

June 3, 2021

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

Alison Barkoff
Acting Administrator and Assistant Secretary
for Aging
Administration for Community Living
330 C Street SW
Washington DC 20201

Dear Administrator Brooks-LaSure and Acting Administrator Barkoff:

The undersigned organizations share a commitment to ensuring that Medicare beneficiaries are able to obtain the coverage for which they qualify and the health care they need.

The Medicare home health benefit provides coverage for a constellation of skilled and nonskilled services, all of which add to the health, safety, and quality of life of beneficiaries and their families. Under the law, Medicare coverage is available for people with acute and/or chronic conditions, and for services to improve, maintain, or slow decline of the individual's condition. Further, coverage is available even if the services are expected to continue over a long period of time.

Unfortunately, however, people who legally qualify for Medicare coverage frequently have great difficulty obtaining and affording necessary home care.¹ There are legal standards that define who can obtain coverage, and what services are available. However, the criteria are often narrowly construed and misunderstood by providers, Medicare adjudicators, and policy-makers, resulting in inappropriate barriers to Medicare coverage for necessary care. This is increasingly true for home health aide services – the very kind of personal care services older adults and people with disabilities often need to remain healthy and safely at home.

In 2021 the Medicare Payment Advisory Commission (MedPAC) reported that home health aide visits per 60-day episode of home care declined by 90% from 1998 to 2019, from an average of 13.4 visits per episode to 1.3 visits. As a percent of total visits from 1997 to 2019, home health aides declined from 48% of total services to 6%.²

In order to reverse this trend, we urge CMS, working in partnership with ACL, to ensure that the current law's scope of the Medicare home health benefit is made available to those who qualify.

¹ See, e.g., Center for Medicare Advocacy issue briefs: "Medicare Home Health Coverage: Reality Conflicts with the Law" (April 2021), available at: <https://medicareadvocacy.org/issue-brief-medicare-home-health-coverage-reality-conflicts-with-the-law/>, and "Medicare and Family Caregivers" (June 2020), available at: <https://medicareadvocacy.org/wp-content/uploads/2020/06/Medicare-and-Family-Caregivers-June-2020.pdf>.

² March 2021 Medicare Payment Advisory Committee (MedPAC), "Report to the Congress: Medicare Payment Policy, Ch. 8, p. 245, available at http://www.medpac.gov/docs/default-source/reports/mar21_medpac_report_to_the_congress_sec.pdf?sfvrsn=0 and March 2019 MedPAC, "Report to the Congress: Medicare Payment Policy", Ch. 9, pp. 234-235, available at: http://www.medpac.gov/docs/default-source/reports/mar19_medpac_ch9_sec_rev.pdf?sfvrsn=0.

Further, we urge CMS and ACL to take advantage of a potentially historic opportunity to expand health care coverage, including through President Biden's pledged investment in home and community-based services (HCBS). Such efforts can and should include not only enforcing current law, but expanding access to Medicare-covered home health services; these include creating a new stand-alone home health aide benefit that would provide coverage without the current skilled care or homebound requirements, using Medicare's existing infrastructure as the vehicle for the new coverage.

We look forward to helping you with your important work on behalf of older adults and individuals with disabilities. For additional information about the requests in this letter, please contact attorney David Lipschutz at dlipschutz@MedicareAdvocacy.org.

ACCSES

Alliance for Retired Americans

ALS Association

Alzheimer's Association and AIM

American Academy of Physical Medicine & Rehabilitation

American Association on Health and Disability

American Congress of Rehabilitation Medicine

American Geriatrics Society

American Music Therapy Association

American Physical Therapy Association

American Spinal Injury Association

American Therapeutic Recreation Association

Amputee Coalition

Answer ALS

Association of Academic Physiatrists

Association of California Caregiver Resource Centers

Association of Rehabilitation Nurses

California Council of the Blind

Californians for Disability Rights Inc

California Health Advocates

Cardozo Bet Tzedek Legal Services

Center for Advocacy for the Rights and Interests of the Elderly (CARIE)

Center for Medicare Advocacy

Child Neurology Foundation

Christopher & Dana Reeve Foundation

Coalition on Human Needs

Community Access Center

Community Legal Aid

Community Service Society

Connecticut Legal Services

Detroit Disability Power

Disability Policy Consortium

Disability Rights Education and Defense Fund

Disability Rights Texas

Falling Forward Foundation
Greater Hartford Legal Aid
Health Care Voices
Health & Medicine Policy Research Group
Justice in Aging
Kentucky Voices for Health
Lakeshore Foundation
LeadingAge
LeadingAge California
LifeSTEPS
Long Term Care Community Coalition
Massachusetts Law Reform Institute
Medicare Advocacy Project o/b/o our clients
Medicare Rights Center
Michael J. Fox Foundation
Michigan Elder Justice Initiative
Michigan Long Term Care Ombudsman Program
National Academy of Elder Law Attorneys
National Association of Area Agencies on Aging (n4a)
National Association of Social Workers (NASW)
National Association of State Head Injury Administrators
National Committee to Preserve Social Security and Medicare (NCPSSM)
National Consumer Voice for Quality Long-Term Care
National Disability Rights Network (NDRN)
National Health Law Program (NHeLP)
National Multiple Sclerosis Society
National Respite Coalition
New Haven Legal Assistance Association
Paralyzed Veterans of America
PHI
RESNA
SeniorLAW Center
Spina Bifida Association
South Carolina Appleseed Legal Justice Center
TASH
Team Gleason
The Arc of the United States
The Gerontological Society of America
United Spinal Association
Universal Health Care Foundation of Connecticut
UsAgainstAlzheimer's
Vermont Legal Aid, Inc.
Virginia Organizing
Washington State Alliance for Retired Americans
Western Illinois Area Agency on Aging