability to access gowns, and 70 percent indicated the same for face shields.

2. Nutrition Services are Vital.

LCAO commends House lawmakers for including emergency funding for the Older Americans Act (OAA) home-delivered, congregate and supplemental nutrition services in the emergency funding supplemental bill, H.R. 6201. This will help older Americans, receive the vital nutritional supports they need to stay healthy at home. We urge Congress to both swiftly adopt these funding recommendations, provide



additional resources as needed, and send these resources to the local networks delivering critical nutrition supports. However, this is only one in a series of important steps that federal leaders must take to safeguard vulnerable older adults. We encourage lawmakers to take additional steps in subsequent emergency funding bills to provide resources and flexibility for Older Americans Act programs. Our most pressing requests follow.

3. Increase funding for OAA Title III B Supportive Services.

Older Americans Act Title III B is an inherently flexible funding stream that ensures local agencies and service providers can adjust their home and community-based services and supports to meet the unique and urgent needs resulting from the current coronavirus pandemic. These services also allow Area Agencies on Aging (AAAs) to facilitate access to other critical supports and services in the community. For example, supportive services encompass activities including, but not limited to, the transportation needed to get meals to home-bound vulnerable older adults; expanded information and referral and case management services to respond to increased requests for support; in-home services to ensure safe and healthy homes for older adults, telephone outreach to assess the needs of homebound seniors and combat social isolation, and increased staff support if there is a shortage of available volunteers.

4. Prioritize funding for OAA Title III E National Family Caregiver Support Program.

More than ever, caregivers will be stepping in to ensure older adults remain healthy. Family caregivers responding to the health and social needs of isolated older adults need guidance and respite services. If these caregivers get sick, the need for respite caregiving services will skyrocket. The OAA Title III E NFCSP is the only nationwide program that provides this support to caregivers in nearly every community.

5. Protect older Americans in institutional settings by boosting funding for Title VII Long-Term Care Ombudsman Program.

The State Long-Term Care Ombudsman Programs (LTCOP) authorized under Title VII of the OAA are in dire need of emergency funding for personal protection equipment and supplies, technology to reach residents virtually, resources to pay for extended hours to cover phone lines and emails from residents and families, and to recruit and certify people to do temporary ombudsman work for who want to help during the disaster. It is also crucial for Congress to clearly state that the LTCOP shall maintain its authority and functions set forth in current laws for immediate access to facilities and residents including during any period declared or proclaimed by federal, state, or local government as a national, state, or public health emergency. This is necessary to protect the residents and support their families.



III. Ensure Access to Necessary Health Care for Older Adults and People with Disabilities.

The data are clear that older adults and those with underlying health conditions are most at risk of infection, serious illness, and even death from COVID-19.¹ More must be done to ensure that these individuals, many of whom are eligible for Medicare and/or Medicaid, can access the care, prescription drugs, and services and supports they need to build and maintain their health.

1. Improve Medicare enrollment and access to services

If people do not have health coverage or cannot afford to access care, they will avoid medical treatment—the worst possible outcome for at-risk populations. Thus, we urge Congress to improve Medicare enrollment and access to Medicare-covered services to ensure people with disabilities and older adults obtain coverage as soon as possible. For example, we recommend eliminating both the 24-month Medicare waiting period for people who qualify for Social Security Disability Insurance and the coverage gap from the Medicare General Enrollment Period.

In addition, we support the creation of an automatic enrollment process for people who are eligible for Medicare Savings Programs (MSPs) to ensure they are enrolled and receiving the financial support of those programs as quickly as possible. To that end, we urge Congress to increase and make permanent the funding for low-income outreach and assistance that identifies MSP-eligible beneficiaries and help them enroll in these vital programs. Moreover, we urge Congress to make the Limited Income Newly Eligible Transition (LI NET) program permanent so it may continue to provide temporary prescription drug coverage to Medicare beneficiaries with low incomes who are applying but not yet enrolled in Medicare Part D.² Making these programs permanent would ensure that more beneficiaries have access to these important financial supports and the system is better prepared for future health crises.

We must also do more within Medicare to enable people with disabilities and older adults to remain in their homes and communities for as long as they wish. Therefore, we urge Congress to eliminate the requirement that Medicare beneficiaries be homebound to qualify for home health coverage. Legislative language reinforcing implementation of the *Jimmo v. Sebelius* settlement (2013), which clarified that Medicare covers skilled home health care to maintain or prevent decline, is also critical.³

¹ Centers for Disease Control, “If You Are at Higher Risk” (last accessed March 16, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>.

² Centers for Medicare & Medicaid Services, “Medicare Limited Income NET Program” (last accessed March 16, 2020), <https://www.cms.gov/Medicare/Eligibility-and-Enrollment/LowIncSubMedicarePresCov/MedicareLimitedIncomeNET.html>.

³ Center for Medicare Advocacy, “Improvement standard and Jimmo news” (2019), <https://www.medicareadvocacy.org/medicare-info/improvement-standard/>.



2. Ensure Medicaid has sufficient resources and ease administrative barriers to access

We strongly support a significant increase to the Medicaid Federal Medical Assistance Percentage (FMAP). Millions of people with disabilities and older adults rely on Medicaid services to access not only basic health care services, but also services critical to their functioning, independent living, and well-being. Access to these services is often a matter of life or death and increasing the FMAP is a primary tool to respond to the major health crisis our country faces.

