576 Johnsville Road
Sykesville, MD 21784

TO: House Health and Government Operations

FROM: LeadingAge Maryland

SUBJECT: House Bill 725, Maryland Medical Assistance Program, Maryland Children's Health Program, and Community First Choice Program - Reimbursement of Service Providers

DATE: March 7, 2023

POSITION: **Unfavorable**

LeadingAge Maryland respectfully requests an unfavorable report of House Bill 725, Maryland Medical Assistance Program, Maryland Children's Health Program, and Community First Choice Program - Reimbursement of Service Providers.

LeadingAge Maryland is a community of more than 140 not-for-profit aging services organizations serving residents and clients through continuing care retirement communities, affordable senior housing, assisted living, nursing homes and home and community-based services. Our mission is to expand the world of possibilities for aging in Maryland. We partner with consumers, caregivers, researchers, public agencies, faith communities and others who care about aging in Maryland.

House Bill 725 increases from 4% to 10% the percentage reimbursement rate increase that is required to be included in the Governor's proposed budget for fiscal year 2024 for providers of health care services under the Maryland Medical Assistance Program, the Maryland Children's Health Program, and the Community First Choice Program. This legislation also requires that 90% of that funding increase be used to fund wage increases for direct care workers. Under the bill, nursing homes must annually submit a cost report to the Maryland Department of Health that includes documentation of wage disbursement. Failure to do so could result in recoupment from the reimbursement rate, a corrective plan, suspension or termination from the program or termination of licensure.

LeadingAge Maryland supports increasing wages for direct care workers and other staff in nursing home settings and is not opposed to finding a wage pass-through mechanism that would support further increasing wages and benefits. In fact, our members continually evaluate wages and increase wages and benefits to better support their team members. However, reimbursement mechanisms must be aligned to ensure providers are also able to meet rising costs in other areas of operations.

The bill as currently written is incredibly problematic. Any wage pass-through measure must come from new Medicaid funding, not from the 4% annual Medicaid rate increase or funds meant to support acceleration of the state minimum wage, such as the Fair Wage Act of 2023. Medicaid providers have experienced chronic underfunding coupled with rising costs causing them to either operate in the negative or with very small margins. Unlike other businesses, these providers are unable to pass added costs on to consumers. The Marylanders they serve are most commonly receiving short-term rehab care paid for by Medicare, or long-term care covered by on Medicaid, which reimburses at a set rate that must be used to cover all expenses.

COVID-19 and its aftermath will most certainly test community organizations and ultimately determine whether the provider network is capable of meeting the steady and increased demand for critical services. Providing a material rate increase without ties is essential for the ongoing viability of these entire provider organizations and for the health and safety of the individuals they serve.

LeadingAge Maryland appreciates the intent of the bill and looks forward to working with the bill sponsor and other stakeholders to find straightforward and practical solutions to continuing to increase staff wages and benefits. Most of our members, and many of the nursing home providers across the state, have already adjusted to providing a minimum wage of at least $15 or more to better support their valuable team members. Unfortunately, however, this bill as written ties the hands of Medicaid providers. Significant Medicaid reimbursement rate increases are appreciated and urgently needed to support rising costs of operations, including increased prices of products, testing, PPE, *and* staffing. Further concerns are outlined below.

- The bill as written restricts who may benefit from the increased wages. Any wage pass-through needs to be applicable to direct and indirect care staff wages AND benefits, including but not limited to physicians, physicians' assistants, nurse practitioners, nurse specialists such as those engaged in diabetic, renal, and wound care, or other chronic medical conditions; registered nurses, licensed practical nurses, certified nurse aides, geriatric nurse aides, resident care aides; dietary workers, housekeeping/laundry, in-house clerical staff regularly interacting with residents and caregivers; maintenance, clergy, security staff; staff development coordinator, quality assurance professional, unit clerks, MMQ evaluation nurse/MDS coordinator; social service worker, behavioral health staff, interpreter service, restorative therapy, and recreational therapy. As is currently the case, Medicaid rates can be used to pay for temporary agency (nursing) staff, and temporary agency wages and benefits should be included in wage and benefit targets. We are not opposed to the salary and benefits of nursing home administrators being excluded from the spending targets.

- Directing 90% of the increase for wages only compromises the viability of the provider community and the State's ability to continue to reduce unnecessary emergency department and inpatient utilization.

- While the bill tends to focus on nursing homes, by using the term "health care workers" on page 4, line 15, the bill is essentially requiring ALL Medicaid providers listed above to increase wages for ALL health care workers not just direct care workers.

- The proposed FY2024 budget does not contain a 10% increase in reimbursement rates for the specified providers. While there is an additional 8% increase contingent on the passage of *HB549/SB555: Fair Wage Act of 2023*, that increase is to offset the acceleration of the minimum wage to $15/hour. It is unclear the intersection between the rate increase due to the minimum wage acceleration and the 10% increase included in this bill.

- The 90% requirement fails to consider several issues. It does not consider the cost of benefits when increasing wages nor does it consider the fact that over the last few years the mandated rate reimbursement increase has become both the floor and the ceiling. Unfortunately, rates are not based on the cost of providing care but what is determined "allowable" in the State budget. By constraining how the rate increases must be spent, Medicaid providers are limited in addressing other cost factors, such as increases in transportation services, food prices, medical equipment, insurance, and others.

- The bill only allows for rate increases and, given that the rate increases must consume 90%, it would limit the ability to hire staff or be competitive in wages for new hires.

- The reporting language and penalties in the bill as drafted are problematic and punitive. Our state cannot afford to lose additional not-for-profit and mission driven nursing home providers in the coming years, and the punitive language and approach in this bill as written would be harmful to our field and to Marylander's ability to receive needed care. Instead, the Maryland Department of Health should ensure compliance in a way that is not onerous to nursing homes.

- Lastly, the rate increase is only a one-time rate increase and as such becomes an unfunded mandate in subsequent years. There is no adjustment for future years, meaning that Medicaid providers would be required to increase wages using one-time funds, but those funds will not be present under the bill to sustain the continuation of those wages. This is unsustainable.

For these reasons, LeadingAge Maryland respectfully requests an <u>unfavorable report</u> for House Bill 725.

For additional information, please contact Aaron J. Greenfield, 410.446.1992