November 24, 2021

Senator Howard Marklein
Co-Chair, Joint Committee on Finance
State Capitol
Madison, WI 53708

Representative Mark Born
Co-Chair, Joint Committee on Finance
State Capitol
Madison, WI 53708

RE: DHS Request to Spend ARPA funding on HCBS Services

Dear Senator Marklein and Representative Born, and Members of the Joint Committee on Finance:

Disability Rights Wisconsin wishes to express its strong support for the Department of Health Services' request to allocate a portion of the American Rescue Plan Act (ARPA) funds to increase the pay rates for home and community-based services (HCBS) delivered by paid staff by five percent. We urge the Committee to approve the request.

As the Protection and Advocacy system for people with disabilities in Wisconsin, we are uniquely positioned to see how the COVID pandemic has exacerbated what was already a critical shortage of workers willing to care for our most vulnerable citizens. The Department of Health Services has been working closely with advocates, including DRW, and the Long-Term Care Advisory Council to identify issues created by the workforce shortage and the impact on people with disabilities. DRW has been providing information about the many concerns we are seeing. The 5% rate increase DHS is proposing will certainly help address this exceedingly acute crisis.

From our perspective, the caregiver shortage has manifested itself in a number of ways that are identifiable and measurable:

- The number of community-based residential facilities and adult family homes that have closed this year. DRW is aware of at least 107 3-4 bed licensed adult family homes; 17 community based residential facilities; and one skilled nursing facility that have shuttered so far in 2021. Statistics on losses of 1-2 bed adult family homes are anecdotally high, but no regulatory entity keeps track of them. The impact of this is that as the need for substitute care facilities rises (because of aging demographics) the number of facilities is shrinking.

- Skyrocketing rates of deficiency findings in CBRFSs and AFHs regulated by the DQA. Many involve caregiver neglect and abuse which we believe can be traced back to pandemic-induced staffing problems and which leaves the remaining staff overworked and overwrought. Each month, the Division of Quality Assurance Bureau of Assisted Living (BAL) releases its Bureau of Assisted Living Provider Monthly Additions Report which identifies the new survey-related documents added to DHS's Provider Search tool in the previous month for the facilities it regulates.[1] Since January 2021, this report shows a significant uptick in the number of regulatory violations serious enough to warrant BAL enforcement action (i.e., plan of correction, fine, "no new admit" order). In the last six months, from May through October of 2021, BAL reports issuing 480 surveys requiring enforcement. In comparison, for the entirety of 2020 BAL issued 384 surveys with enforcement. And for 2019 and 2018 the full year totals were 713 and 793, respectively. Right now we are on pace to exceed pre-COVID highs in terms of enforcement actions.

- Retractions in the level of care that specialized care providers are able to provide their participants. For example, one very specialized care provider recently announced it was reducing overall census, would have very limited capacity to welcome new admissions, and could no longer serve people who required 1-1 support because they cannot find qualified workers. As many as 14 of their program participants have been served with discharge notices. The affected individuals are the highest needs cohort among a group of people with a disabling condition that is the one of the most complex to manage. They literally have nowhere else to go.

- Fierce competition for participant-hired workers in the IRIS long-term care program. One of Wisconsin's HCBS jewels is the IRIS program, a self-directed long term care program that relies heavily on individual (non-agency affiliated) workers hired directly by the IRIS participant. The pool of workers for whom participants are competing includes people who have found that they can earn considerably more money than IRIS can pay at fast food restaurants and other vocations. As an example, one IRIS participant who could only pay her staff $15 per hour learned that the local Taco Bell was starting workers at $18 per hour. Staff who want to work for IRIS participants are finding it economically impossible to continue doing so.

- Lack of available beds even for clients who just need routine care. Providers are just not accepting new clients because they cannot staff the clients they have. Here is an example. A woman with developmental disabilities is currently living in a residential placement where there are strong indications that abuse or neglect

[1] 3-4 bed Adult Family Homes (AFHs), Community-Based Residential Facilities (CBRFs), Adult Day Care facilities, and Residential Care Apartment Complexes (RCACs).

is occurring. The MCO would like to move her to a different residential placement, but none of the twenty-five providers (many with multiple facilities) can accommodate an additional person. This continues even after a video surfaced showing the woman being physically abused by staff at her current placement.

- The caregiver shortage impacts people with disabilities throughout the lifespan. We have worked with multiple families whose children are approved for services such as in-home personal care, private duty nursing, ABA therapy, or respite care, but the child is not receiving the care solely because neither agencies nor service coordinators can identify available staff. This puts additional pressure on parents and other family members. DRW has experienced an increase in the number of families seeking out of home placements because they can't find enough community-based staff.

The above conditions were all confirmed by corporate guardians attending a recent quarterly meeting of the Wisconsin Guardianship Association. These guardians expressed grave concerns about the impact the caregiver shortage crisis and the impact it has on their ability to ensure wards are receiving appropriate services and are safe from abuse and neglect. They shared examples in which dozens (and sometimes more than one hundred) of residential facilities refused to accept one of their wards as a resident. Staff shortages at non-residential providers such as day programs, supportive home care, and personal care agencies put additional pressure on residential facilities and exacerbate the problem. It has always been more difficult to place individuals with complex care needs or behavioral health concerns. Corporate guardians are particularly alarmed because it is becoming increasingly difficult to identify options for even individuals without such complex needs.

DRW's Family Care and IRIS Ombudsman Program has seen a significant increase in calls related to the caregiver crisis. This lack of caregivers impacts all parts of caregiving in the long-term care system, including residential settings, day programs, employment supports, transportation, respite and self-directed supports. Lack of available staff has led to facility closures, limited supportive home care hours, waitlists and increasing rates of no-shows. Residential relocation cases are taking longer to resolve and the choices offered people are often geographically distant from their friends, families, and community connections. Providers with dubious health and safety records continue to come up as "options" when MCOs are desperately trying to place someone who needs to be discharged from a hospital or nursing home stay. At the core, the intractable problem is that there are simply not enough workers to provide care that has already been authorized.

Under other circumstances we might be suggesting that a serious vulnerability in the community-based care system exists that will result in many people being forced into nursing homes even though their needs could be met at home or in smaller, less expensive, and more homelike settings. But nursing homes are facing similar staff shortages and are not readily available, even as a last resort. We must increase our efforts to preserve the community-based system not just because it is what most people want and the right thing to do, but because there is no viable alternative to it, even on a temporary basis.

The workforce we draw from to fill these caregiving jobs, though largely unskilled or semi-skilled, is in high demand at present and for the foreseeable future. A difference of 5% in the wage may make the difference between those workers deciding to stay in the caregiving trade or moving on to something that is probably easier to do and more lucrative. Simply put, workers need money to pay rent and feed their families. Even committed and caring workers will gravitate away from jobs that cannot support those basic needs.

The American Rescue Plan funding is designed to reach these critical workers. But even more important, if the ARPA funding is put to the use DHS proposes, its effect will be to rescue people with disabilities and frail elders from potential neglect and perilous living situations. We appreciate the proactive approach DHS is taking to confront these serious problems through a strategic use of ARPA funds—a use that will help to reverse this quickly worsening situation.

We strongly urge the Joint Committee on Finance to approve the DHS proposal for using ARPA funds to raise the wages of the workers engaged in these critical tasks.

Sincerely,

Lea Kitz

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Executive Director

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cc Members of Joint Committee on Finance
Joe Malkasian, Committee Clerk