



**Wisconsin Personal Services
Association, Inc.**
139 E Wisconsin Avenue, Oconomowoc WI 53066

March 17, 2020

Andrea Palm, Secretary-Designee
Office of the Secretary
Wisconsin Department of Health Services
1 West Wilson Street, Room 650
Madison, WI 53703

Dear Secretary-Designee Palm:

On behalf of the Wisconsin Personal Services Association (WPSA) we would like to thank you for your leadership as Wisconsin navigates this unparalleled public health emergency. We appreciate your transparency and commitment to keeping the general public and health care providers informed.

As you know, personal care agencies are facing many challenges, including an unprecedented workforce crisis that is jeopardizing the health, safety and independence of older adults and people with disabilities. Over the past decade, we have become increasingly concerned about the stability of our community-based direct care provider network. More than 80 personal care agencies have closed or stopped providing Medicaid Personal Care in the past 6 years, and 24 Wisconsin counties have 5 or fewer personal care providers.

Personal care and other home care agencies have been taking steps throughout the COVID-19 outbreak to protect our workers, clients, and community members. As this situation is evolving rapidly, and best practice now encourages self-isolation and social distancing, personal care agencies are facing a serious challenge to prevent the spread of disease while continuing to provide critical in-home services.

Regulatory changes are needed to ensure ongoing provision of needed services while blunting the spread of COVID-19. In-home care providers are also in need of clear and consistent guidance. Personal care agencies recommend the following changes to help us respond to COVID-19. In addition, we seek clarity to several questions we have received from providers across the state.

- 1. Temporary Suspension or Modifications to Supervisory Visit Rules.** Nurses are currently required to enter a client's home every 60 days to conduct a supervisory visit. As many nurses enter multiple homes a day or practice in clinical settings as well, this poses a significant risk to vulnerable clients and may contribute to the spread of disease. Agencies need to be given the regulatory

flexibility during this time that would allow them to conduct supervisory visits via phone or virtual means. In addition, if clients do not want an RN to come into their home, agencies should be allowed to honor that request and document that the client denied a nurse from entering. In these cases, clients should be allowed to continue receiving services instead of having services suspended. Suspending this rule would allow clients to continue accessing most of their care in the safest environment during this crisis.

- 2. Extend Prior Authorization Periods.** Re-assessments for prior authorization are also conducted face-to-face and pose the same public health challenges as outlined above. All prior authorization orders should be extended by 90 days or for the duration of the public health emergency, whichever is longer, to ensure continuity of services and prevent the spread of disease. In addition, prior authorization requests should not be returned for more information (such as needing more MD Notes, IEP's, etc.) during this public health emergency. Doctors' offices and schools need to prioritize their time and resources in an effort to fight the spread of COVID-19; they should not be asked to submit supplemental paperwork at this time.
- 3. Allow New Agencies to Use a Prior Agency's Prior Authorization.** In the event that a client wants or needs to switch agencies during the public health emergency, the new agency should be allowed to use the previous agency's prior authorization for 90 days or for the duration of the public health emergency, whichever is longer. Again, this will minimize the need for the new agency to enter the client's home for administrative purposes and ensure continuity of care.
- 4. Halt DHS OIG Audits and Recoupment Efforts During the Public Health Emergency.** Given that agencies need increased regulatory flexibility in order to respond to this public health emergency, DHS OIG audit and recoupment efforts should be suspended during this time to ensure that agencies can leverage administrative flexibilities and limited resources without the threat of penalty. DHS should also publish a bulletin making it clear that agencies are allowed to use administrative flexibilities for the duration of the COVID-19 public health emergency. It is important that agencies have clear guidance they can point to in the event that DHS OIG conducts a future audit of an agency that includes this time period.
- 5. Request that CMS Delay Electronic Visit Verification Implementation.** DHS and personal care agencies are working around-the-clock to ensure the ongoing provision of services and the safety of our workers and clients during this difficult

time. We request that you ask the Centers for Medicare and Medicaid Services to delay the implementation of Electronic Visit Verification until the pandemic has been resolved. Under the current implementation timeline, agencies will need to begin doing training this summer. However, the President and his administration have indicated that the COVID-19 outbreak could continue until July or August.

