Family Care Funding and Access

A coalition of long-term care provider organizations, including LeadingAge Wisconsin, Wisconsin Center for Assisted Living (WiCAL), Residential Services Association of Wisconsin (RSA) and Wisconsin Assisted Living Association (WALA), are seeking a rate increase for assisted living providers of Family Care services. 2015 Senate/Assembly Bill 21, the 2015-17 biennial budget bill, failed to include a rate increase for Family Care providers, although the budget bill does provide increases of 3.2% in 2015-16 and 2.5% in 2016-17 to fund "actuarially sound" capitation rates for Family Care managed care organizations (MCO).

NOTE: Assisted living (AL) Family Care service providers include community-based residential facilities (CBRF), certified residential care apartment complexes (RCAC), adult family homes (AFH), and certified adult day care centers.

The Long-Term Care Provider Coalition is seeking two specific amendments relating to Family Care funding in SB/AB 21:

1. **Amend the biennial budget bill to require Family Care MCOs to apply 50% of those capitation rate increases to support a rate increase of at least 1.6% on average within each class of Family Care provider in FY 2015-16 and a rate increase of at least 1.25% on average within each class of Family Care provider in FY 2016-17. Funds Available for Provider Rate Increases: An estimated $20.5 million AF in FY 2015-16 and $16.4 million AF in FY 2016-17.** Since this provision would reallocate a portion of the MCO capitation rate appropriation under 2015 SB/AB 21, it has no fiscal effect.

2. **Delete Section 1597 of SB/AB 21, which would reinstate the Family Care "any willing provider/return to home" statutory provision which was repealed under the budget bill.**

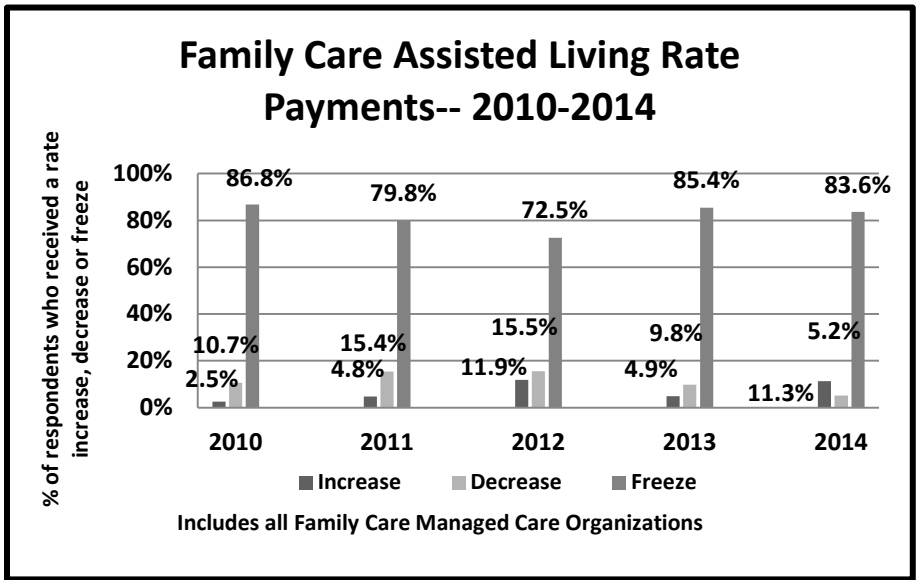
3. **Maintain Prohibition of Family Care MCO "Claw-Back" Schemes:** Delete Section 1598 of 2015 SB/AB 21, which would reinstate s. 46.284(2)(d) and continue the current law prohibition of a Family Care MCO from including a provision that requires a provider to return any funding for residential services, prevocational services, or supported employment services that exceeds the cost of those services to the MCO in a contract for services covered by the Family Care benefit.

