

July 3, 2023

Administrator Chiquita Brooks-LaSure
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Medicaid Program; Ensuring Access to Medicaid Services (CMS-2442-P)

Dear Administrator Brooks-LaSure,

The Home Care Association of Florida (HCAF) respectfully submits these comments to the Centers for Medicare & Medicaid Services (CMS) in response to the proposed rule, *Medicaid Program; Ensuring Access to Medicaid Services (CMS-2442-P)*, published in the *Federal Register* on May 3, 2023.

HCAF is the premier trade association for the Florida home care industry. Founded in 1989, HCAF exists to provide representation, communication, and advocacy for home care providers, and to give them the education and resources they need to deliver high-quality, cost-effective services to patients/clients at home.

HCAF supports various provisions of the proposed rule, including the establishment of grievance systems (42 CFR §441.301(c)(7)), advisory groups (42 CFR §447.203(b)(3)(ii)(6)), reporting requirements (42 CFR §441.311(d)), and promotion of payment rate transparency (42 CFR §447.203(b)(1)). These measures align with our shared goal of improving access to care, quality, and health outcomes for Medicaid recipients.

However, we are deeply concerned about the proposed requirement that at least 80% of Medicaid payments for personal care services, homemaker services, and home health aide services be allocated to direct care workforce compensation (42 CFR §441.311(e)). It cannot be overstated how important direct care workers are to Medicaid recipients in terms of providing essential care and maintaining dignity and independence among the elderly and individuals with disabilities. We recognize the intention behind this provision, however, we strongly believe that CMS' uniform approach is flawed and fails to take into account the unique challenges that different states face. In Florida, hiring and retaining an adequate direct care workforce is particularly challenging due to outdated and low reimbursement rates, inflation-induced increases in business costs, and the long-lasting effects of the COVID-19 pandemic. Additionally, the Florida Legislature implemented a \$15 minimum wage in 2022 for Medicaid direct care workers, which resulted in an increase of 29.3% for employers in payroll costs [1]. In contrast, home health and private duty nursing services reimbursement rates have only increased by 3.33% [2]. For context, Florida's reimbursement rate for home health aide visits, at \$18.04 per visit, is among the lowest in the nation, significantly lagging behind neighboring and other populous states [3].

The proposed 80/20 threshold does not account for the substantial non-wage expenses required to provide quality care. An analysis conducted by Milliman in 2021 indicates that approximately 50% of HCBS costs are incurred in non-wage expenditures, including non-direct care costs, overhead costs, and mandatory federal and state benefits [4]. These expenses cannot be neglected by employers, which could result in inadequate Medicaid provider networks if the proposal is finalized. Consequently, Medicaid recipients would experience higher rates of hospitalization and institutionalization, and taxpayers would be forced to bear the burden of higher Medicaid expenditures for these services.

Given these concerns, we respectfully request that CMS reconsider the 80/20 threshold requirement and explore a more flexible and tailored approach that takes into account the specific needs and circumstances of each state. We urge CMS to engage in meaningful dialogue with stakeholders, including trade associations, home health agencies, and direct care workers, in order to develop a comprehensive and sustainable solution that ensures access to high-quality care for Medicaid recipients while supporting the long-term viability of the provider community.

We appreciate the opportunity to provide comments on this proposed rule. We look forward to continued collaboration toward improving the Medicaid program and ensuring the availability of high-quality care for all Medicaid recipients.

Sincerely,



Bobby Lolley, RN
Executive Director

[1] According to the Florida Department of Economic Opportunity, the average direct care worker in Florida earned \$11.60 per hour prior to the 2022 Medicaid minimum wage increase. Without taking into account increased taxes, benefits, and other business costs, the \$15 minimum wage represents a 29.3% increase in wages for employers.

[2] <https://hcaf.tiny.us/15minwage>

[3] <https://www.kff.org/other/state-indicator/average-provider-reimbursement-rates>

[4] <https://hcaf.tiny.us/milliman>