



March 16, 2020

REVISED

The Honorable Mike DeWine
Governor
Ohio Statehouse
Columbus, Ohio 43215

Dear Governor DeWine,

As you know, Ohio's long-term services and supports (LTSS) providers are on the front lines of the effort to prevent the spread of COVID-19 and to protect the vulnerable Ohioans that they serve. The LTSS population is the most vulnerable, from a mortality standpoint, to COVID-19. LTSS providers are striving every minute, against heavy challenges, to combat COVID-19, both to prevent introduction of the virus to the people they serve and their workforce and to care for the inevitable cases that will appear in their settings.

LTSS providers, for the purposes of this letter, include assisted living communities, home care and hospice agencies, agencies serving people with intellectual and developmental disabilities, and skilled nursing centers (SNFs).

We appreciate the intensive focus and aggressive actions that you, Lieutenant Governor Husted, Director Acton, and others in your Administration are taking to address this crisis.

To support LTSS providers in continuing to deliver the highest quality of care to our frail, elderly, and disabled citizens despite the incredible stress of this emergency, **we need your help**. LTSS providers are following the federal and state directives that change daily, growing shortages of vitally needed personal protective equipment and looming staffing shortages resulting from school closures, quarantining and exclusion, and added requirements such as screening and eliminating communal dining and activities.

We respectfully ask that you take emergency action to provide the needed assistance described below so LTSS providers can continue serving as your partners in doing all we can to keep Ohioans safe and healthy in this crisis. These actions would stay in place for the duration of your emergency declaration.

1. Containment centers. Officially designate specific licensed and certified SNFs around the state to receive COVID-19 patients from hospitals, SNFs, and other LTSS settings. Secretary Azar yesterday recommended establishing containment centers. These centers would be dedicated only to these patients and would mitigate the extreme risk of mixing COVID-19 positive patients with the general population. They would need special emergency authority and reimbursement provisions to cover the added cost of caring for COVID-19 patients such as hazard pay to ensure staffing, higher staffing levels, and increased supply needs.
2. Child care for health care workers so they can come to work in the emergency.
 - a. Child care in facilities. Authorize on an emergency basis facility-based providers to provide child care for employees within the facility, subject to strict protections to keep the children and the facility residents separated. Day care licensing requirements and any other regulatory provisions that would impede child care would be waived by executive order. Attached are examples approved in other states to allow our employees to continue coming to work after the schools close.
 - b. Direct schools to open for child care for emergency workers. The following is language from the Minnesota Governor's emergency order closing schools: "Emergency workers (including providers of healthcare, emergency medical services, long-term and post-acute care; law enforcement personnel; personnel providing correctional services; public health employees; firefighters and other first responders; and court personnel) are critical to the State's response to COVID-19. During the Closure Period, and subject to paragraph 12, schools are directed to provide care to, at a minimum, district-enrolled students aged 12 and under who are children of emergency workers. In providing this care, schools must practice hygiene and social distancing best practices. Schools are not required to provide this care during previously scheduled breaks reflected on a school-board approved calendar. I encourage schools and school districts to also provide extended care-before and after school hours-to students who are children of emergency workers. MN Department of Education will provide further guidance to schools and school districts about this provision."
 - c. Provide state-funded child-care vouchers for school-aged children of any health care worker.

- d. Allow health care providers to arrange off-site babysitting (such as by off-work teachers) for their workers by waiving waive day-care licensing requirements for these specific arrangements.
4. By executive order, give health care providers priority for the following:
- a. All types of personal protective equipment, including surgical masks, gowns, gloves, and eye protection, as well as N95 respirators and hand sanitizer.
 - b. COVID-19 testing of workers.
 - c. Background checks for workers by the Bureau of Criminal Identification and Investigation. Exempt providers in areas where sheriffs refuse to fingerprint individuals from background check requirements.
5. By executive order, waive the following regulatory requirements.
- a. Training and testing requirements for direct-care staff (for example the requirement to be a state-tested nurse aide (STNA) to perform direct-care tasks in a SNF) for working-age people under direct supervision of a licensed or certified professional, subject to existing background check requirements. Examples of potentially eligible workers under this temporary waiver include college and high school students who are out of school, nursing students, physical and occupational therapy assistant students, and STNAs whose approval has expired. The waiver would apply to the specific prerequisites to provide direct care in each LTSS setting.
 - b. Continuing education and other license renewal requirements for licensed health professionals such as nurses and nursing home administrators. This is needed because of the ban on gatherings, which includes continuing education programs.
 - c. Reciprocity requirements to allow health professionals licensed in other states to provide services in Ohio.
 - d. Licensure/other requirements for recently retired nurses and STNAs to return to work during the emergency.
 - e. Any state minimum staffing rules that are in place for LTSS providers.

- f. All licensure and certification surveys/inspections and ombudsman site visits except complaints alleging immediate jeopardy, abuse, or serious harm. Deploy qualified surveyors to provide consultation and services in LTSS settings or in local health departments.
 - f. Adult day care regulations for day care provided in a separate area of a facility.
 - g. Prohibit quarantining asymptomatic health care personnel who are exposed to a person under investigation who has not tested positive for COVID-19. Centers for Disease Control and Prevention (CDC) guidelines only require quarantine for asymptomatic health care workers exposed to a confirmed COVID-19 case. Given the shortage of testing supplies and our members' desperate need for workers, Ohio's state and local health authorities should not go beyond the CDC guidelines.
- 6. Public service requests.
 - a. Offer public service announcements featuring you and Dr. Acton asking people who are off work because of closing schools, restaurants and bars, and any other businesses or institutions to work in LTSS.
 - b. Create drop-off centers for dentists and veterinarians to donate personal protective equipment for use in LTSS.
- 7. By executive order, deliver much-needed emergency funding to help LTSS providers meet the costs of providing care in the current crisis environment. This funding would be supported by the FMAP increase in the federal relief legislation.
 - a. An emergency add-on of 25% to each provider's current rate to address the increased costs of providing care during the emergency (staffing, family leave, personal protective equipment, etc.). After the emergency, these payments would be reconciled to actual cost increases for the emergency period through a special cost reporting and settlement process. Providers that normally do not file cost reports (e.g., waiver services) could choose between the 25% emergency add-on with cost reporting or a smaller, 15% emergency add-on. The executive order also would require Medicaid managed care organizations to pay the add-on.
 - b. Waive any provider tax payments or workers' compensation payments due during the emergency period from LTSS providers.

8. By executive order, allow flexibility on Medicaid eligibility processes.
- a. Suspend auto-terminations associated with eligibility and level of care renewals.
 - b. Extend presumptive eligibility to LTSS populations.

We thank you for your consideration of this request. I and other LTSS representatives would be happy to discuss these ideas at a moment's notice.

Sincerely,



Kathryn Brod
President & CEO
LeadingAge Ohio



Peter Van Runkle
Executive Director
Ohio Health Care Association

Cc: Lieutenant Governor Jon Husted
Dr. Amy Acton, Director of Health
Maureen Corcoran, Director of Medicaid
Speaker Larry Householder
President Larry Obhof
Eliav Sharvit, CEO, Legacy Health Services
David Parker, President, HCR ManorCare