

March 17, 2020

The Honorable Mitch McConnell, Majority Leader
The Honorable Charles Schumer, Minority Leader
U.S. Senate
Washington, DC 20515

The Honorable Nancy Pelosi, Speaker
The Honorable Kevin McCarthy, Minority Leader
U.S. House of Representatives
Washington, DC 20515

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

We, the undersigned organizations, are writing on behalf of the 76.3 million adults over age 60 and 29.2 million younger adults with underlying health conditions who are at grave risk of serious illness or death due to COVID-19. We demand Congress take immediate action to protect the lives of these [105.5 million people](#). Without unprecedented and drastic steps at all levels of government to prioritize older adults and people with underlying health conditions, one in four adults in the U.S. will become seriously ill or die from this pandemic.

HR 6201 is an important first step and we urge you to pass it as soon as possible. However, the provisions do not go far enough to fully support the people who are at greatest risk. It is paramount that policies are crafted and implemented to ensure the safety and well-being of all older adults and people with disabilities living at home and in residential facilities. This requires specific and constant focus on ensuring continued access to health care, prescription drugs, food, housing, income, and other basic supports for both older adults and their caregivers—paid and unpaid. It also requires Congress and all actors to be keenly focused on the needs of older adults who are at greatest risk because of existing health disparities, including older women, people of color, LGBTQ individuals, and people who lack access to health care and social supports due to poverty, homelessness, and geographic isolation.

Below are our recommendations for Congress to act on immediately and keep at the forefront of all future responses to COVID-19.

Further increase federal matching funds for state Medicaid expenditures. We appreciate the FMAP bump of 6.2% in HR 6201, but states need much more funding to meet what will be a growing need. We recommend increasing FMAP by 10% but no less than 8%. Increased funding to states could directly help states provide services to the most at-risk individuals who are on HCBS waiting lists. We also urge Congress to authorize an enhanced FMAP for states that fully expand their Medicaid program under the Affordable Care Act. This will make the biggest impact in terms of ensuring that uninsured individuals get access to testing and treatment and helping reduce uncompensated care costs for strained hospitals.

Expand access to Medicaid, Medicare Savings Programs, and the Part D Low-Income Subsidy. Congress should expand access to Medicaid for low-income older adults and families. This includes not counting any in-kind or extra cash assistance given to Medicaid beneficiaries during the emergency against their Medicaid eligibility and waiving asset tests for Medicaid, Medicare Savings Programs, and the Part D

Low-Income Subsidy. This would both facilitate presumptive eligibility at hospitals and facilities as well as eliminate barriers to eligibility that will be exacerbated as banks and government offices are closed or operating with limited capacity. Similarly, Congress should direct states to waive Medicaid share of cost for older adults during the pandemic to ensure no one's care is disrupted.

Congress should also authorize auto enrolling all low-income Medicare beneficiaries who are eligible into the Medicare Savings Programs. We further urge expansion of the Qualified Medicare Beneficiary program to individuals with incomes under 150% of the federal poverty level so that they do not face cost-sharing for treatment of COVID-19 or any other health conditions they may be facing. In addition, we recommend Congress institute a moratorium on Medicare premiums for all enrollees with income below 200% FPL (\$25,520) to ensure low-income Medicare enrollees are not saddled with the \$144.60 each month in Medicare Part B premiums at a time when their Social Security checks are going to be stretched even further to meet increased costs and household needs.

Ensure that Medicaid covers screening, diagnosis and treatment for COVID-19 as part of its emergency and core services. In passing legislation to ensure that everyone in the U.S. has access to free COVID-19 testing and affordable treatment, Congress must make clear that these Medicaid COVID-19 services are part of "emergency services" in Medicaid, and therefore not subject to PRWORA eligibility restrictions nor countable toward public charge.

Support residents' rights and safety in long-term care facilities. To protect resident rights and safety in nursing and assisted living facilities, Congress should provide increased funding for survey and certification activities and increased funding for the long-term care ombudsman program. In addition, because nearly all visitation is banned, Congress should provide funding for technology to facilitate communication between residents and their families (Wi-Fi, phones, tablets, etc.). Connection with family is critical to resident well-being.

