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Wisconsin State Senator, 2nd Senate District

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Testimony on 2023 Assembly Bill 160

Senator Robert Cowles

Assembly Committee on Health, Aging, and Long-Term Care

May 16th, 2023

Thank you, Chairman Moses and Committee Members, for allowing me to testify on 2023 Assembly Bill 160. This legislation would provide greater transparency in navigating long-term care options through our aging and disability resource centers, ensuring that patients, families and providers know their rights in these challenging times.

Navigating long-term care options can be very confusing for the elderly, folks with disabilities, and their family members. If their care provider suddenly shifts from one managed care organization (MCO) to another that isn't under the patient's plan, families face a sudden, difficult to evaluate their decision and choose the best course of action for their loved one's care. However, they may not always know all the options on the table before them.

Under Assembly Bill 160, the Department of Health Services (DHS) would be required to post a letter on their website with resources for referral to aging and disability resource centers for what is known as options counseling. These resources would ensure that families are better informed on the options available to them, including another MCO. Many residential care providers struggle in relaying the most accurate information regarding options counseling to their residents. This is because there is no such list of resources able to be published on DHS's website that they can share, and often is also out of concern for aggravating certain MCOs.

AB 160 would support patients receiving long-term care, their families, and care provider organizations with up-to-date and accurate information on options counseling in the event of a sudden change of coverage. Patients and their families should be empowered with all the knowledge available to them to decide the best course of action for their care, with the assistance of their aging resource centers.

We believe this legislation will help to ensure that happens.

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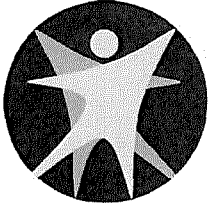
STATE REPRESENTATIVE • 5th ASSEMBLY DISTRICT

The intention of AB-160 is to bring clarity for all stakeholders in the long-term care world, including patients, providers and managed care organizations, working with DHS and the Aging and Disability Resource Center.

DHS has been given authority to provide a letter that providers can present to, and share with their patients who may need to move, but thus far, DHS has not done so. The letter in question describes the patient's rights to seek options counseling with the ADRC. This is the role of the ADRC within the long-term care program.

AB-160 requires DHS to create a standardized letter and post it on their website, so providers do not have to create their own letter of referral, which may or not always provide a referral to ADRC. This creates a hardship for the patient who is in need of finding a new home, as they may never learn of the ADRC's counseling options.

As mentioned before, this is a pretty simple idea – requiring DHS to do something they are already allowed to do, have not so done. AB-160 creates a state wide, standardized letter, from DHS, for providers to give their patients regarding their rights for counseling about their options with ADRC. This allows patients/residents to make educated decisions about the provider network they want to work with.



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Assembly Committee on Health, Aging and Long-Term Care

FROM: HJ Waukau, Legislative Director

DATE: May 16, 2023

RE: AB 160 relating to: requiring allowance for health care providers to refer individuals to aging and disability resource centers for options counseling.

The Department of Health Services (DHS) would like to submit written testimony for information only on Assembly Bill 160 (AB 160) regarding requiring allowance for health care providers to refer individuals to aging and disability resource centers for options counseling. AB 160 would require DHS to allow health care providers to send communications to a patient referring them to the website of an Aging and Disability Resource Center (ADRC) or DHS for information regarding long-term care counseling; and require DHS to make an options counseling referral letter available for providers on its website.

In general, ADRC services are voluntary and free to the public. Further, DHS holds that current statutes already permit health care systems and providers to make referrals to ADRCs, and they are encouraged to provide more information to patients about their local ADRC. Additionally, the Office for Resource Center Development at DHS is currently working to modernize the ADRC information that is available on the DHS website. As a part of this effort DHS could make a long-term care options counseling referral letter available on its website for healthcare providers without legislation. DHS currently has similar materials on its website and would be happy to provide these resources to healthcare providers and the legislature upon request.

We thank the Committee for the opportunity to provide written testimony in support of AB 160 and we offer ourselves as a resource for Committee members for any follow up or additional information that may be needed.



Date: May 16, 2023

To: Chair & Vice Chair, and Members of the Committee on Health, Aging & Long-Term Care

From: Rene Eastman, VP of Financial & Regulatory Services, LeadingAge Wisconsin

Subject: AB 160, allow providers to refer individuals to ADRCs for options counseling

Chairperson and Committee members - thank you for this opportunity to provide testimony in support of Assembly Bill 160.

This bill is an important first step necessary to improve the imbalance of power that providers face when attempting to receive fair reimbursement rates from Family Care MCOs. For decades now, providers have been told to "negotiate" rates that cover their costs, while residents' acuity escalates and inflation burdens add to the already desperate long-term care workforce shortage.

