Good Morning -

LeadingAge New York would like to elaborate on the following issues that were raised during Tuesday's Health Budget Hearing, to ensure that legislators and staff have more information than the 3-minute format allowed:

- **<u>1115 Waiver as Source of Funds for Long-Term Care</u>:** On several occasions, the Medicaid Director cited the 1115 waiver as a potential source of funds for managed care quality payments, LTC workforce, and distressed nursing homes. However, as currently drafted, the proposed 1115 Waiver will not address the long-term care issues highlighted in the hearing. The vast majority of funds under the proposed waiver ($9.9 billion of the $13.5 billion requested over 5 years) will flow through "advanced value-based payment arrangements" that involve shared risk financial risk with providers across large populations for the total cost of care. However, the vast majority of Medicaid beneficiaries receiving LTC in NYS are dual eligibles enrolled in partially-capitated Medicaid MLTC plans that cannot and do not cover Medicare benefits (i.e., primary care, hospitalization, specialty medical care). For a variety of reasons, "total cost of care" arrangements are infeasible for the partially-capitated plans and the LTC providers in their networks, and the LTC providers generally cannot take financial risk for the delivery of care. More specifically, as explained below, the waiver does not adequately address the following issues raised by legislators in the hearing:
    - Waiver Funding for Distressed Nursing Homes: The waiver proposes to provide $1.5 billion over 5 years for distressed safety net hospitals and nursing homes, but the money must flow through managed care plans. *The nursing home benefit is largely carved out of the partially-capitated MLTC plan benefit package.* And, there is very little nursing home utilization under mainstream managed care, which generally serves an under 65 population. As a result, it will be programmatically very challenging to flow significant sums to nursing homes under the current construct of the proposed waiver.
    - Waiver Funding for Workforce: The waiver proposes to invest $1.5 billion in workforce investment organizations (WIOs). These organizations have been principally involved in training existing LTC personnel. The waiver would expand the scope of WIOs to include workforce in other health care sectors. The waiver currently does not appear to provide funds for enhanced wages.
    - Waiver Funding for Managed Care Quality: The current draft of the proposed waiver does not reference funding for managed care quality pools or similar dedicated funds to reward providers and plans for quality.

- **<u>Appropriated Funds for Distressed Nursing Homes and Nursing Home Staffing</u>:** Several legislators asked about the distribution of funds appropriated for nursing homes. There are several potential sources of funds for nursing homes that have either not been spent at all or have been largely targeted at other types of providers:
    - **$<u>187M and $64M for Nursing Home Staffing</u>:** The SFY 2021-22 budget included **$64M** for nursing home staffing, and the SFY 2022-23 budget included **$187M for each of 2 years (SFY 2022-23 and 2023-24)**. Not a dollar of those funds has been spent. The State submitted its Medicaid State Plan amendment on **June 30, 2022** (15 months after the funding was first appropriated). As Senator Rivera signaled in the hearing, the State Plan Amendment did not conform to the requirements of the appropriation enacted by the Legislature, and actually would have awarded funds to nursing homes did not meet 70/40 spending requirements (i.e., that were diverting funds from resident care), while

failing to comply with staffing requirements. The state has said, since the fall, that it would revise the SPA, but we have not seen a revised SPA. We were pleased to hear the Medicaid Director report in the hearing that the state would be pursuing the SPA for the 2022-23 appropriation. However, the 2023-24 amount that was appropriated in last year's budget is being used by the Executive to pay for the "5%" Medicaid rate increase**. If the 5% increase is offset by the elimination of the $187M for SFY2023-24, it is actually only a 2% increase.**

- **<u>VAPAP and Financially Distressed Facility Funds:</u>** These are separate pools of funding that are potentially available to nursing homes and hospitals. As legislators noted in the hearing, it is difficult to discern the factors that are applied for allocating these funds or where they are being spent. We are unaware of any nursing homes that have received funds from the Financially Distressed Facility pool, and we are aware of only a small handful of facilities that have received VAPAP funds. We are aware of many nursing homes that have been denied funding.

We'd be happy to speak with you at greater length about these or any other issues.

Best,

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