



Comments for Submission

Senate Committee on Aging and Youth

Senate Committee on Local Government

Joint Hearing COVID-19 and Safety of Vulnerable Populations

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On behalf of the Pennsylvania Homecare Association (PHA) and the more than 700 home-based care providers we represent, we thank the members of the committees for their leadership and dedication to older adults, individuals with disabilities and medically fragile children across the Commonwealth during these unprecedented times. As our member agencies face the challenges presented by COVID-19, our continued partnership with legislators and policymakers is more important than ever.

PHA is a statewide membership association whose members bring skilled nursing, therapy, personal care, and end-of-life care into hundreds of thousands of people's homes across the Commonwealth. Since Governor Wolf issued the emergency disaster declaration on March 6, the home-based care industry has experienced and continues to face significant challenges in providing in-home services, including increased costs, workforce issues, and massive shortages of personal protective equipment (PPE). In addition to the critical services they provide to consumers and patients every day of the year, home-based care providers are now also:

- Caring for consumers who are COVID-19 positive, or whose family members have diagnosed or undiagnosed respiratory illnesses;
- Providing in-home care to COVID-19 positive patients after discharges from hospitals and other facilities;
- Providing nursing, home health aides and other staff to assisted living facilities and retirement communities, when regular staff at those facilities have been ill or unable to work.

Through this work, home-based care providers are keeping thousands of Pennsylvanians out of hospitals and other long-term care facilities, at increased expense and risk to providers, caregivers, their co-workers and families. A critical piece of the health care continuum, home care providers are on the front lines of the COVID-19 public health emergency every day, along with our colleagues in hospitals and other facilities.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

PHA members provide essential, in-home care to individuals who require significant home health services – medically fragile children and adults who suffer with chronic illnesses, individuals able to live independently only by virtue of personal assistance services provided by direct care workers (DCWs), those receiving palliative or end-of-life care, and many more. In recent weeks, the work of many home-based care providers has significantly increased, as infections rise, facilities are challenged, and the number of suspected or confirmed COVID-19 positive individuals receiving care in the home has dramatically increased.

Yet these providers have not been prioritized for personal protective equipment (PPE), and some struggle to get even the most basic supplies, essential to providing care today. Agencies that have been able to source some PPE have reported shocking cost increases. A recent survey of 54 providers showed an increase in PPE expenses of almost \$1 million more than they spent last year, just over the last six-week period.

At PHA, we hear from providers and caregivers every day. Many have families or health risks of their own but continue to serve their patients and consumers because of their call to service, the strong relationships they have formed, or because they simply must work. DCWs, who help people in and out of bed, in the bathroom, with eating, and other intimate care, continue this work at an average of \$11.57/hour. Prioritizing them for PPE is the least we can do. Increasing their wages is another.

- Last week, we spoke with an agency providing care for two individuals in the same home. One had been hospitalized with a respiratory illness, after being denied testing twice, and was just diagnosed as COVID-19 positive. The DCW providing care for that person was quarantined. Another adult in the home was ill. A DCW continues to provide care for the remaining person in the home, who has significant health issues and cannot live independently without the care she provides. The agency has a limited supply of PPE and needs more. There is no question that this DCW needs adequate PPE, yet home care has not been prioritized for any DOH or PEMA “pushes” of PPE, as some healthcare providers have.
- We also received this email from a provider last week:

“Our nurses go into homes every day not knowing what they might encounter. A therapist was quarantined after a potential exposure in a patient's home. Our agency is seeing the post-hospital COVID patients while local facilities refuse to admit them. A nurse cared for and sent a patient to the local hospital that was diagnosed as positive. WE ARE THE FRONT LINE!!!”

These are the realities of home care, and nearly every provider has similar experiences. It is important to understand that there are more than 3500 licensed homecare, home health and hospice agencies in Pennsylvania; together, they serve hundreds of thousands of Pennsylvania's most vulnerable residents.

No one disputes the critical needs of hospitals and facilities during this time, but please don't let the fact that our patients and consumers are in homes and communities, rather than facilities, lead to any minimization of their critical needs. Left without adequate care, those receiving care in their homes today will be forced to seek facility-based treatment tomorrow.

