

# LEADINGAGE MINNESOTA ADVOCACY UPDATE



## 2017 LEGISLATIVE HIGHLIGHTS

**Reimbursement Reform:** Secured a down payment of Elderly Waiver reform to help seniors age at home, connected to their communities and families. Preserved and strengthened Value-Based Reimbursement for care centers.

**Workforce Solutions:** Secured reforms to help providers recruit, retain and develop professional caregivers in older adult services, including new funding for the Home and Community-Based Services Scholarship program and seed money for a new Career Awareness Campaign.

## FEDERAL REGULATORY HIGHLIGHTS

Influenced decisions on federal funding for affordable housing. Shared concerns on Requirements of Participation and shaped resources to help care centers comply with the new regulations. Opposed the American Health Care Act (AHCA) and fundamental restructuring of Medicaid. Shaped policy, tools and resources on the HCBS Settings Rule, including the state Attestation process.

### 2017 Legislative Report

This update is an overview of the session. Our more detailed 2017 Legislative Report will be distributed in July.



### ADVANCING REFORM & RELATIONSHIPS

It took a special session, but the 2017 legislative session ended on a positive note for providers of older adult services and the seniors they serve.

We made significant progress in advancing key reforms to address the workforce shortages burdening our members and securing a down payment on Elderly Waiver reform - a strong starting point for our continued efforts to redesign this outdated payment system.

Through the grassroots advocacy of our members, we educated lawmakers on the rising challenges and emerging opportunities in older adult services -- fostering stronger relationships with key lawmakers who share our goal to ensure a higher quality of life for seniors and those provide them with care.



# 2017 REIMBURSEMENT HIGHLIGHTS

## HOME AND COMMUNITY-BASED SERVICES

**Elderly Waiver Reform:** Secured the first step in reforming the reimbursement system for home and community-based services to improve flexibility and coordination of services to help aging Minnesotans choose the best option for their care in their homes and communities.

- Provided funding to support new rates based on wage data for all HCBS providers effective Jan. 1, 2019. 10 percent of the new rate structure will be based on the new formula -- about a 2 percent increase in the first year; increases will vary by service type. Inclusion of the new rate structure puts in place a framework for future rate setting reform.
- Ensured providers who submit assessments for EW services receive final community support plan when available and the Residential Services Workbook.
- Extends time period before assessments expire to 90 days, giving providers more time to complete financial eligibility.
- Requires that significant changes in client conditions trigger a new assessment.
- Allows adult day services to submit information before the annual assessment, as residential providers can do now.
- Authorized adult day services for up to 48 units, or 12 hours, per day based on client and family caregiver needs.
- Authorized at least 2-15 minute units for bath in adult day services to allow adequate time to meet client needs.

**Disability Waiver Rates:** Supported revisions to the rate setting system to better assist adult day services providers in serving clients who rely on these waivers:

- Increased absence factor for day services from 3.9% to 9.4%.
- Applied an additional year of banding, pending federal approval, to calendar year 2020.
- Updated rate system using wage data in 2022 and then every five years after that. *(Note: Rates also updated July 1, 2017 based on earlier legislation.)*

## CARE CENTERS

**Value-Based Reimbursement:** Preserved cost-based system for care centers and addressed ambiguities in law to better serve members and their employees in the future.

- Reduced number of times during a year when a rate adjustment will occur to simplify notice to private pay residents. Rate adjustments will occur on Jan. 1 or July 1.
- Suspended Value-Based Reimbursement for critical access nursing facilities for two years as they benefit more under the previous reimbursement system.
- Sunset the minimum wage increases from 2014 as they care covered in the cost-based system.
- Reinstated property payment rate increases starting Jan. 1, 2019.

## Advocacy in Action

### We Asked. You Responded!

Our success at the State Capitol would not be possible without the support and grassroots advocacy of our members.

The voices of constituents -- including seniors, their families, professional caregivers and providers of older adult services -- help keep lawmakers informed about what matters most to their communities and the people they serve.

Whether you made a phone call, sent an email, hosted your lawmaker or participated in our Day at the Capitol, you educated lawmakers and helped shaped the final outcome of session!

### BY THE NUMBERS

1,000 advocates

3,000 emails

Hundreds of calls

More than **120 Participants** at  
2017 Day at the Capitol



**THANK YOU!!!**

## WORKFORCE DEVELOPMENT

- **Career Awareness Campaign:** Secured \$100,000 to partner with HealthForce Minnesota to promote career opportunities in older adult services.
- **HCBS Scholarship Program:** Secured \$1 million in additional funding to help recruit, retain and develop staff in assisted living and adult day services settings.
- **Nursing Facility Scholarship Program:** Eliminated requirement that employees need to be “recently graduated” to receive loan repayment assistance.
- **Nurse Loan Forgiveness Program:** Expanded eligibility to nurses who work in home care or in assisted living.
- **Supplemental Nursing Services Agency:** Created flexibility in payment caps to cover travel and housing costs; set base limits on metro area wages; and deleted “other licensed health professionals” from state law so registration will only apply to agencies that provide direct care staff, not administrators, nurse managers or consultants.
- **Adult Day Services Report:** As part of Elderly Waiver reform, required DHS to study existing adult day services models, including resident acuity, staff, quality assurance and future demand to inform a new approach to EW reimbursement

*Note: Our proposal to secure \$2 million for a Workforce Innovation Grant program to fund new pilots or expand existing programs to enhance the pool of quality caregivers was not included in the final HHS bill.*



