

February 7, 2022

Ms. Steffanie Garrett
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

SENT VIA EMAIL TO: HFS.Rules@illinois.gov

Re: Proposed rules implementing Section 12-4.35(a-6) of the Public Aid Code that authorizes the Department to administer the Health Benefits for Immigrant Adults (HBIA) program. This program provides health benefits coverage to non-citizens 55-64 who are not eligible for medical assistance receiving federal financial participation due to their immigration status.

Dear Ms. Garrett:

The National Immigration Law Center (NILC) appreciates this opportunity to comment on the proposed implementation of the Health Benefits for Immigrant Adults (HBIA) program.

NILC is the leading advocacy organization in the United States exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. We focus on issues that affect the well-being and economic security of immigrant families: health care and safety net programs; education and training; workers' rights; and other federal and state policies affecting immigrants.

NILC is recognized for its expertise in public benefits laws and policies affecting low-income immigrants, as well as the effects of public charge policies on this population. Since our founding in 1979, we have worked with federal, state and local agencies, health care and social service providers, community-based organizations and state-based advocacy campaigns to help ensure that immigrants and their citizen family members can secure the services they need to remain healthy, and to continue contributing to their communities and economies.

Illinois was the first state to enact legislation extending comprehensive health care services to seniors regardless of their immigration status and is preparing to launch the Health Benefits for Immigrant Adults (HBIA) program. We celebrate the State's leadership in providing health care to its most vulnerable residents. However, we are concerned about the potential restrictions on the scope of services to be provided under HBIA. As we understand it, the Illinois Department of Healthcare and Family Services (the "Agency") has chosen to restrict the HBIA service package by excluding Long-term Services and Supports (LTSS) from covered services. We endorse the comments submitted by the Healthy Illinois Campaign, explaining that this exclusion is contrary

to the statutory language and legislative intent. In these comments, we address some of the public policy implications of this proposal.

The planned exclusion of LTSS coverage would create a quandary for hospitals and physicians. Medicare is a significant source of hospital funding.¹ As a condition of their participation in Medicare, hospitals are required to develop plans for patients they discharge.² These discharge plans must ensure an effective transition of the patient from hospital to post-discharge care.³ Similarly, the AMA Code of Medical Ethics requires physicians to collaborate in the development of discharge plans that are safe for their patients, a responsibility that includes ensuring that any medically needed care is in place for them.⁴

Individuals who are discharged from hospitals often require post-acute care to support their continued recovery, improve their functional status or to manage chronic conditions.⁵ If LTSS is not available to pay the costs of needed post-acute care, hospitals may be forced to use their limited resources to house patients who would be better served in other settings, or discharge them to the care of unqualified or under-resourced family caretakers. While the sacrifices of family caregivers are laudable, they are not always sufficient. A Commonwealth Fund study found that over 40% of older adults receiving assistance from unpaid caregivers experienced adverse consequences as a result of unmet LTSS needs.⁶

In many cases, carving LTSS out of available services will result in higher long-term costs, as well as needless human suffering. While available research is focused on adults over age 65, it demonstrates clearly that unmet needs for assistance with activities of daily living (ADL) lead to the need for hospital care. Unmet needs for ADL assistance are correlated with falls, dehydration, skin breakdowns and other drivers of Emergency Department utilization.⁷ A study of older seniors enrolled in the Program of All Inclusive Aid for the Elderly (PACE) found that, prior to enrollment, individuals with unmet needs for ADL assistance were more likely than enrollees whose ADL needs had been met to have been hospitalized and to have had an acute care admission.⁸

Other research indicates that LTSS are often used for relatively brief time periods and lead to long-term positive outcomes. A Department of Health and Human Services analysis based on

¹ Hospital revenue composition in the U.S. as of March 2020, by payer (Statista),

<https://www.statista.com/statistics/1029719/composition-of-hospital-revenue-by-payer-contribution-in-the-us/>

² 42 CFR § 482.43.

³ Id.

⁴ American Medical Association: Code of Medical Ethics Opinion 1.1.8, <https://www.ama-assn.org/delivering-care/ethics/physician-responsibilities-safe-patient-discharge>

⁵ Wen Tian, An All-Payer View of Hospital Discharge to Postacute Care, 2013: Statistical Brief #205, Healthcare Cost and Utilization Project (HCUP) Statistical Briefs [Internet], (Agency for Healthcare Research and Quality (US); 2006 - 2016). <https://pubmed.ncbi.nlm.nih.gov/27441335/>

⁶ Community-Based Long-Term Services and Supports: Are the Needs of Older Adults and Their Caregivers Being Met? (Commonwealth Fund, October 27, 2021), <https://www.commonwealthfund.org/publications/issue-briefs/2021/oct/community-based-long-term-services-and-supports-are-needs-older#2>

⁷ Unmet Need for Help with Activities of Daily Living Disabilities and Emergency Department Admissions Among Older Medicare Recipients, *Gerontologist*. 2017 Apr; 57(2): 206–210., <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5881665/>

⁸ Sands LP, Wang Y, McCabe GP, Jennings K, Eng C, Covinsky KE. Rates of acute care admissions for frail older people living with met versus unmet activity of daily living needs. *J Am Geriatr Soc*. 2006 Feb;54(2):339-44., <https://pubmed.ncbi.nlm.nih.gov/16460389/>

persons over aged 65 showed that the majority of those who received paid LTSS (as opposed to services from unpaid caretakers) needed those services for periods of rehabilitation lasting less than 2 years.⁹

California has provided long-term care services to its residents regardless of their immigration status for decades. For various reasons, the number of undocumented immigrants receiving these services has remained consistent over time. See the California Department of Health Care Services [November 2021 Medi-Cal Local Assistance Estimate](#), at p. 36 (“Because the number of undocumented immigrants receiving State-only long-term care has not increased above the number in the 1999-00 base year, no fiscal impact is expected due to the spending limit.”).

Home and facility based LTSS are essential elements of comprehensive package of health care services. We stand with the Health Illinois Campaign in encouraging the Agency to include these vital services in the HBIA program.

Respectfully,

Gabrielle Lessard
Senior Policy Attorney

⁹ Most Older Adults Are Likely to Need and Use Long-Term Services and Supports Issue Brief, (HHS Assistant Secretary for Planning and Evaluation, January 31, 2021). <https://aspe.hhs.gov/reports/most-older-adults-are-likely-need-use-long-term-services-supports-issue-brief-0>