The rationale for these proposed changes is as follows:

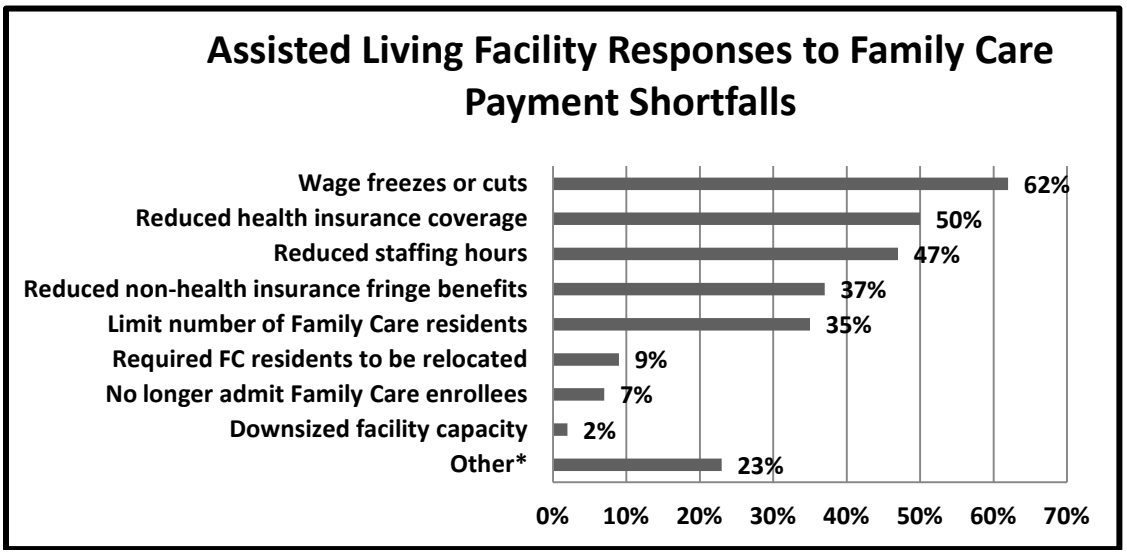
Need for Rate Increase:

- Family Care MCOs provide no health care-related services to their enrollees; they contract for the provision of those services with providers.

- A recent survey of coalition provider members found that during the 2010-2014 period, 95.3% of the 297 respondents received either freezes (84%) or cuts (11.3%) in their Family Care rates at a time that Family Care service expenditures climbed 3.4% and now exceed $1 billion. Despite the fact it is providers and not MCOs which provide those services, the survey confirms those additional funds certainly weren't going for provider rate increases.

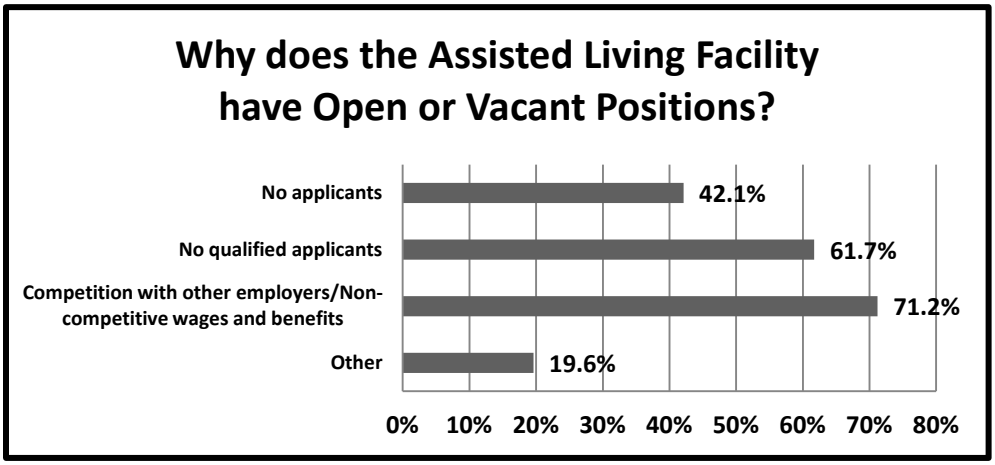


- Over 70% of the survey respondents indicated insufficient Family Care funding forced them to take actions which were in the best interests of neither their staff not their Family Care enrollees: 63% of those forced to address Family Care funding shortfalls stated they imposed staff wage freezes or cuts; 50% reduced staff health insurance coverage; 47% reduced staff hours; 35% limited the number of Family Care enrollees they would serve; and 7% no longer admit Family Care enrollees to their facility. Access as well as quality care are threatened by insufficient Family Care funding.

