

Request to the Trump Administration Transition Team from LeadingAge Wisconsin and LeadingAge (national)

Executive Actions:

1. Delay for at least one year **the revised nursing home requirements of participation (“mega-rule”)** whose first phase goes into effect November 28th. Too much, too costly and too overwhelming for providers. Reevaluate what provisions are necessary before going forward.
2. Immediately **review the current nursing home survey process** to consider if options to the current “enforcement and punishment” system could produce better results when following a quality improvement emphasis; we recommend that a neutral, respected body such as the National Academy of Medicine (formerly the Institute of Medicine) be directed to study the nursing home regulatory system as it did the last time the system was revamped in 1986 and recommend a more equitable, quality-based approach.
3. Allow states to **pilot test alternative nursing home survey systems**, with HHS approval, including allowing high-performing facilities to be eligible for Medicare/Medicaid reimbursement through deemed status awarded by a respected accreditation entity like The Joint Commission (see Section (2)(c)(1) and (2) in H.R. 3437 from the 1st session of the 109th Congress).
4. The in-coming Administration’s interest in supporting family caregivers who provide long-term care and services to their loved ones is a bi-partisan, non-partisan concern across the aging and disability spectrum. We recommend establishing an office in the domestic policy office of the Presidency **to address issues of caregiving and services**.

Regulatory Changes:

5. **Suspend the CMS rule establishing setting requirements for home and community-based services (HCBS) Medicaid waiver eligibility** to the extent that it imposes obstacles for elderly persons to access campus-based living options; revise the definition of “community” to include both government- and private-operated, campus-based independent and assisted living.
6. Revise and **simplify the payroll-based journal reporting system (“PBJ”)**.

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7. CMS should **discontinue the home health prior authorization initiative** (pre-claim review) in Illinois, Florida, Texas, Michigan and Massachusetts, as this prevents beneficiaries from getting appropriate home health on a timely basis.
8. CMS should **rescind the category of “observation stays”** that it created, which denies Medicare beneficiaries Part A benefits for skilled nursing home care. CMS has the authority to count all nights that a Medicare beneficiary spends in a hospital as “inpatient” for purposes of eligibility for Part A skilled nursing benefits.
9. Instruct CMS to **revisit the nursing home 5-Star rating system** and change its current practice of “grading on a curve” to assess stars to skilled nursing facilities to an approach that sets performance benchmarks for each star rating making five-stars attainable by all. This will require CMS to determine performance thresholds by star level for each measure, and update the benchmarks as performance continues to improve. This would allow providers to strive to attain improved performance levels and be recognized for it. It also would result in the star rating system meaning the same thing from state to state by defining performance and holding providers accountable. Until this new system is in place, CMS should suspend using 3-star or higher status as a criteria for where certain ACOs, hospitals and health systems participating in bundled payment initiatives can refer their patients for post-acute skilled nursing care.

Legislative Changes:

10. Amend the Medicare and Medicaid statutes to **repeal the automatic loss of** the ability of skilled nursing facilities to provide **training to certified nursing assistants** because of penalties imposed under the survey process.
11. **Repeal** Title VII of the Bipartisan Budget Act of 2015 that immediately doubled civil money penalties and other fines/penalties in all healthcare and employment regulations; **rescind automatic escalators to CMS and other fines/penalties**. These increased penalties are having a devastating impact on facilities which currently are in the throes of a workforce shortage crisis.
12. Support legislation that **exempts health care providers** like our members under the Service Contract Act so that health care providers **are not considered federal contractors** subject to minimum wage, paid sick leave and other mandates created by executive order. Contracts with the Veterans Administration should be treated as provider agreements, like Medicare and Medicaid.

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