LeadingAge™ Wisconsin
Better Services for Better Aging

April 11, 2013

To: Senator Alberta Darling, Co-Chair
Representative John Nygren, Co-Chair
Members, Joint Committee on Finance

From: John Sauer, President/CEO
Tom Ramsey, Vice President of Public Policy & Advocacy

Subject: LeadingAge Wisconsin Position Paper on 2013 Assembly Bill 40, the 2013-15 State Budget Bill

LeadingAge Wisconsin (formerly WAHSA) is a statewide membership organization of not-for-profit corporations principally serving seniors and persons with a disability. Membership is comprised of 188 religious, fraternal, private, and governmental organizations which own, operate and/or sponsor 185 nursing homes, 9 facilities for the developmentally disabled (FDD), 182 assisted living facilities, 114 apartment complexes for seniors, and over 300 community service agencies which provide programs ranging from Alzheimer's support, adult and child day care, home health, home care and hospice to Meals on Wheels. **LeadingAge Wisconsin** members employ over 38,000 individuals who provide compassionate care and service to over 48,000 residents/tenants/clients each day.

LeadingAge Wisconsin members respectfully urge your support for the following AB 40-related provisions:

1. **Retain the 2% nursing home resident acuity adjustment in each year of the biennium.** AB 40 provides an estimated $15.9 million GPR/$38.6 million AF over the biennium to recognize the higher acuity levels of the residents being cared for in Wisconsin's nursing homes. While greatly appreciated, this 2% resident acuity adjustment makes just a small dent in the Medicaid deficit picture facing most nursing homes in the state. In the 2011-12 payment year (the most recent year for available data), total facility Medicaid and Family Care deficits – the difference between the cost of care provided to residents receiving Medicaid or Family Care services and the reimbursement received by the nursing facilities providing that care – equaled **$355.9 million**. That deficit equates to an **average loss of $51.96 for each day of care provided** to the state's 18,776 Medicaid/Family Care nursing home residents, or **an average annual loss of $1.1 million per facility**. Of the state's 381 nursing facilities, 377, or 98.95%, experienced Medicaid/Family Care losses in the 2011-12 payment year.

Historically, nursing home Medicaid losses have been subsidized by Medicare revenues and private pay rate increases but both those revenue streams are drying up: Medicare expenditures for skilled nursing facilities (SNF) nationwide were cut $14 billion over a 10-year period in 2010, by an additional 12.6% for the average Wisconsin SNF in 2011, and by another 2% effective April 1, 2013 as part of the federal sequestration cuts; while the percentage of nursing home residents paying for their own care has dropped from 26% to 21% over the past 5 years (67% of the state's nursing home residents are Medicaid/Family Care recipients and 12% are Medicare beneficiaries), private pay residents now pay on average an estimated $90 per day more than the average nursing home MA per diem rate of $152.96 – for virtually the same care. Inadequate Medicaid reimbursement is the main culprit in the closure of over 40 nursing facilities in Wisconsin in the past 10 years, a number that no doubt will continue upward if things don't change. While the 2% nursing home acuity adjustment in AB 40 would address only the tip of the iceberg, it would be a good start. This issue is described in greater detail at: www.leadingagewi.org/sites/default/files/iplosses.pdf, "Wisconsin Nursing Facilities: Medicaid and Family Care Deficits for Payment Year 2011-12," which includes the Medicaid and Family Care deficits for all Wisconsin nursing homes by State Senate/Assembly districts.

2. **Return the remainder of the nursing home bed tax "skim," at an estimated cost of $20.2 million GPR/$51.4 million AF over the biennium.** S. 50.14(2)(am), Wis. Stats., states that beginning in state fiscal year 2010-11, there is imposed on all licensed nursing home beds an assessment not to exceed $170 per calendar month "for the privilege of doing business in this state." This assessment is what is commonly referred to as the "nursing home bed tax." The nursing home bed tax has evolved dramatically since its inception in 1991-92, when a $32 per month tax was imposed on all occupied beds, excluding those beds occupied by Medicare beneficiaries. Initially, providers supported the nursing home bed tax because the funds generated by the tax were used as the State match to generate additional federal MA dollars that were used not only to pay back the tax but to provide nursing homes with Medicaid rate increases. Since that time, however, the "game" has changed twice. In 2002, the federal government ratcheted down the "provider tax" by applying it to all licensed beds, without exclusions and regardless of whether the bed was occupied, i.e., generating revenue.

   Of equal, if not greater, significance, however, was a state policy change initiated in the 2009-11 biennium. While 2009 WI Act 28, the 2009-11 state budget, provided a 2% MA rate increase for nursing homes in each year of the biennium, **over $170 million of the federal dollars generated by the more than doubling of the bed tax in that biennium** (from $75/licensed bed/month to $170/licensed bed/month) **were not used for nursing home rate increases but instead were used to offset Medicaid base expenditures**. This procedure has been referred to as the nursing home bed tax **"skim"** and has been used by both Democrat and Republican Administrations to generate an estimated $260.5 million in "skimmed" dollars since FY 2009-10 to help balance the state budget. It's also a procedure candidate Scott Walker described as "unethical" during the 2010 gubernatorial campaign. Under Item #1 above, **LeadingAge Wisconsin** members illustrated the dire financial straits they face; Item #2 provides a brief history of the nursing home bed tax and the controversial bed tax "skim."

If you wish to eradicate the questionable public policy that is the nursing home bed tax "skim" while helping to ensure that quality in the state's nursing homes is not jeopardized by inadequate Medicaid reimbursement, please support the return of the remainder of the nursing home bed tax "skim." The "skim" would be reduced by approximately 43% if the 2% nursing home resident acuity adjustment under AB 40 were to be adopted; the return of the remainder of the "skim" left after the 2% acuity adjustment would amount to $20.2 million GPR/$51.4 million AF over the biennium. This issue is described in greater detail at: www.leadingagewi.org/sites/default/files/ipskim.pdf, "Issue: Return of the Nursing Home Bed Tax 'Skim'."

3. **Create a procedure for providers to challenge their Family Care rates and require Family Care managed care organizations (MCO) to share their rate-setting methodologies with providers.** The Family Care rate-setting process has been a source of great frustration for many providers. Those providers complain that Family Care MCOs in many cases refuse to share with them either the MCO's findings from the long-term care functional screen, which MCOs are required to conduct for each enrollee into the Family Care program, or the methodology they use to set rates. Without access to that information, it is incredibly difficult for providers to pose a credible challenge to the findings of a MCO. Providers also complain that their negotiations with the MCOs all too often amount to "take it or leave it." They would like to see a procedure established to enable them to challenge the rates set by their MCO, preferably before an independent third party. That process is laid out at: www.leadingagewi.org/sites/default/files/ipfamcare.pdf, "Issue: Family Care Provider Payment Rate Transparency."

Thank you for your attention to these matters. Please feel free to contact us if you or your staff should have any questions.