



April 10, 2020

Gov. Tony Evers
115 East Capitol Drive, #1
Madison, WI 53707

Senate Leader Fitzgerald
State Capitol, Room 211 South
Madison, WI 53707

Speaker Robin Vos
State Capitol, Room 217 West
Madison, WI 53708

Senate Minority Leader Shilling
State Capitol, Room 206 South
Madison, WI 53707

Assembly Minority Leader Hintz
State Capitol, Room 201 West
Madison, WI 53708

CC: Legislative Members
DHS Secretary Designee Palm

Dear Governor Evers, Senators Fitzgerald and Shilling, Representatives Vos and Hintz:

Survival Coalition provided COVID-19 response recommendations in its March 18th, March 31st, and April 2nd letters. Survival Coalition has reviewed the Legislative Summary of the COVID-19 response bill that has been released and writes to request clarification on parts of the proposal.

We appreciate the inclusion of waiver flexibilities for hardship or supplemental payments to retain home and community based services (HCBS) providers, relaxing certain prescription drug refill restrictions, and authority for DHS to temporarily suspend certain requirements in the 1115 BadgerCare waiver, which we understand will enable the state to receive additional federal dollars as authorized under the Federal CARES act. Survival Coalition notes the inclusion of several waiver flexibilities specifically requested.

The Legislative summary includes items that are not directly related to COVID-19 response. Survival **Coalition urges the legislature to pass a clean COVID-19 response bill that is limited in scope and responsive to the duration of the current crisis.** The next state budget and regular legislative session can provide opportunities to continue important conversations and debates.

Survival has several questions regarding the language on Medicaid waiver authority:

- Is authority for DHS to pursue 1915 (c) Appendix K, 1135 waiver and any applicable waivers that offer COVID-19 flexibilities included in this legislation?
- Are the itemized bullets in Medicaid waiver section (page 9, Legislative Summary) required by the legislature to be included in any waiver request?

- Can DHS pursue waiver flexibilities that would be useful in response to COVID-19 but are not listed in the legislative proposal?

No appropriations are included in this bill, which is problematic. Significant funding will be needed to preserve Home Based Community Service providers. It is likely that additional federal funding available after approval of the 1115 waiver revisions will be insufficient to cover all the costs and needs associated with this crisis.

While we appreciate the necessary support for HCBS providers, it is unclear how this legislative package will directly provide funding for the direct care, home health, residential, and other workers who are providing more hours of service while incurring risk of COVID-19 infection during the course of their duties.

We request the legislature **direct DHS to reserve a substantial percentage of the federal Medicaid dollars received under the Federal CARES act to support the Home and Community Based Services system** (Family Care, IRIS, Pace, Family Care Partnership, and CLTS).

The bill should also **require DHS to direct funds toward or ensure that providers who apply for hardship or supplemental payments**, including MCOs, can attest that a proportion of funds have been allocated to **overtime or hazard pay for front-line home and community-based direct support professionals**.

These workers also need access to adequate personal protective equipment. Any reserve of **personal protective equipment**, or any share of equipment already allocated in a community to a health care facility must also be made available **for use by the home and community-based workforce** if the home and community-based provider can verify that lack of PPE is impacting the ability to ensure patient care and/or worker safety.

Many family members are stepping into caregiving roles, often while working from home and schooling or taking care of young children. Survival Coalition recommends the state Family Medical Leave Act statutory policy be temporarily changed for the time of the public health emergency to:

- Extend unpaid leave time to people who are caring for a grandparent, grandchild or sibling with a serious health condition;
- Modify the definition of a “a serious health condition” to include “Or a condition which requires daily in-home supervision due to the unavailability of safe supervision and supports in a setting that has closed due to the COVID-19 emergency.”

These provisions should not be included in a COVID-19 response package and we request they be removed from the bill:

- **Joint Finance Committee authority.** Survival Coalition objects to provisions that would increase the authority of the Joint Finance Committee to reduce appropriations, suspend statutory changes, and transfer sum sufficient appropriations. These provisions would make permanent



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changes that could impact education, transportation, workforce quality and training, and other state services and programs important to people with disabilities.

- **Certified Nursing Assistant training hours.** Survival Coalition notes that DHS has already granted flexibility for expedited training for Certified Nursing Assistants (CNA). There has been disagreement on CNA training requirements this legislative session; this issue has already been addressed in the context of the COVID-19 crisis and Survival suggests there is no need to make a broader policy change at this time.

It is critical the state ensure the home and community based workforce can continue to provide services so the 85,000 older adults, people with physical disabilities, people with intellectual disabilities can stay in their homes and out of expensive Medicaid-funded institutions.

Survival Coalition is comprised of more than 30 statewide disability organizations that advocate and support policies and practices that lead to the full inclusion, participation, and contribution of people living with disability.

Sincerely,

Survival Co-Chairs:

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