



Advocacy. Action. Answers on Aging.

January 8, 2010

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, DC 20515

Dear Majority Leader Reid and Speaker Pelosi:

The National Association of Area Agencies on Aging (n4a), which represents the 629 Area Agencies on Aging and 244 Title VI Native American aging programs in the United States, applauds the extraordinary efforts of the U.S. Senate and House of Representatives to reform our nation's health care system. As you merge the House-passed "Affordable Health Care for America Act" (H.R. 3962) and Senate-passed "Patient Protection and Affordable Care Act" (H.R. 3590), n4a urges that you preserve the provisions most important to older adults and consider the following comments.

### **Long-Term Services and Supports**

One of n4a's top priorities for health care reform is the inclusion of long-term services and supports (LTSS) reforms. While we believe not enough has been done to invest in critical *non*-Medicaid home and community-based services (HCBS) programs (such as those called for in *Project 2020*, S. 1257), we commend you for including in both bills other key LTSS provisions, most notably the Community Living Assistance Services and Supports (CLASS) Act, and encourage the retention of H.R. 3590's vital Medicaid HCBS provisions.

#### ***CLASS Act***

This new, voluntary long-term care insurance program represents a significant step forward in how future older adults and people with disabilities will be able to afford and access home and community-based services. According to the Congressional Budget Office, the CLASS plan will reduce Medicaid spending and will be solvent and sustainable for the long term. It will help individuals and families struggling to maintain their independence and financial stability by providing a much-needed daily benefit to help purchase the care they need to stay

healthy and at home. n4a is pleased that both the House and Senate included the CLASS plan in their bills, and we will do our part to ensure that it remains in the final bill.

Given the importance of LTSS to maintain the quality of life for older adults, persons with disabilities and their caregivers, we also ask you to ensure that the following LTSS provisions from the Senate bill are retained.

***Aging and Disability Resource Centers***

H.R. 3590 provides \$10 million a year over five years (FY 2010-2014) for the continuation of ADRCs through the demonstrations developed by the Administration on Aging and the Centers for Medicare and Medicaid Services. n4a is pleased that Congress fully recognizes the value that this single entry point model for consumers in need of LTSS has already shown, and we believe that this new, stable source of funding for the ADRC program will, over time, help expand the system nationwide. The ADRCs will also play a critical role in helping future CLASS benefit recipients access LTSS services. Since the House bill does not include a similar provision, we ask that the Senate's language on ADRCs be maintained during conference.

n4a also notes that with the expansion of medical home demonstrations in health reform, it will be critical that such projects look to their local Area Agencies on Aging and ADRCs where applicable for partnership opportunities. Given AAAs long-standing role as coordinators of HCBS, and ADRCs emerging role as a single entry point, there is no need to reinvent a new model for the purposes of connecting patients to community social services.

***Medicaid HCBS Improvements***

n4a has long championed the re-balancing of Medicaid long-term care programs to encourage the provision of home and community-based services (HCBS) over institutional care. H.R. 3590 contains several advancements in this regard that are worthy of praise. We support Sec. 2402, which removes certain barriers to providing Medicaid HCBS by offering states more flexibility in state plan amendments for HCBS.

n4a also supports the changes made in Sec. 2404 based on the ***Empowered at Home*** legislation to modify the spousal impoverishment statute to mandate that states include the spousal impoverishment protections in their waiver programs—thus correcting a huge oversight in the law that did not offer spouses of HCBS beneficiaries the same protections available to nursing facility residents' spouses.

We note the importance of the ***Community First Choice*** option in H.R. 3590's Sec. 2401, which offers states a financial incentive to further rebalance the provision of LTSS in Medicaid. Individuals in participating states would gain guaranteed access to community-based attendant services—currently, only institutional care is guaranteed. While H.R. 3962 included a Sense of Congress on the Community First Choice option, the more substantive Senate language should prevail.

