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August 31, 2020

Administrator Lance Robertson
Administration for Community Living
330 C St., SW
Washington, DC 20201

Comments submitted electronically via: ACLFramework@acl.hhs.gov

Dear Administrator Robertson:

On behalf of ADvancing States, I am writing you to provide feedback on the Administration for Community Living's (ACL) *Strategic Framework for Action: State Opportunities to Integrate Services and Improve Outcomes for Older Adults and People with Disabilities*. ADvancing States is a nonpartisan association of state government agencies and represents the nation's 56 state and territorial agencies on aging and disabilities. We support visionary state leadership, the advancement of state systems innovation, and the development of national policies that support home and community-based services for older adults and persons with disabilities. Our members administer a wide range of services and supports for older adults and people with disabilities, including Older Americans Act (OAA) programs and services. Together with our members, we work to design, improve, and sustain state systems delivering long-term services and supports for people who are older or have a disability and for their caregivers.

We appreciate the opportunity to comment on this important document that represents a prodigious amount of work and time. We agree that encouraging and supporting state aging and disability agencies to enhance the sustainability and reach of their programs is of critical importance as the population of older adults continues to increase rapidly. We have organized our comments by the topical areas set out in the framework and, where comments apply to multiple areas, have also included general comments regarding the approach.

General Feedback

Based on our conversations with state leaders, we are pleased to provide the following overarching feedback on the framework.

- The top priority for states remains preserving OAA and disability services for individuals who need them. States want to ensure that individuals with the

greatest social and economic need maintain access to OAA supports, and that state or federal resources are not expended on the development of contracts and diverted from individuals who need them.

- It is similarly critical that any new ventures do not exacerbate existing structural inequities such as discrimination based on race, gender, age, or poverty. The aging and disability networks are mission-driven, and it is imperative to ensure that introducing potential profit motives – whether through partnership with private entities or otherwise – does not inadvertently lead to organizations "chasing after" healthier or wealthier older adults at the expense of those most in need. We must remain focused on the core mission of aging and disability services and utilize these additional revenue sources to augment and not supplant supports for older adults and people with disabilities who need them most.
- To pursue the sophisticated level of integration that ACL discusses in the framework, states will require clear guidance around a number of key topics, including conflict of interest, auditing, and accountability of their community-based organizations (CBOs). States appreciate the flexibility they have for state and local innovation under the OAA, but the level of integration proposed in the framework will include complexities related to oversight, contracting, and data integration, among others. National guidance and policy that is developed in collaboration with states and ACL will be critical to this process —rather than states having to figure it out one-by-one on their own.
- While we appreciate that the document acknowledges there are several potential options for states and local entities to engage with other payment sources and improve the sustainability of the aging and disability network, the framework focuses nearly exclusively on Community Integrated Health Networks (CIHNs). We agree this is one option states could pursue to support aging and disability network sustainability, yet also recognize that CIHNs may not be attainable for all states or CBOs. We encourage further discussion of other options that states and CBOs may consider pursuing in order to access alternate funding sources.
- Sustainability of our CBOs will not be a one size fits all approach. Even putting together a CIHN, in some cases, may take years to do. There is a major education component that needs to be conducted as well. A few states expressed that the CIHN model may be better suited for states that have Medicaid managed LTSS programs and that states with fee-for-service (FFS) may be better suited pursuing other models. These states expressed that further consideration of options for FFS states should be given.
- We believe further conversation on alternative funding sources is needed beyond health care payers. For example, Area Agencies on Aging (AAAs) are able to leverage private pay options under the OAA which, with the proper safeguards,

could be utilized to a greater extent and should be embedded in ACL's thinking moving forward.