## POLICY CHANGES - Care Centers and Home and Community-Based Services

- **Face to Face Encounter - Home Care Services:** Required recipients of home health services covered by MA to have a face to face encounter with a qualifying provider (physician, nurse practitioner, physician assistant, etc.) within 90 days before or 30 days after the start of services. Encounter must communicate clinical findings to the ordering physician and be incorporated into the recipient’s medical record.
- **Housing With Services (HWS) Contract Act** To comply with the HCBS Settings Rule, additional requirements were added to the HWS Contract Act for tenants receiving one or more health-related services from the arranged home care provider. Additions include statements related to: decorating the unit, food choice, visitors, choice of roommate, and having a lockable unit door.
- **Housing Support Services:** Established housing support services for individuals with a disability that limits their ability to obtain or maintain stable housing.
- **Lodging Exemption:** Registered HWS establishments will no longer be required to obtain a lodging license effective Aug. 1, 2017.
- **MNChoices:** Aligned long-term care assessments and Community Support Plan updates with person-centered planning principles. Required face-to-face interviews to be conducted annually or as required by federal/state laws and rules. Required DHS and lead agencies to modify MNChoices Assessment Tool and related policies to reduce assessment times and to create efficiencies.
- **Preadmission Screening:** Changed timeline for face-to-face reassessments for people under 65 years who are admitted to nursing facilities or those admitted on an emergency basis with only a telephone screening from 40 calendar days of admission to a timeline established by the DHS based on review of data.
- **Private Pay Notification:** Required providers to inform individuals of rate increases related to changes in case mix classification in a timely manner after confirmation is received from MDH.
- **Spenddown:** Increased percentage of income that those who qualify for MA due to blindness, disability or age of 65+ can keep each month from 80 percent to 81 percent of the federal poverty guideline.
- **Swing Beds:** Added requirement that patient must agree to a skilled nursing facility referral and that agreement must be documented for critical access hospitals to exceed their allotted swing bed days.

## CONSUMER PROTECTION & SUPPORT

- **Vulnerable Adults Protection:** Increased licensure fees for nursing homes and home care providers to support increased staff and more efficient investigations at the Office of Health Facility Complaints (OHFC). There will be a 10 percent increase on July 1, 2018 and an additional five percent increase in 2020. Established a work group to examine system improvements within OHFC and options for implementing prevention strategies, alternative reporting approaches, and proven patient safety and quality improvement practices.
- **Electronic Monitoring:** Despite a report by the Residential Care and Services Electronic Monitoring Work Group that identified key issues to consider on electronic monitoring in care centers and senior living settings, there was no action on this issue this session.
- **Alzheimer's Support:** Created an Alzheimer's Disease Working Group and required MDH and other stakeholders to evaluate whether existing laws sufficiently protect the health and safety of persons diagnosed with Alzheimer's diseases or related disorders.
- **Self-Directed Caregiver Grants:** Required Board on Aging to administer self-directed caregiver grants to support at-risk family caregivers of older adults to help older adults remain in their homes longer.

## FEDERAL UPDATE

- **REQUIREMENTS OF PARTICIPATION:** Phase 2 requirements take effect Nov. 28, 2017, including that care centers must develop an antibiotic stewardship program, conduct a facility-wide assessment to determine what resources are needed for residents, and complete a QAPI plan. CMS has not issued survey guidance for any of the new requirements. LeadingAge is pushing CMS to allow at least 6 months between publication of the guidance and implementation of the Phase 2 requirements. LeadingAge Minnesota will respond to a recent CMS request for comments on aspects of the Requirements of Participation that may be particularly burdensome, and continue to advocate for CMS to give care centers the information they need to implement the new requirements successfully.
- **HCBS SETTINGS RULE:** CMS extended the deadline for the states to be in compliance with the new regulations by three years to March 17, 2022. Minnesota will continue with its established process while it awaits CMS approval of its State Transition Plan. We continue to work with DHS on tools and resources to assist HCBS providers who serve clients on waived services to comply with the new requirements.
- **AFFORDABLE HOUSING:** Advocacy by our members helped secure additional funding for affordable housing programs in the Omnibus Spending Act. The Act fully funds renewals of HUD rental assistance, including \$502 million for the Housing for the Elderly program – an increase of \$70 million from FY2016. In addition, the Act provides \$10 million in new funding to preserve or expand affordable housing for older adults. We continue to advocate to prevent cuts in Section 202 and support increased funding to create new affordable housing for older adults.
- **AMERICAN HEALTH CARE ACT:** The U.S. House of Representatives in May approved the American Health Care Act (AHCA). We strongly oppose the AHCA and its fundamental restructuring of Medicaid to a per capita cap reimbursement system that will pose a detrimental impact to the State of Minnesota, older adult services and the people we serve. The AHCA cuts Medicaid by more than \$800 billion over the next 10 years. Capping federal funding and shifting more costs to the state is especially troubling at a time when Minnesota is experiencing an increase in the health care needs of its rapidly-growing aging population. The loss of billions of dollars in federal funding will put the health and wellness of Minnesota seniors at risk. The massive loss in funding will require the State of Minnesota to raise revenue or look at a combination of restricted eligibility, reduced services or a cut to provider payments. The AHCA is currently waiting for action in the U.S. Senate, where it faces additional scrutiny and challenges. As of May 31, no timeline has been set for this vote.