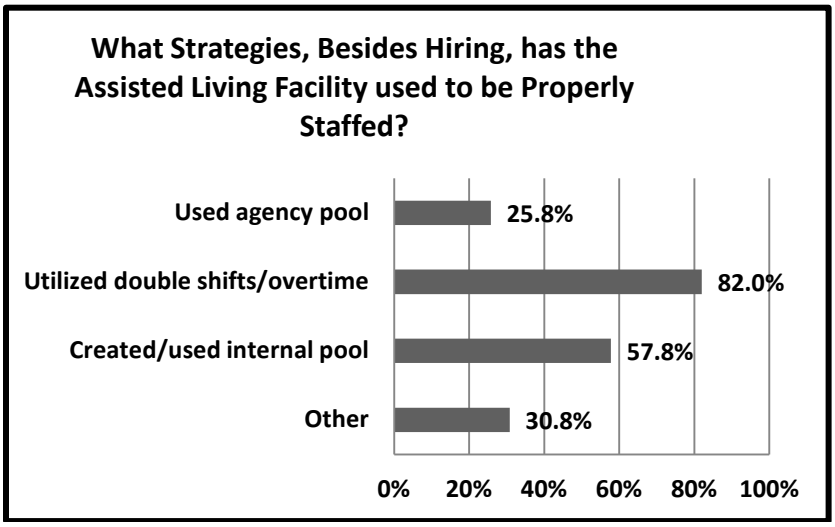


- The correlation between insufficient Family Care funding and an inability to compete for needed staff became readily apparent with the findings of another survey of coalition members, this one on workforce availability. The survey found that on average, the 103 assisted living provider respondents had a facility staff vacancy rate of just over 7% (7.14%): a 4% vacancy rate for registered nurses (RN), a 7% vacancy rate for licensed practical nurses (LPN), and a 9% vacancy rate for resident care/certified nurse aides (CNA), the primary caregivers in assisted living facilities. There always has been a correlation between staffing and quality; unfortunately, when staffing is insufficient, quality almost invariably suffers.

- **When asked why staff positions remain vacant, 71.2% of the 103 respondents attribute it to "*Competition with other employers/Non-competitive wages and benefits*;** 61.7% cited "no qualified applicants" while 42.1% reported no applicants. It's bad enough that AL facilities are having a great deal of difficulty in finding qualified job applicants; what's even worse is when they find what they are looking for, they are losing those individuals because insufficient Family Care funding places them at an even greater competitive disadvantage than they start out with because of the difficulty of the work.



- When asked what strategies facilities have used, besides hiring, to achieve/maintain sufficient staffing, 82% of the respondents replied they are utilizing double shifts or overtime; 57.8% have created and used an internal pool of their own staff, while 25.8% have used outside agency pool help. None of those options are preferable but instead are a last resort to ensure proper staffing.



- The staffing shortage, specifically for CNAs, is further borne out by statistics tabulated by the Office of Caregiver Quality (OCQ) in the Department of Health Services (DHS) Division of Quality Assurance (DQA). According to the OCQ, the number of new CNAs has declined by 17.9% since 2012, from 9,696 new CNAs in 2012 to 7,957 new CNAs in 2014. Over the same time period, the number of individuals choosing to renew their CNA status decreased by 16.3%, from 24,413 renewals in 2012 to 21,062 renewals in 2014. No doubt the difficulty of a CNA's work and non-competitive wages/benefits played a role in this decline, but the trend itself is disconcerting, whatever the reasons, especially with the Baby Boomer "silver tsunami" nearing its approach.