Another LTSS provision in H.R. 3590 that n4a is requesting be maintained is Sec. 2402, which contains language that expands the services available, removes the ability of states to

cap the number of individuals who receive coverage for the benefit and creates a grandfather provision for beneficiaries receiving services if a state changes its eligibility criteria. These are important changes that make it more likely that states will take up the HCBS state plan option created by the Deficit Reduction Act.

n4a also wants to retain the Senate's ***Home and Community-Based Incentives Program***, originally drafted by Senators Cantwell and Kohl, which provides states with financial incentives and regulatory tools to expand HCBS in a fiscally responsible manner. The greater the range of incentives provided to states to rebalance their Medicaid LTSS systems, the greater the gain for beneficiaries and federal and state budgets.

n4a also supports the extension of the ***Money Follows the Person*** program originally authorized under the Deficit Reduction Act of 2005. Sec. 2403 of H.R. 3590 continues federal support through 2016 for grants to states to transition Medicaid-enrolled nursing facility residents to their homes or other community settings, while making some positive changes to the minimum residency requirement (from six months to 90 days). It is yet another important approach to encourage rebalancing.

We are encouraged by the Sense of the Senate language included in Sec. 2406, which urges Congress to adopt comprehensive reforms in the provision of LTSS to older adults and individuals with disabilities in the setting of their choice. We urge Congress to follow through on this charge before the end of the 111<sup>th</sup> Congress. ***We cannot wait any longer to shore up the aging services infrastructure that we will need to handle the aging of America.***

## **Medicare Improvements**

### ***Part D Improvements***

n4a supports provisions under Sec. 3204 of the Senate bill that would make ***improvements to the annual enrollment process for beneficiaries***. In particular, we support the provision to change the timing of the Part C and D enrollment period to begin on October 15 and end December 7, starting in 2012. Additionally, we support the provision for an annual 45-day period of dis-enrollment from MA plans to allow beneficiaries to change their election to the original Medicare fee-for-services program under Part A and B, beginning in 2011.

n4a encourages you to support the more expansive provisions in the House bill to ***close the Part D coverage gap and lower prescription drug prices***. The Senate provision under Sec. 3315 would provide a one-time coverage limit increase of \$500 for 2010. However, the House proposal under Sec. 1181 would go much further by increasing initial coverage limit by \$500, effective 2010, and progressively decreasing the annual out-of-pocket threshold to close the coverage gap by 2019. In addition, the House provision under Sec. 1182 provides discounts of 50 percent for brand-name drugs used by Part D enrollees in the Part D coverage gap, effective 2010. By comparison, the Senate's Sec. 3301 requires drug manufacturers to provide a 50 percent discount off the manufacturer's negotiated price to Part D beneficiaries for brand-name drugs purchased during the coverage gap, effective 2010.

### ***Medicare Outreach and Assistance***

n4a is also very supportive of the Senate provisions to provide additional ***funding to support outreach and assistance for Part D and low-income prescription drug programs*** by State Health Insurance Assistance Programs, Area Agencies on Aging, Aging and Disability Resource Centers and the National Center for Benefits and Outreach Enrollment. By amending MIPPA, this provision under Sec. 3306 would provide a total of \$45 million to these entities between FY 2010 and 2012. In addition to these efforts, the funded entities would support outreach activities aimed at preventing disease and promoting wellness.

### ***Medicare Low-Income Provisions***

n4a applauds provisions in both H.R. 3962 and H.R. 3590 that help low-income older adults afford care through the ***expansion of low-income subsidies in the Medicare program***. We believe that the final bill must include provisions from H.R. 3962 that expand eligibility and increase enrollment for the Medicare Savings Programs (MSPs) and the Part D low-income subsidy (LIS) programs. Specifically, we support the provisions increasing asset limits for these programs (to \$17,000/individuals and \$34,000/couples) indexed annually for inflation; extending of the Qualified Individual program through 2012; and authorizing the Internal Revenue Service to share certain information with the Social Security Administration to improve targeted outreach to low-income Medicare beneficiaries.

We also support provisions in the Senate's Sec. 3305 that would provide improved information to low-income subsidy eligible beneficiaries who are reassigned to a new prescription drug plan. This provision would require that these beneficiaries receive information on the differences between their old and new plan benefits and their rights for coverage determinations, exception, or reconsideration, and to bring an appeal.

### ***Drug Price Negotiation***

We also encourage you to include the House provision under Sec. 1186 that ***requires the Secretary to negotiate with drug manufacturers for lower Part D drug prices***. This provision would become effective on the date of enactment and would apply to negotiations and prices for plan years beginning on January 1, 2011.