- 6. Allow Physician Assistants and Nurse Practitioners to Order Personal Care Services.** 2017 Wisconsin Act 119 permits Medicaid reimbursement for services ordered by any provider acting within the scope of their practice. DHS should allow physician assistants and nurse practitioners to order personal care services. This is consistent with their scope of practice and would help alleviate strain on our health care system.
- 7. Issue Clear Guidance Allowing Agencies to do Remote Work or Telehealth.** Agencies have a responsibility to take steps to limit the spread of disease. DHS should issue guidance allowing agencies to leverage Skype meetings, Zoom, or other types of telehealth or remote work options. This will allow RNs to conduct meetings and trainings with staff virtually and to have some communication with members without entering their homes. In addition, it will help clients self-report changes in condition before a worker enters their home.
- 8. Encourage Hiring Family Members Temporarily and Expedite the Process.** In an effort to ensure there are enough workers to support clients in need of personal care services, DHS should consider ways to expedite the hiring of family members, who will likely be at home due to social distancing. DHS should allow a waiver to the training requirement for immediate family members who are willing to step in to act as personal care workers for their loved ones. Steps should also be taken to allow domestic partners to care for one another, to allow parents to care for children under the age of 18, and other immediate relationships such as guardians and foster care families. These waivers should be in place for up to 90 days or for the duration of the public health emergency, whichever is longer.
- 9. Explore Monetary Relief for Workers.** DHS should take steps to increase reimbursement rates for personal care workers during this time, such as hazard pay, enhanced rates, or bonuses. We are asking our personal care workers to put themselves at risk by entering clients' homes during this public health emergency. Many personal care workers rely on public transit and may need to find alternative transportation during this time. Many workers have children who are now staying home due to the closure of Wisconsin schools. All of these

factors, coupled with the likelihood that some workers will fall ill or need to self-isolate, will contribute to significant staffing shortages and increased workloads in agencies. Agencies will likely be paying more overtime than ever before.

10. How Will DHS Coordinate Responses Between Providers, MCOs, ICAs, HMOs, and LPHDs? There needs to be clear, coordinated communication between DHS, Medicaid providers, MCOs, ICAs, HMOs, and local public health departments to ensure that we are all working together to respond to this public health emergency. What steps does DHS plan to take to ensure that all payers and providers are on the same page and following the same procedures? It is important that we work together to come up with sustainable solutions. Because the plans and best practices are constantly changing, there should be set check-in phone calls or webinars initiated by DHS.

11. Providers Need Consistent Guidance Related to In-home Care to Ensure We Are Not Spreading the Virus or Unwittingly Exposing Our Workers to Unnecessary Risks. While DHS has issued guidance for nursing homes and facility-based providers, neither the CDC nor DHS has issued clear guidance for in-home providers. Home care agencies need a clear set of guidelines and expectations from the state to help us respond to this crisis.

12. Ensure Appropriate Use and Access to Personal Protective Equipment (PPE). DHS should purchase and make available to personal care agencies the appropriate protective supplies for workers, such as masks, face shields, gloves, gowns and other protective equipment. Agencies are at risk of running out of these supplies. DHS should provide guidance and resources in the event that agencies do not have adequate supplies. In addition, guidance should be provided on the use of PPE and proper disposal after visiting a client's home who may have Coronavirus or is self-isolating due to possible exposure.

13. What Is the Impact of the Temporary FMAP Increase Included In the H.R. 6201: Families First Coronavirus Response Act On Wisconsin Medicaid Providers? The Families First Coronavirus Response Act passed by the U.S. House of Representatives on March 14 includes a temporary 6.2% increase to states' FMAP rates. What will be the process to get this emergency funding to Medicaid Personal Care agencies to assist them in continuing to provide services.

14. How Can We Ensure that Agencies Will Stay in Business During this Time? Agencies have already been struggling to keep their doors open. This crisis

poses a significant and unprecedented threat, increasing the likelihood that agencies will close. What steps will the Department take to keep agencies in business and prevent disruption to clients? WPSA is eager to work with you to address this issue.

We want you and your staff to know how grateful we are for everything that you all are doing to keep Wisconsinites safe in these extraordinary times. Thank you for your time and consideration. Please do not hesitate to contact us if you require additional information. We stand ready to assist you and your staff.

Sincerely,

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