In addition, we urge Congress to permanently reauthorize the Medicaid Money Follows the Person (MFP) program and protections from spousal impoverishment for married individuals receiving Medicaid-funded home- and community-based services (HCBS). The COVID-19 epidemic might lead to unnecessary institutionalization of individuals with disabilities and older adults, thereby multiplying the number of individuals waiting to transition from nursing homes back to the community. Although more must be done to strengthen HCBS, permanent MFP funding would enable states to help people transition home from congregate settings, which are especially dangerous for people with disabilities and older adults during this crisis. We also urge Congress to make permanent spousal impoverishment protections so that married couples can afford to stay together at home when one spouse develops a chronic illness or disability.

Moreover, we call on Congress to ensure that states and providers have sufficient resources to address underlying chronic conditions or serious injuries, such as falls, as it addresses COVID-19. As the disease spreads, the health care system will come under increasing strain. Without increased resources, people with disabilities and older adults might not receive the care needed to treat underlying or non-virus-related conditions.

Finally, we suggest Congress continue to provide oversight to state Medicaid programs encouraging flexibility in administrative matters like deeming eligibility and not requiring redeterminations during the pandemic, so that these programs focus on and are able to serve their most critical mission of providing necessary medical care to vulnerable people.

3. Enhance prescription drug access and affordability

Drug prices and utilization controls hamper access to prescription drugs for many people with disabilities and older adults. We urge Congress both to ensure that people with disabilities and older adults have access to 90-day supply fills and to allow for partial fills of medications. We also urge Congress to require all payers to cover refills authorized by telehealth visits and filled by mail order pharmacies, including those out of state.

Furthermore, we urge Congress to work with the Administration to ensure that barriers to care such as prior authorization, step therapy, restrictive formularies, and quantity limits are eliminated or lessened during the course of this emergency.



Maintaining or improving access to needed medications also means improving deeply flawed appeals processes in Medicare Part D. The current system is overly complex and can significantly delay beneficiary access to necessary medications. Bipartisan legislation, the Streamlining Part D Appeals Process Act (S. 1861/H.R. 3924) would lessen burdens for all involved and we urge its inclusion in any COVID-19 relief package. We also urge Congress to work with the Administration to allow beneficiaries to request a tiering exception for drugs on the Part D specialty tier.

4. Stay alert for and prohibit age and disability discrimination

In times of resource scarcity, it is particularly important to emphasize that the lives of older people and people with disabilities have profound value. Now more than ever, it is vital that we prohibit discrimination against people with disabilities and older adults in health care decision making. We have seen proposals for, and evidence of, prioritizing allocation of scarce resources for people with COVID-19 who are younger and lack pre-existing conditions. All people need the same access to treatment regardless of their age, disability status or pre-existing conditions. This does not mean providing treatments that are medically futile—that is, unlikely to be effective. However, it does mean neither denying nor restricting access to health care for people because their age, disabilities, or chronic conditions are associated with a higher fatality rate.

Congress must also take steps to provide states with the necessary resources to ensure that even during this crisis, people with disabilities and older adults have the services and supports needed to remain in the community, rather than having to move into institutional or other congregate settings against their will. Such transitions would both violate the rights of people with disabilities and older adults and pose a severe risk to health

IV. Consider Cost-of-Living Increases for All Social Security Programs.

We believe it may be necessary to authorize an ad hoc cost of living increase for Social Security payments, especially if food or health care inflation measures go beyond a designated level in March, April or May. While inflation overall is likely to remain low, the actual experience of inflation for older individuals will be especially sensitive to food and health costs during this crisis which are likely to be higher during crisis or other periods of shortages.

We urge Congress to adopt these measures in order promote the health and economic well-being of older people, and realize that in doing so, we are helping to serve and protect all our families and communities.

Sincerely,

Aging Life Care Association
Alliance for Retired Americans
Alzheimer's Association and Alzheimer's Impact Movement



Leadership Council
of Aging Organizations

AMDA Society for Post-Acute and Long-Term Care Medicine
American Association of Service Coordinators
American Geriatrics Society
American Society of Consultant Pharmacists
American Society on Aging
Association for Gerontology and Human Development in Historically Black Colleges and Universities
B'nai B'rith International
Caring Across Generations
Center for Medicare Advocacy
Community Catalyst
The Gerontological Society of America
Justice in Aging
Meals on Wheels America
Medicare Rights Center
National Active and Retired Federal Employees Association
National Adult Day Services Association (NADSA)
National Adult Protective Services Association
National Alliance for Caregiving
National Association of Area Agencies On Aging
National Association of Nutrition and Aging Services Programs
National Association of Retired and Senior Volunteer Program Directors, Inc.
National Association of Social Workers
National Association of State Long-Term Care Ombudsman Programs
National Caucus and Center on Black Aging, Inc.
National Consumer Voice for Quality Long Term Care
National Council on Aging
National Senior Corps Association
PHI-Quality Care Through Quality Jobs
Senior Service America, Inc.
Social Security Works
Women's Institute For a Secure Retirement

CC: Members of Congress