### **Prevention and Wellness Provisions**

n4a is generally very supportive of efforts in the House and Senate bills to ***expand coverage of preventive health services*** under the Medicare and Medicaid programs. We are also supportive of the provisions in the bills to implement a national strategy and grant programs to support community-based prevention and wellness programs. We believe the Senate provisions for Community Transformation Grants under Sec. 4201 and the "Healthy Aging, Living Well" program under Sec. 4202 in particular will both go a long way toward providing more preventive health services and achieving the goal of reducing chronic diseases and addressing health disparities.

However, we believe that any ***final legislation should provide a more defined role for the Administration on Aging and the national Aging Network in these programs***. n4a is concerned that the legislation, as currently written in both the Senate and House versions,

would inadvertently overlook tested and proven evidence-based health promotion and disease prevention programs currently being provided by the Aging Services Network under the Administration on Aging's leadership.

In many cases the funds under these provisions are distributed through the CDC and public health departments and are limited to programs authorized by the Public Health Service Act. While the CDC is certainly a key agency in delivering prevention and wellness activities, there are several other agencies within HHS that also administer prevention and wellness programs to specific populations, such as the Administration on Aging does for older adults. As drafted, the language in the House and Senate bills would preclude these other agencies from receiving funds.

We urge you to modify the language to allow the Secretary the flexibility to also distribute part of the funding through the Administration on Aging, as is currently done for evidence-based health promotion and disease prevention programs targeted to older Americans. Additionally, we strongly support language in Sec. 4202 of the Senate-passed bill, which provides ***\$50 million in funding to evaluate prevention programs administered by the Administration on Aging***. We urge you to also make these funds available to support demonstrations of the programs being evaluated, and to evaluate corresponding online programs.

#### **Elder Justice Act Provisions**

n4a greatly appreciates that the Elder Justice Act was included in Sec. 6703 of H.R. 3590 and strongly urges its retention in the final bill. The Elder Justice Act would implement a comprehensive national strategy to address elder abuse, neglect and exploitation. This section would enhance the training, recruitment and staffing in long-term care, efforts to enhance state adult protective service systems, long-term care ombudsman programs, and law enforcement practices. Passage of the Elder Justice Act is long overdue and its inclusion in health care reform is fitting, given the threat elder abuse, neglect and exploitation pose to the health and security of older Americans.

Additionally, we appreciate that both House and Senate included language on ***nursing home transparency and criminal background checks***, and hope that you will ensure the strongest possible protections for vulnerable older adults.

#### **Additional Issues Important to Older Adults and Caregivers**

The final health reform bill should also include the House's Sec. 2589 language increasing the authorization for the ***National Family Caregiver Support Program*** (NFCSP) under the Older Americans Act to \$260 million for FY 2011, FY 2012 and FY 2013. NFCSP programs, offered at the community level through AAAs, assist family members caring for their older loved ones who are ill or who have disabilities. Offering support, respite care and other resources, NFCSP services are much needed and in high demand in every community.

It is unfortunate, however, that the *NFCSP program for Title VI Native American aging programs* was not slated for a corresponding increase in authorized funding. We hope that this oversight will be remedied in the final legislation.

Furthermore, n4a opposes *age rating of insurance premiums* and strongly supports the need to ensure affordable premiums for everyone regardless of age. If, given the inclusion of some degree of age rating in both H.R. 3962 and H.R. 3590, it is impossible to eliminate these discriminatory provisions entirely, we urge you to make age rating provisions in the final bill the lowest possible.

Finally, H.R. 3590's provisions for an *Independent Payment Advisory Board* (IPAB) give us cause for great concern. While n4a supports efforts to contain health care costs while maintaining quality, we are opposed to approaches such as the IPAB that use fast-track procedures that significantly reduce Congress's role in determining benefits and cost-sharing for Medicare—a critical and highly-successful program which provides tens of millions of older and disabled Americans with access to health care.

Thank you for your leadership on these critical health policy issues that directly affect older adults and their caregivers. We are hopeful that the merged bill can reflect the best of each chamber's efforts, and we look forward to working with you to achieve strong, balanced and effective health care reforms.

Sincerely,



Sandy Markwood  
Chief Executive Officer

cc: The Honorable Mitch McConnell, Senate Minority Leader  
The Honorable Max Baucus  
The Honorable Tom Harkin  
The Honorable Christopher Dodd  
The Honorable John Boehner, House Minority Leader  
The Honorable Henry Waxman  
The Honorable Charles Rangel  
The Honorable George Miller