Prevent gaps in Medicare coverage. We urge Congress to ensure older adults and people with disabilities have timely access to Medicare coverage. This includes eliminating both the 24-month waiting period for Medicare for people with disabilities and the months-long coverage gap facing people who sign up during Medicare's General Enrollment Period. These periods of non-coverage are harmful under the best of public health scenarios.

Ensure access to medications and supplies. Congress should require Medicare, Medicaid, and all payors to ensure older adults and people with disabilities have access to a 90-day medication and medical supply fills. All payors should also be required to ease "early refill" restrictions and waive prior authorization requirements for durable medical equipment and medications. While CMS has authorized Part D plans to provide for "early refill" and waiver of prior authorization, some plans are still declining "early refills" causing additional stress for older adults.

We also urge Congress to significantly reduce barriers to care within Part D throughout this emergency. Specifically, we recommend suspending Part D denials due to prior authorization, step therapy, and restrictive formularies. Unless for safety, quantity limits should also be waived. Critically, these suspensions must apply to all prescriptions, not only those issued to treat or prevent COVID-19.

Meaningful access to prescription drugs cannot be achieved without reforms to the overly complex Medicare Part D appeals system. We urge you simplify this process as part of any relief package, including as outlined in the bipartisan Streamlining Part D Appeals Process Act (S. 1861/H.R. 3924) and

by allowing beneficiaries to request a tiering exception for drugs on the Part D specialty tier. These long-overdue reforms are needed during the current crisis and beyond.

Leverage Medicare to keep people at home. Congress should eliminate the “home bound” requirement for access to Medicare home health services. We support CMS’s action to waive Medicare’s 3-day hospital stay requirement as a condition of Skilled Nursing Facility admission and payment during the COVID-19 pandemic. However, we strongly urge Congress to make this permanent so that Medicare patients who need access to SNF following any type of hospitalization get access, even after the pandemic has eased.

Suspend Social Security and Medicaid redeterminations, terminations, and reductions. With the announcement of Social Security Field Offices closing for in-person services, Congress must require that SSA suspend all continuing disability reviews and terminations. Some individuals will not be able to use or receive adequate representation over the phone or online. SSA should also be expediting processing of Part D LIS applications to ensure that vital assistance is not delayed. In addition, Congress should require all states to suspend all Medicaid redeterminations, renewals, reductions, and terminations. This is especially critical for older adults and people with disabilities receiving LTSS for whom Medicaid coverage is literally a matter of life and death. Therefore, the ban must encompass evictions from residential facilities and any reductions in services or hours for people receiving HCBS.

Provide support to SSI recipients. Older adults and people with disabilities who rely on Supplemental Security Income are already facing extreme hardships and will need extra income support at this time. Therefore, we urge Congress to increase Supplemental Security Income benefits to 200% of poverty level. In addition, any emergency cash payments should be excluded from being counted as income for those receiving Supplemental Security Income (SSI). The resource limit for SSI eligibility should be eliminated, and provisions of the SSI Restoration Act (S. 2753) should be enacted, including eliminating in-kind support and maintenance, increasing the general income disregard and the earned income exclusion, and eliminating the marriage penalty.

Direct support to the long-term services and supports workforce. Congress must prioritize the workforce needs within Medicaid and make additional resources available to states to reduce institutionalization. This includes a targeted FMAP or grants to help states bolster their workforce capacity and ensure that direct service providers are compensated at a level that allows them to continue providing this critical service, including bonuses and overtime pay

Expand paid sick leave to all workers, most especially caregivers. We are disappointed to see that paid leave in the most recent version of HR 6201 is limited and leaves out caregivers for older adults and people with disabilities. Congress must ensure that all workers who fall ill, are impacted by quarantine orders, or are responsible for caring for loved ones—including both adults with disabilities who have lost their primary source of care and children impacted by school closures—receive paid sick leave to alleviate the devastating consequences of lost wages. Such caregivers must be covered by both paid sick days and paid leave, with additional resources for respite care and family caregiver support under Title III E of the Older Americans Act, along with sufficient resources for the Social Security Administration.