Unfortunately, in order to retain employees and maintain services to the community, providers are sometimes faced with the difficult decision of having to terminate contracts with particular MCOs whose offered rates do not meet their costs of providing care. It is unfortunate to think of the fact that this decision could lead to a long-time assisted living resident having to move from their home, but it is especially unfortunate to think of that resident having to move when they could have another option to remain in their home simply by choosing an alternative MCO.

In the past, when providers have made residents aware of these options, they have been threatened by their MCO contract partners and by DHS for "steering" residents. They have also been maligned by their communities when the MCO tells residents and their families that a provider is no longer willing to serve them, when the truth is that the provider would be happy to serve the resident if a fair rate were offered.

At the same time, providers are faced with having to provide care in an increasingly negative economic environment and with insufficient resources to do so. When an MCO offers a rate that is not market competitive, the market needs to be able to drive consumers towards an MCO that is a fair partner to providers. If that market force is not present, the system will only allow MCOs who prioritize their profits to prevail and residents and providers will suffer.

This bill will allow assisted living recipients to be directed to the independent Aging and Disability Resource Centers (ADRCs) to receive neutral advice about their options in the event of a provider contract termination with an MCO. Having an independent voice at the table in these discussions will hopefully improve the "he said – she said" dynamic of these situations and provide a source of stable advice to the resident and their family.

Ideally, assisted living residents and their families should not have to be in the middle of these "negotiations" at all, however, that burden is unfortunately placed on them due to the prevalence of unfair reimbursement rates that is a cornerstone of the Family Care program. We look forward to continuing to propose and support further solutions that will help providers serve residents at a fair reimbursement level.

I am happy to answer questions at any time. I can be reached at (608) 400-5051 or reastman@leadingagewi.org. Thank you.



**Wisconsin
Association of
Health Plans**

From: Tim Lundquist, Senior Director of Government & Public Affairs
To: Members, Assembly Committee on Health
RE: Assembly Bill 160
Date: May 16, 2023

The Wisconsin Association of Health Plans is the voice of 12 community-based health plans that serve employers and individuals across the state in a variety of commercial health insurance markets. Association members also serve as key state partners in programs administered by the Department of Employee Trust Funds, as well as the Department of Health Services. In Wisconsin's Medical Assistance program, Association member health plans provide access for enrollees to both primary and acute care through programs like BadgerCare Plus and SSI, and to long-term care services through the Family Care and Family Care Partnership programs. The Association appreciates the opportunity to provide comment today on Assembly Bill 160, legislation relating to allowance for health care providers to refer individuals to aging and disability resource centers for options counseling.

Community-based health plans share the goal of ensuring Family Care enrollees have access to accurate, appropriate, and unbiased information regarding their long-term care options, and that enrollees are free from duress or undue influence. **However, the Association is concerned that Assembly Bill 160 has the potential to increase incidents of inappropriate provider influence on participant freedom of choice.** The Department of Health Services, in DLTC Information Memo 2015 – 05, acknowledged reports that certain providers may be attempting to influence participant freedom of choice of long-term care program, provider or Managed Care Organization (MCO) through communications with participants that are “inaccurate, misleading or coercive. . . DHS has received reports that some providers that subcontract to provide services with more than one MCO are attempting to influence participants to disenroll from one MCO and enroll in another MCO with which the provider has a more lucrative contract, or to enroll in a different program such as the IRIS waiver to receive their services.” Association members are concerned this legislation, if passed, could heighten the risk of these kinds of inappropriate and unlawful communications. Per both federal managed care regulations and the Department's contracts, MCOs have a responsibility to ensure communications with members or potential members do not mislead, confuse, or defraud participants.

The Association's concerns regarding the potential impact of Assembly Bill 160 on participant freedom of choice are heightened by the fact that the Department of Health Services already has the authority to act as the bill specifies. In other words, Assembly Bill 160 does not abide by the principle of “first do no harm.” There is nothing today that prevents the Department of Health Services from making available a long-term care options counseling referral letter advising program participants of their right to seek options counseling with an Aging & Disability Resource Center. In fact, the Department of Health Services is charged, under federal law, with assuring the federal government that any Medicaid participant has freedom of choice to obtain covered services from any willing provider qualified to perform the service.

For the reasons stated above, the Association respectfully requests committee members reject Assembly Bill 160. If you have any questions regarding these issues, please reach out directly to Association Senior Director of Government & Public Affairs Tim Lundquist at 608-255-8599.