- CNA courses continue to be offered at all 16 of the state's technical colleges but their numbers are down as well. According to one technical college representative, CNA numbers are down because there are "alternate employers," which was explained thusly: "According to tech college CNA instructors up north, there are many new 'Kwik Trips' going up, that pay between $12-14/hour. In the southern part of the state, especially the Milwaukee area, there are many new Starbucks hiring and offering $14/hour, plus up to 6 credits of college reimbursement. These employers are competing for the same employment pool as the nursing homes (and assisted living facilities), home health, and it is more money and 'easier' work." The most-recent Medicaid cost reports for nursing homes indicate the average nursing home CNA wage is $13.13/hour; similar data is not available for CNA/resident care staff working in AL facilities although their wage rates are presumed to be lower than those provided by nursing homes.

- The "Wal-Mart Effect" cannot be either overlooked or underestimated. The retail giant announced February 19th its plan to increase its minimum pay to $9/hour in April and

$10/hour next February, part of a $1 billion training and wage enhancement package that will provide raises for approximately 500,000 of the company's 1.3 million employees. The new compensation package went into effect April 1st and raised the wage for full-time Wisconsin employees to $12.94/hour, slightly less than the average $13.13/hour wage paid to nursing home nurse aides in Wisconsin but most likely more than the average wage rate of assisted living resident care staff. The owners of TJX Cos., which operate the T.J. Maxx, Marshalls, and Home Goods stores, followed suit a week later. Family Care providers, who are reliant on government funding that basically has remained stagnant over the past 5 years, now are being asked to compete with the Wal-Marts of the world who are able to offer a more attractive compensation package for "easier" work. **That's a frightening prospect. It's also a sad commentary on the value we as a society place on our frail elderly and disabled.**

- As noted above, providers are seeking to amend 2015 SB/AB 21 to divert 50% of the MCO capitation rate increases to the providers who actually provide the care to Family Care enrollees. According to DHS staff, total AF payments for MCO capitation rates were $1.271 million in FY 2014-15 and, under the budget bill, will be increased by 3.2% ($41 million) to $1.312 million in FY 2015-16 and by 2.5% ($32.8 million) to $1.344.8 million in FY 2016-17. Providers, therefore, are seeking $20.5 million (50% of the $41 million MCO capitation rate increase) in FY 2015-16 and $16.4 million in FY 2016-17. The request has no fiscal effect on SB/AB 21 because it earmarks for provider rate increases MCO capitation rate increases that already were appropriated under the bill.

Preserve Consumer Choice in Family Care:

- Section 1597 of SB/AB 21 repeals s. 46.284(2)(c), Wis. Stats., a provision known by various names, including "any willing provider," "resident freedom of choice," and "return to home." Under s. 46.284(2)(c), the DHS requires any Family Care MCO to contract for the provision of services under the Family Care benefit with any provider "*that agrees to accept the reimbursement rate that the care management organization pays under contract to similar providers for the same service and that satisfies any applicable quality of care, utilization, or other criteria that the care management organization requires of other providers with which it contracts to provide the same service."*

- The Legislature adopted the "any willing provider/resident freedom of choice/return to home" provision as part of 2007 Wisconsin Act 20, the 2007-09 state budget. The provision was intended to prohibit a Family Care MCO from arbitrarily denying a provider from being part of the MCO's provider network if the provider adhered to the criteria outlined in the statute. More importantly, the provision seeks to expand consumer choice by ensuring that the provider of their choice has every opportunity to be a part of a given MCO's provider network. Federal law contains a similar "return to home" provision, which was adopted in response to a number of instances where managed care organizations in other states refused to return a hospitalized nursing

home/assisted living resident to their "home" nursing home/assisted living facility because it was not part of the MCO's provider network.

- Family Care was based on consumer choice and its suggested statewide expansion is no excuse to eliminate a key underpinning of the program. **Please delete Section 1597 of SB/AB 21.**

Request:

The Long-Term Care Provider Coalition is seeking three specific amendments relating to Family Care funding in SB/AB 21:

1. **Amend the bill(s) to require Family Care MCOs to apply 50% of the capitation rate increases they receive under SB/AB 21 to support a rate increase of at least 1.6% on average within each class of Family Care provider in FY 2015-16 and at least 1.25% on average within each class of Family Care provider in FY 2016-17.**

2. **Delete Section 1597 of SB/AB 21, which would reinstate the Family Care "any willing provider/return to home" statutory provision which was repealed under the budget bill.**

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