



July 21, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy:

We reach out to you as representatives of disability service providers, the individuals with disabilities they serve, families of individuals with disabilities, and the vast workforce of individuals with disabilities, many of whom have been continuously engaged in essential employment throughout this pandemic. These organizations, individuals, and families have been particularly hard hit throughout this pandemic. While we acknowledge and appreciate Congress’s efforts to date, more is needed to avoid calamity as this pandemic continues.

As the Senate and House engages in the next COVID-19 negotiations, we are asking you to keep the organizations and individuals we represent top of mind. While some CARES Act funds have trickled down to organizations and individuals in the disability community, it is not enough. Moreover, some states are trying to claw back some of the relief Congress afforded through the Paycheck Protection Program, which is increasing concerns for already stressed organizations

that were able to obtain that relief. Not all were able to secure a Paycheck Protection Program Loan and those that did in the early days of the PPP were careful to use those funds for the purpose originally allocated, not anticipating that the pandemic would extend through the summer. Notably, a recent survey conducted by APSE of more than 600 disability service providers shows that only 45% of providers that applied for a PPP loan received the requested funds. While we hope the Congress will do a second round of PPP funding for charitable nonprofits (particularly nonprofits serving people with disabilities) that will allow organizations to apply whether or not they obtained an initial PPP loan, those funds do not conflict with what we are requesting today.

In the next COVID-19 package, we ask that you provide dedicated funding for Medicaid Home and Community-Based Services (HCBS) and intermediate care facilities. This funding is critical for providing services through this pandemic and literally being able to continue when the pandemic is finally under control. This is not a political issue; it is a matter of maintaining a quality of life for many individuals with disabilities and the people who support them. The House has already performed much of the legwork with respect to the needs of the disability community by including a targeted 10-point increase in the Federal Medical Assistance Percentage (FMAP) for HCBS in the HEROES Act. We cannot overstate the need for these funds. Millions of people with disabilities, aging adults, and their families rely on the Medicaid system to support them in their homes and communities. These funds also are critical to the existence of disability service providers, which are seeing some states attempt to cut rates at this critical time. While we acknowledge that states are facing their own budget crises, fixing a state budget crisis cannot be on the backs of people with disabilities or the providers that support them. We also do not want to see efforts to limit eligibility for vital HCBS services continue. These services, which are optional under Federal Medicaid law, are not optional for the people who rely on them to live their daily lives. Increasing the FMAP will help immeasurably in protecting individuals and providers and allowing services to continue without financial interruption.

Disability service providers are the frontline workers for many individuals with disabilities and they have been doing yeomen's work in maintaining services throughout this pandemic both on site and virtually. They have responded with speed, efficiency, and creativity. They have fought every battle that has been laid in their paths. Many, when faced with a dire lack of personal protective equipment, ramped up their manufacturing centers to make personal protective equipment for the individuals they serve and their communities. Providers, faced with the scarcity of direct support professionals, pivoted to redirect staff to help with the most critical needs. In four months, we have seen disability service providers rise to the occasion in every possible way, creatively, without complaint, and always with the individuals they serve in mind. It would be catastrophic were any to go under as due to this pandemic. Congress can help.

The relief offered to date has not been targeted to state HCBS systems. Increased funding for HCBS services is vitally needed now to keep services going and will continue to be needed as we open back up. Individuals who wish to transition from the location where they have weathered the pandemic will need personal care and financial supports to undertake that transition. A ten percent targeted increase in FMAP funding will make a significant difference in the lives of people in need and for the providers of services that support them.

We also urge you to support a global FMAP increase in addition to the dedicated HCBS funding outlined above. During a pandemic it is imperative that funding flows to states to support the overall stability of the Medicaid program.

Please also note that the Department of Health and Human Services' (HHS) June announcement that Medicaid providers would be included in the recent disbursement from the Provider Relief Fund was welcome, but the rollout of the Medicaid and CHIP Provider Relief Fund has left many disability service providers confused and believing they were not eligible. The information HHS issued did not make it clear that disability service providers were eligible and while we tried to communicate that to providers through our networks, it was an uphill climb. For example, when asked how to determine eligibility during an HHS webinar, HHS's response that if a provider could sign the attestation, they were eligible, was meaningless when the attestation itself was confusing and not in accordance with what was being said on the HHS webinars with respect to COVID "patients." This made it even more difficult for our organizations to convince providers that they were eligible and many providers, out of an abundance of caution, have not applied. We encourage Congress to reach out to HHS to correct the failings of this rollout, making it clear that disability service providers are eligible and modifying the attestation to conform to the advice HHS offered on its webinar.

The second request we wish to make involves the need for having sufficient funds available to assist people with disabilities in getting back to work. The unemployment rate for people with disabilities is significantly higher than the unemployment rate for the general population at the best of times and that has only been exacerbated by the pandemic. Many individuals rely on the vocational rehabilitation system to help with their employment needs. We ask that the requirement of a federal match for VR be waived for two years. This will help to ensure that individuals with disabilities will be able to access VR services and have the supports they need to overcome any barriers to employment.

Before closing, we want to raise a third issue of great concern to many charitable nonprofits, which includes many disability service providers. Many nonprofit providers self-insure their unemployment obligations, which you addressed in part in Section 2103 of the CARES Act. We appreciate that effort. Unfortunately, it does not go far enough. Were nonprofit providers for people with disabilities asked to reimburse unemployment for the length of this national emergency, particularly through this lengthy reopening and now faced with the possibility of having to lay off more staff, it could easily bankrupt many. We respectfully ask that Congress amend the CARES Act through the next stimulus bill by modifying Section 2103 to cover 100% of unemployment obligations for self-insured nonprofits. We do want to thank you for correcting the guidance issued by the Department of Labor. That will be helpful in the short term. For the long-term, however, assistance in the form of 100% coverage is needed

Thank you for your consideration. We are available to talk with you about this request. Please feel free to reach out to anyone of us.

Sincerely yours,

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