



April 26, 2024

The Honorable Cathy McMorris Rodgers
United States House of Representatives
2188 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone, Jr.
United States House of Representatives
2107 Rayburn House Office Building
Washington, DC 20515

The Honorable Brett Guthrie
United States House of Representatives
2434 Rayburn House Office Building
Washington, DC 20515

The Honorable Anna G. Eshoo
United States House of Representatives
272 Cannon House Office Building
Washington, DC 20515

Representatives McMorris Rogers, Pallone, Jr., Guthrie, and Eshoo:

On behalf of our nearly 5,000 member companies, the [Home Care Association of America](#) (HCAOA) writes today in strong support of [H.R.8114](#), sponsored by [Representative Kat Cammack](#) (R-FL-3), to be heard by the House Energy and Commerce Subcommittee on Health on April 30, 2024. The bill would prohibit the Secretary of Health and Human Services (HHS) from finalizing regulations that would require pass-through payment requirements for home and community-based services pursuant to the recently finalized [Medicaid Access Rule](#), scheduled to be published in the [Federal Register on May 10, 2024](#).

After reviewing the final rule, HCAOA continues to stand by the position laid out in the attached comments ([available here](#)) that we submitted to CMS during the rulemaking process. This comment emphasizes that the true impact of the rule, as written, will be to reduce (rather than increase) patient access to quality Medicaid services. This decrease is mainly the result of the rule's payment adequacy provision, sometimes referred to as the 80/20 provision. While HCAOA supports certain aspects of this rule, the 80/20 provision will ultimately cause many Medicaid providers to either curtail services or cease providing services entirely. This result is anathema to the rule's stated intent.

As written, the 80/20 provision will only serve to reduce patient access for many reasons, including:

- The final rule prescribes how an agency may use current Medicaid funding rather than addressing the underlying workforce problem: the inadequacy of the rates themselves. The rates are far too low and leave providers no leeway to continually invest and innovate. Encouraging states to **increase** reimbursement rates and offer an enhanced Federal Medical Assistance Percentage (FMAP) are the two most effective and efficient methods of raising direct care worker (DCW) wages.
- Restricting costs and prescribing rates through an arbitrary 80/20 ratio would contradict many of the quality measure efforts that we actively support in the rule. The home care industry needs more support and more innovation to increase quality care, not less funding and more regulation.
- When implemented, we expect to see swift and severe negative impacts on patient access nationally. Most providers will curtail services, while many will leave the Medicaid space entirely. The 80/20



provision will only serve to *reduce* access, particularly in rural and underserved communities, contradicting the purported goal of the rule.

- The rule will detrimentally impact workforce recruitment and retention. It is understood that the Administration is attempting to assist with this shortage, but the imposition of this rule will only serve to further hamper providers' efforts to recruit and retain the caregiving workforce Americans rely on and deserve. The economics of the final rule will undoubtedly force providers to cut workforce support measures that are currently paid for, such as certain trainings, career advancement opportunities, supervision, and oversight and recognition programs. These measures are vital to supporting a thriving, vibrant workforce while enabling providers to deliver quality care to patients in need.
- State agencies from both blue and red states provided formal comments in opposition to the rule. This fact speaks for itself.

We would be remiss not to mention the aspects of the rule that we support and have previously championed. For example, we support the access reporting requirements and payment rate transparency provision. As a result of these provisions, states will be required to be more transparent in how much they pay for home care services and how they set reimbursement rates, increasing accountability. States will also have to create a home care rate-setting advisory group made up of beneficiaries, home care workers, and other key stakeholders to advise and consult on provider payment rates and direct compensation for direct care workers, giving our industry a needed voice during conversations on rate setting. HCAOA also supports the provision in the final rule that establishes a nationally standardized set of quality measures for Medicaid-funded HCBS.

Americans need and deserve the quality home care services that Medicaid helps provide. HCAOA and its partners appreciate the opportunity to have our voice heard regarding this rule and stand ready to assist the Committee in any way possible. Please don't hesitate to reach out to us.

On behalf of our home care providers, members, and stakeholders, thank you for your leadership on this incredibly important issue. We look forward to working with the Committee to ensure that home care remains available and affordable to those who need it.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason R. Lee".

Jason R. Lee
CEO
Home Care Association of America