- There are a number of areas where states have expressed concern around a lack of clarity regarding the authority of states to ensure that contractual activities of CBOs do not negatively impact the network's ability to achieve its mission. We believe that guidance on issues such as oversight, auditing, and preventing conflict of interest should be collaboratively developed with states and ACL.
- ACL's framework is expansive and comprehensive, which state agencies appreciate. That said, the document can be overwhelming to take in and some of the options may be too ambitious for some states to implement at this time. It may be useful to break the framework down into more clear, actionable steps for the near and intermediate terms, particularly for those states without a robust framework to build from.
- There is a substantial focus on opportunities to partner with Medicaid in the framework, yet there is little mention of how ACL intends to partner with the Centers for Medicare & Medicaid Services (CMS) to help coordinate this. CMS approval and encouragement of new integration efforts may be important whether with Medicare Advantage (MA) plans, Medicare FFS, state Medicaid agencies, or Medicaid managed care organizations (MCOs). So much of the framework focuses on programs that State Aging Directors often do not directly control, such as Medicaid, Medicare, and private companies. This creates key hurdles including a reliance on external entities for funding without corresponding authority over their policy and regulatory frameworks.

Governance and Administration

We agree on the importance of establishing clear roles, responsibilities, and authority for different partners within the state. We further agree that the leaders within state government should form the basis of the governance structure and that the different partners within the aging and disability networks, health care, social service, technology, and business sectors should have strong collaborative engagement within this structure. We do, however, have some concerns that the establishment of cohesive statewide governance as outlined in your document may not be feasible or appropriate in every state. For example, there are instances where some models of integration have already developed without a clearly defined governance structure.

Additionally, there should be a clear effort to understand the potential models that may be implemented before states embark on any kind of concerted effort to develop a CIHN or other arrangement. The state and its partners must be able to answer the question: what level of integration and engagement can the network and its partners reasonably expect to

achieve? States may benefit from conducting a state and community assessment to help determine how their states own unique economic, demographic, geographic, and political dynamics will impact any new projects of this scale. Additionally, the various state local entities may not have the same level of resources, infrastructure, and leadership to participate in different models for leveraging alternative funding sources. There have been AAAs and other CBOs who have successfully implemented initiatives such as this, but there are many others around the country who cannot and are at risk of being left behind. We encourage ACL to consider financial support that can assist state agencies and CBOs to pursue new opportunities to enhance sustainability of the network.

Lastly, we are concerned with the capacity of agencies to develop and support expansive new models now. On the one hand, the timing of the release of the framework is ideal. As the recession hits state budgets, the COVID-19 pandemic continues to pose a relevant threat to communities, and states and their CBOs are forced to explore new partnerships to find creative ways to continue to provide services to older adults, people with disabilities, and their caregivers. Alternatively, the COVID-19 crisis has placed new and unexpected pressure on state agencies and may create new challenges for states interested in pursuing ventures of this nature. For example, state budgets are expected to experience significant challenges due to the recession, resulting in state staff furloughs and limits on new projects.

Management and Oversight

While it is likely that CBOs will be responsible for most of the day-to-day management of any new integrated care arrangement with a health care partner, there remains a significant oversight role for states to perform, particularly in relation to compliance with the OAA, preventing conflict of interest, maintaining financial integrity, and ensuring that resources are not inappropriately diverted to support these activities. Some states have expressed concerns regarding the substantial additional oversight work that this will entail, especially in a world where there is no new funding or new state staff to support such oversight.

States also expressed concern about the level of effort that it potentially could take for CBOs to develop these models, secure contracts, and enroll clients. For example, even in states with strong collaboration between their Aging and Disability and Medicaid Agencies, there have been challenges and CBOs have needed to utilize a significant amount of funding and staff time to establish contractual agreements for Medicaid services. Further, there have been a number of instances when CBOs have successfully executed contracts but have not received any referrals or business, and thus no funding, through the arrangement. Some states have also raised concerns that new arrangements may benefit

health care entities in terms of "making it easier" for them to contract for required services, but that it is less clear when and if the aging and disability network may recoup their upfront costs invested into the infrastructure and staff time required to make the contract work. The resources of the aging and disability network should not be used to support private entity functions without an adequate return on investment for all parties involved. We recommend that ACL develop a method to measure this potential return on investment as well as to ensure that expenditures are either fully reimbursed or do not come from OAA funding in the event the contracts do not come to fruition or do not provide sufficient reimbursement to offset the business development contracts.

