June 7, 2021

Brett Friedman
Director of Strategic Initiatives
and Special Medicaid Counsel
New York State Department of Health
Albany, New York 12237

Dear Brett:

I'm writing in follow-up to the May 26 verbal input I provided to the Department on behalf of HCA for the implementation of the home and community-based services FMAP allocation in the state budget.

Thank you for both that original opportunity and this follow-up communication to further confirm with you this sector's priorities for these urgently needed funds.

I write today on behalf of HCA's statewide membership which spans the entire array of home care programs and organizations, and includes certified home health agencies (CHHAs), licensed home are services agencies (LHCSAs), managed long term care plans (MLTCs), Programs of All-Inclusive Care for the Elderly (PACE), hospices, long term home health care programs (LTHHCPs), consumer directed personal assistance program fiscal intermediaries (CDPAP FIs), waiver programs and allied community support organizations.

While the CMS guidelines commendably permit broad and innovative use of these FMAP funds, the home care system's needs in basic workforce support and service operations are so profound that we urge that funds be concentrated for these purposes, as follows.

Recruitment, Compensation and Retention

The underlying, severe shortage of home care workers, already urgent throughout state, has been greatly exacerbated in COVID. This already-growing gap between need/demand for home care services and the trended increases in the available workforce supply was enlarged by COVID as workers in large numbers either left active practice due to COVID-related parental/family responsibilities, illness and isolation requirements, or left the field entirely. Simultaneously, since the onset of the COVID surge, COVID physical distancing requirements have reduced to a fraction the ability for new entrants to participate in training programs needed to replace the loss in workforce and to otherwise bring new and needed home health and personal care aides into the system.

Meanwhile, referral of earlier, more complex and intensive discharges from hospitals has been on the rise, as well as the public outcry for access to home care services to avoid rehab and long term care in facilities.

HCA urges that the new funds be used substantially to address the very urgent workforce recruitment, compensation and retention needs in home care and hospice. These should include:

- Seeding base increases in compensation and benefits *as are able to be carried over in sustainable reimbursement/funding at the conclusion of the FMAP period.*

- The capability of offering hiring incentives, longevity bonuses, and COVID service recognition through worker payment enhancements.

- Availability of funds to agencies to provide for workers' essential professional/occupational supports such as transportation, child care, peer support in the provision of services, career ladder development, and related.

- Support for aide compensation during initial training.

- Nurse loan forgiveness (at RN and LPN levels) for service rendered in return in home care and hospice in the state for defined minimum periods.

- Flexibility in home care/hospice worker (e.g., nurse, aide, social worker) staffing regulations to facilitate recruitment and staffing should accompany these new funding initiatives.

- A DOH and DOL jointly-conducted (with input from a stakeholder advisory group) competitive labor market analysis to determine salary and benefit levels truly necessary to recruit, compensate and maintain staffing capacity commensurate with community/health system need, and thus the requisite structural increases in provider reimbursement levels to home care and hospice to enable this level of compensation.

- HCA also has additional programmatic and fiscal proposals to support staff onboarding to complement this and other staffing suggestions in this letter.

Training

- Allowed use of funds for agencies to create/operate training programs. Training funds should be allocated both in direct funding to agencies with training programs, or for expanding or developing them, as well as in rates provided to MLTCs and CHHAs for their sponsored training programs and those of their LHCSA contractors.

- Online/hybrid aide training programs should be supported with this funding, and most urgent is the need for DOH streamlining and expansion of agency approval to provide online-hybrid training as the current length of this DOH process and the wait for approvals is not reflecting the staffing/training urgency in the field.

Technology/Telehealth Investment

- Provide home care and hospice agencies with funding/reimbursement for development and operating expenses for delivery of home and hospice telehealth services.

- Increase MLTC premiums to allow for support of telehealth payments to home care agencies (CHHAs and LHCSAs) and restore distinct reimbursement for home telehealth under PLH 3614.3(c) delivered by CHHAs, LTHHCPs and contracted-LHCSAs. (These distinct payment methods which were lost in the DOH transition to the episodic payment system for CHHAs in the 2012 CHHA episodic price conversion and transition to managed care).

- Allow home care, hospice agencies and MLTCs to qualify for funds to support critical service and informational technologies for patient care, including technologies that support clinical integration/patient health information exchange, timeliness and care management, administrative/documentation relief for nurses, therapists and aides, and other point of service technology supports.

Statutorily Required Rate Rebasing, and Rate Stability

PHL Section 3614.13 requires DOH to update CHHA base year costs “no less frequently” than every three years. The last DOH update was implemented in 2015, meaning that the last six years of new CHHA costs have not been reflected in the CHHA rates.

Updates are critical for both CHHAs and contracting LHCSAs in the case of episodic rates as well as the individual service fee-for-service rates, the latter of which, very importantly, are often used as benchmarks for negotiation with health plans, including Medicare plans. National and state consultant data show that providers are reimbursed substantially below margins by Medicare plans, and by Medicaid rates that serve as benchmarks for other payor types believed to markedly contribute to this situation. The most recent cost-report information available to HCA (2019) shows over 65% of CHHAs operating far below margin, with an average margin of negative 14%.

HCA urges that the FMAP resource be used to help meet the state’s PHL and programmatic obligations with respect to CHHA rate-setting (affecting the CHHAs, the contracting LHCSAs and the workers) and to urgently stabilize this unsustainable fiscal trend of underpayment.

COVID Relief

Home care agencies and hospices have borne a huge financial impact associated with COVID, with uncompensated costs such as for PPE, COVID-19 testing, reduced capacity for staff/procedural efficiency, lost operating revenue and unfunded COVID mandate costs. We projected 2020 COVID losses in the range of $200 million statewide.

HCA urges that a portion of the FMAP funds be made available directly to agencies to help provide relief from these losses, new and ongoing PPE, COVID testing requirements, and restoration of agency operation.

Methods

HCA urges that funds be allocated wherever possible via direct funding to CHHAs, LCHSAs, hospices, MLTCs and LTHHCPs for the costs of these supports.

To both qualify for federal matching, and to maximize the ability for direct payments, HCA further recommends the creation of funding pools into which funds matched through payment to Medicaid managed care and MLTC plans can be pooled into state administered pools and then paid out directly from the pools to providers.

The entire HCA program team, Board and I are pleased to work with you, the Department and Executive to maximize the positive impact of this critical federal/state investment in home and community-based care for New Yorkers. We thank you for this continued opportunity for input and look forward to working with you on next steps.

Sincerely,

Al Cardillo

Al Cardillo
President & CEO

cc: Andrew Koski, Vice President for Programs and Policy
Alyssa Lovelace, Director of Public Policy
Caron O'Brian, Hinman Straub
HCA Board of Directors