LeadingAge™ Wisconsin
Better Services for Better Aging

July 9, 2015

Governor Scott Walker
115 East Capitol
Madison, WI 53702

RE: Veto Requests

Dear Governor Walker:

LeadingAge Wisconsin is a statewide membership association of not-for-profit organizations principally serving seniors and persons with a disability. Membership is comprised of 195 religious, fraternal, private and governmental organizations which own, operate and/or sponsor 172 nursing homes, 7 facilities for the intellectually/developmentally disabled (FDD), 182 assisted living facilities, 102 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.

As you review 2015 Senate Bill 21, the 2015-17 state budget bill, LeadingAge Wisconsin members urge you to give consideration to two veto requests of importance to long-term care providers:

1) **The Family Care "Any Willing Provider" Provision –** Under current law s. 46.284 (2) (c), Wis. Stats., the Department of Health Services (DHS) requires Family Care managed care organizations (MCO) to permit any provider of Family Care services to be a part of that MCO's provider network if the provider agrees to accept the reimbursement rate that the MCO pays to similar providers for the same service and satisfies any applicable quality of care, utilization or other criteria that the MCO requires of other providers with which it contracts to provide the same service. Under Section 9118 (9) (c) 9 of the Joint Finance Committee/Legislature's version of the budget (SSA1 to SB 21), that same provision would apply to integrated health agencies (IHA) under the Family Care waiver request except it would be in effect "for a minimum of 3 years in each region after the date of implementation of the waiver under this paragraph in that region."

   LeadingAge Wisconsin opposes placing a 3-year limitation on the Family Care "any willing provider" requirement and respectfully requests a veto on Page 1499 of SSA 1 to SB 21, striking the language on Line 16 beginning with ", for" and ending with "region," on Line 17.

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LeadingAge Wisconsin members prefer to refer to this provision as the "return to home," rather than "any willing provider," provision because we view this issue more from the consumer choice than the IHA provider network perspective. Long-term care residents/Family Care enrollees generally prefer to reside in facilities close to their homes, especially those in rural communities. That choice could face dramatic disruption if the local facility is not part of the IHA provider network.

We also would prefer to avoid situations which have been reported nationally where a nursing home (or assisted living) resident who has been transferred to the hospital has been denied upon discharge a "return to their home" nursing home/assisted living facility because that facility is not part of the managed care organization's provider network. That decision in rural Wisconsin potentially could force a Family Care enrollee to the nearest network facility which might be more than 50 miles from their home.

In Legislative Fiscal Bureau (LFB) Budget Paper #356 (dated May 27, 2015), Discussion Point #38 states that "OCI indicates that the any willing provider provision may increase an MCO's costs, in that it requires increased administrative expenses by an MCO to operate due to the coordination of a broader network." Note that OCI states it <u>may</u> cost more, but it may not, or that additional cost may be miniscule. However, there's no question the "any willing provider" provision enhances the quality of life of the Family Care enrollee by enabling that individual to remain close to her/his family, friends and community.

Although originally suspect of the "any willing provider" provision, we are unaware of any major concerns the current Family Care MCOs have with the provision or of any significant problems it has caused them. The 3-year limit that is contained in the budget bill, however, appears to be consistent with the operations of some national managed care organizations in other parts of the country. We hope the needs and concerns of Wisconsin managed care clients trump the preferences of those national operators.

To ensure that Family Care enrollees continue to get the care they need where they wish it, LeadingAge Wisconsin members urge a veto of the 3-year limitation of the "any willing provider" provision contained in SSA 1 to SB 21.

2) **Labor Region Methodolgy Study –** Section 9118 (4u) of SSA 1 to SB 21 directs the DHS to study the labor region methodology, including the methodology under section 49.45 (6m) (ar), used to assist with the determination of Medical Assistance reimbursement rates, and no later than July 1, 2016, shall submit to the legislature under section 13.172 (2) of the statutes an implementation plan for incorporating any necessary changes to labor region methodology such that the proposed labor region methodology results in adjustments to direct care costs that reflect labor costs for nursing homes in each county. The DHS may not implement any proposed changes to labor region methodology without the enactment of legislation.

   LeadingAge Wisconsin members urge the Governor <u>not</u> to veto this language and to direct the DHS to conduct a study of the nursing home labor region methodology.

As noted in Discussion Point #23 of LFB Budget Paper #362 (dated May 27, 2015), numerous nursing home operators over the past several sessions have approached their legislators and sought a budget amendment to change the labor region of the county where they operate. As Table 4 of the LFB Budget Paper illustrates, many have succeeded in their efforts, which would infer that the DHS and/or the Governor acknowledged flaws with the nursing home labor region methodology.

Three counties attempted to further modify the labor region methodology through the budget process this session but for the first time, there was open pushback from other nursing home operators in opposition to these changes. LeadingAge Wisconsin did not seek this study; we assume it was placed in the budget because legislators began to tire of being asked to use the budget process to readjust nursing home labor regions.

Despite the fact we didn't ask for the study, we believe it is needed and support its inclusion in the budget. As noted in Discussion Point #19 of LFB Budget Paper #362, the last time the labor region methodology was studied and revised was at the direction of the Legislature and the Governor under 2001 WI Act 16. We submit that the mobility of today's workforce and the competitiveness of the marketplace have changed dramatically since 2001 and that alone warrants a revisit of the nursing home labor region methodology. As referenced above, it would appear at least indirectly that you and previous Governors and Legislatures concurred with that assessment when previous labor region changes were approved. An update of the current labor region methodology would identify those marketplace changes and take them into account, thus ensuring a fairer nursing home reimbursement system.

We readily acknowledge the DHS has the authority to conduct a labor region methodology study without a budgetary directive. The Department, however, has chosen not to do so. LeadingAge Wisconsin members frankly don't care whether the DHS decides voluntarily to conduct a nursing home labor region methodology study or is directed to do so under 2015 SB 21; we simply urge such a study be conducted.

Thank you for this opportunity to comment on these items of interest to long-term care providers as you review the amended version of SB 21.

Sincerely,

John Sauer
President/CEO

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