IMMUNITY FROM CIVIL LIABILITY

This week, the Governor issued an executive order, providing civil immunity to certain health care workers serving COVID-19 positive individuals. While this is a start, the executive order does not go far enough. The scope of its coverage for certain practitioners is unclear, and it expressly excludes providers and agencies – those at most risk for lawsuits. These entities have incurred and continue to incur significantly increased costs and risks, along with their employees, and face great uncertainty in the coming months and years as the full effects from COVID-19 are realized.

Providers must not be asked to choose between serving Pennsylvania's most vulnerable populations and civil liability that could crush their agencies or the industry as a whole. Nevertheless, nurses, therapists, DCWs, home health aides, and other caregivers continue to serve their patients, consumers and communities, doing work that many would not and do not choose to perform during the best of times.

EMERGENCY FUNDING COVID-RELATED EXPENSES

More than 90,000 Pennsylvanians receive home and community-based services through the Community Health Choices (CHC) Waiver. As mentioned above, Pennsylvania's homecare agencies and their direct care workers have continued to provide critical homecare during the COVID-19 emergency and have incurred significant, increased costs in doing so.

Agencies are experiencing increased costs for overtime (due to staffing shortages), the need for incentive pay (to maintain a workforce), and massive increases in costs for personal protective equipment, which is absolutely critical to providing care today. A recent survey of providers showed that their costs have increased, on average, by 13.5% due to COVID-19.

As providers work to help others on the healthcare continuum, they continue to spread thin their already-limited resources, and they continue to incur increased costs. The homecare community needs help to ensure that home-based care can continue to play its critical role in keeping people safe and healthy in their homes. We have already provided documentation on the need for this funding, and we continue to ask for your support for emergency funding through the CARES Act or other stimulus funding.

REGULATORY RELIEF

Since March, PHA has requested the relaxation of certain regulatory requirements, in order to prevent disruption of services during this unprecedented time. Many of our requests remain unresolved and unanswered, including:

- Authorizing non-physician practitioners (NPPs) to order and oversee home health, consistent with federal law. Under the Federal CARES Act, Congress authorized NPPs (Physician Assistants, Nurse Practitioners, Clinical Nurse Specialists) to order Home Health and oversee care plans, if permitted by state law. Although the Governor's recent executive expanded certain scope of practice rules, it did not address the

Pennsylvania home health regulation that requires physician involvement at the start of care and during periodic review. 28 Pa.Code 601.31(a) and (c).

- Temporary waiver of TB testing requirements for health care and homecare workers
Health examinations are required for homecare and home health workers, including two-step TB testing. COVID-19 has presented challenges in scheduling appointments to complete the two-step testing currently required, and PHA has requested relief from this regulatory requirement for the duration of the public health emergency.
- Temporary extension of federal background check requirements under the Older Adult Protective Services Act. PHA has requested relaxation of federal background check/FBI fingerprinting rules under OAPSA, as many of the Identogo locations have been closed or are operating with significantly reduced hours. Extensions have been approved for assisted living facilities, personal care homes, ODP providers, and child welfare providers, but similar relief has not been granted for providers subject to OAPSA. All state-related background checks have and will remain in place. PHA requests that agencies be permitted to hire provisionally with a state background check for the duration of the public health emergency.
- Face-to-Face Interviews. Pennsylvania's homecare regulations require a face-to-face interview before an agency can hire a DCW. 28 Pa. Code 611.51. We have asked for the ability to conduct these interviews via Zoom, Skype or similar technology, during the COVID-19 emergency.

This is not an exhaustive list, and we would welcome the opportunity to provide you with additional information relating to our regulatory requests that remain outstanding.

CONCLUSION

Thank you for your time and attention to these very important issues. Home-based care providers are a critical piece of the healthcare continuum. As such, they must be prioritized for PPE, supported through additional funding, and provided with regulatory waivers necessary to allow them to continue to provide life-sustaining and lifesaving care to the growing population of vulnerable Pennsylvanians they serve.