States additionally must have clear authority to continue providing financial and operational oversight of the CBOs' business to ensure that Medicaid, OAA, and other state or federal funding is spent on appropriate activities and that individuals who are the most in need of services remain prioritized in service delivery. Currently, there is ambiguity about how states may be able to exercise oversight of arrangements where there is an external source of funding that may impact OAA financial and/or programmatic operations. We encourage ACL to work with states to develop guidance for states and CBOs that establishes clear expectations regarding the use of funds, the ongoing priority of OAA services, and the role and authority of state agencies to perform necessary oversight.

Data Coordination and Oversight

ACL's vision in this document will likely require significant investment in information technology (IT) to coordinate and manage. Prior IT adoption and engagement initiatives, such as HITECH, have received substantial federal grant funding to support provider uptake of technology. Similarly, Medicaid programs have the ability to leverage federal funding for 90 percent of IT investments. ACL has not provided similar resources to support state and CBO adoption of the IT necessary to engage in this type of initiative.

We also have concerns that the current IT ecosystem may lead to further balkanization of data and services under future arrangements. Many health plans and health systems have their own IT systems, and they may require CBOs to work with their system under contract terms. There are an increasing number of closed loop referral systems under development by health plans, health systems, and private entities which have the potential to exclude those providers and CBOs who are not part of the specific closed loop system. Yet states and CBOs do not have the capacity or ability to implement multiple data systems that support the different IT requirements of various health care payment sources within a state. We must avoid a system that prevents an individual from accessing OAA services or other supports because they are "out of network" from the health care provider.

Additionally, this initiative must attempt to make sure that technology developed by states, the aging network, and other partners is not leveraged to subsidize the needs of private entities without payment for its use. Some private entities have been able to utilize frameworks and technology developed by state agencies to further their own goals outside of the OAA network and individuals in need. Similarly, private companies have collected (i.e. "scraped") community resource information from public resource databases developed by local Information and Referral/Assistance programs to populate their proprietary referral technology, including some closed-loop systems. These databases require extensive time and effort to develop and maintain and are primarily funded by state and federal resources. Companies that leverage these resources should help to support their development and should be required to make their resource databases available to entities that are not part of the system.

The network must ensure that contractual arrangements benefit both the CBO as well as the health care entity. The network must also ensure that states and CBOs have not only the resources to acquire technology that allows participation in any integrated models, but also clear understanding and guidance that allows them to participate in the arrangements regardless of the various technology solution(s) in place within their state. It would be helpful for ACL, potentially in concert with the Office of the National Coordinator for Health Information Technology, to develop data standards around these kinds of arrangements that IT companies, states, and CBOs could use.

Questions for ACL

- Other than blending and braiding different existing funding, what additional funding sources does ACL envision state and CBOs being able to utilize to help pay for some of this work?
- Would ACL be open to altering the OAA, with proper safeguards, to allow for additional options for private pay?
- What other models could states and CBOs develop if a CIHN is not a reasonable goal within their community?
- What next steps does ACL envision federal, state, and CBO partners engaging in to further the sustainability of the network and diversify revenue sources?
- How can ACL support state agencies as they perform necessary oversight of CBOs that leverage contracts with other programs?
- Given the significant consolidation occurring in the health insurer industry, coupled with a tendency for participants to switch plans, how can CBOs manage the risk of spending resources to contract with a health plan that may or may not be a part of the service-network in the future?

We appreciate the opportunity to provide feedback on this critical topic. If you have any questions regarding this letter, please feel free to contact Adam Mosey at amosey@advancingstates.org or Damon Terzaghi at dterzaghi@advancingstates.org or 202-898-2578.

Sincerely,

Martha Roherty
Executive Director
ADvancing States