Enhance unemployment insurance. Congress must also ensure unemployment insurance benefits are available and sufficient for all workers who may lose their jobs from the economic impacts of the

epidemic. This expansion must include direct service providers who are not currently eligible for unemployment insurance.

Leverage Older Americans Act programs and grantees. As many senior centers, adult day centers and similar programs are closing, family caregivers will be taking on an even greater role caring for their loved ones. Congress should provide expanded supports for family caregivers under the National Family Caregiver Support Program. With increased funds, states can provide respite and other support for more caregivers. Similarly, Congress should ensure adequate funding for Title III B supportive services so that local agencies on aging and service providers can fill in gaps and continue to provide and facilitate access to other critical supports and services in the community.

Enhance protections and resources to combat elder abuse. Unfortunately, more older adults will be at risk of elder abuse and neglect during this time of social distancing and increased isolation. Therefore, Congress must provide enhanced resources including increased funding for Older Americans Act Title IIIB legal services.

Expand food assistance. Congress should ensure that low-income older adults have access to food assistance in order to afford nutritious foods. Congress should replace the Thrifty Food Plan as the basis for SNAP benefits allotment with a more adequate food plan, for example with the Low-Cost Food Plan. States should be required to streamline the application process, extend the certification period to 36 months, waive the initial and recertification interviews and allow for a standard medical deduction. This combination of changes will increase state administrative efficiencies and boost SNAP benefits for older adults.

Place moratoriums on evictions, foreclosures, and utility shutoffs. Ensuring safe housing for everyone is of utmost importance. Congress should require a moratorium on all evictions and foreclosures, most especially older adults and families receiving federal assistance. Congress should also provide resources for legal services to protect tenants from unlawful evictions that might occur after moratoriums are lifted, or if moratoriums are not put into effect, as well as foreclosure and eviction crisis counseling. In addition, no family should have their utilities shutoff during this pandemic, and LIHEAP assistance should be extended to everyone in need even as we recover.

Support people experiencing homelessness. Congress should provide additional target funding, such as McKinney-Vento funds to help local communities minimize the number of people living in homeless encampments, and significant additional resources for the Disaster Housing Assistance Program to quickly get people into affordable homes. In addition, Congress should provide funding for medical respite through Medicaid to allow people to recover from illness in a safe environment.

Ensure information and services are accessible. Congress should provide federal funding to ensure that states and localities are communicating about COVID-19 with all populations, especially older adults with limited English proficiency (LEP) and hearing and visual impairments. States and localities can use these funds to create accessible educational materials, videos, and audio files and to ensure all announcements, press conferences, and communications by local and State government offices are accessible to the disability community, including through the use of American Sign Language interpreters and closed captioning in languages spoken by residents of their jurisdictions.

Increase hospital and clinical capacity. Congress must take immediate action to increase infrastructure and capacity with additional beds and equipment now, before the existing beds are full and equipment

is used. This includes using all emergency response mechanisms, the military, and public-private partnerships. In particular, we urge Congress to take immediate action to facilitate increased production of and availability of ventilators, including passing H.R. 4982 as [recommended](#) by the National Governors Association.

Ensure robust protections for frontline workers. Congress should ensure clear standards and sufficient funding and equitable distribution of necessary protective equipment for health care workers, direct service providers, and other workers who are in contact with people who have been exposed or are suffering from the virus as well as the people responsible for cleaning buildings and public facilities.

Crack down on misinformation and scams. We are already witnessing increased sharing of misinformation and scams regarding COVID-19, including scams targeted at older adults. Given that lives are at risk, such scams are especially dangerous. Congress should exercise its oversight authority and take any legislative steps possible to stop these scams and spreading of misinformation immediately, including passing the Stop Senior Scams Act (S.149).

Thank for your attention to these recommendations. If you have any questions, please contact Natalie Kean, Senior Staff Attorney at Justice in Aging (nkean@justiceinaging.org).

Sincerely,

Center for Medicare Advocacy
Community Catalyst
Justice in Aging
Medicare Rights Center
National Academy of Elder Law Attorneys
The National Consumer Voice for Quality Long Term Care
Service Employees International Union