To: Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Centers for Medicare & Medicaid Services, Department of Health and Human Services

From: LeadingAge

Date: February 12, 2019

Subject: LeadingAge Response to Public Notice 83 FR 64346 on CMS-10692, Home and Community-Based Services (HCBS) Incident Management Survey

SUBMITTED ELECTRONICALLY

To Whom It May Concern:

LeadingAge appreciates the opportunity to comment on CMS' public notice of its proposed Home and Community-Based Services (HCBS) Incident Management Survey.

The mission of LeadingAge is to be the trusted voice for aging. The members of LeadingAge and partners impact the lives of millions of individuals, families, employees and volunteers every day. Our over 6,000 members and partners include non-profit organizations representing the entire field of aging services, 38 state associations, hundreds of businesses, consumer groups, foundations and research centers. LeadingAge is a 501 (c)(3) tax-exempt charitable organization focused on education, advocacy and applied research.

Ensuring the safety of people who receive Medicaid HCBS is of the utmost importance. As discussed in the Supporting Statement included in the proposed survey package, however, audits and reports from multiple federal agencies (e.g., CMS, HHS OIG, GAO) found both that states do not always use standard systems for identifying incidents and that there is not sufficient federal oversight of incident management. Thus, CMS is proposing this new survey to help inform next steps, including technical assistance for states and potential new federal guidance. LeadingAge applauds such efforts.

LeadingAge appreciates the depth and breadth of this proposed survey. The data CMS will collect from states through this effort should provide new insight on how states approach incident management and help direct next steps from CMS. We do not have line edits to the survey, however do have feedback for CMS on the role of HCBS providers in incident management, information sharing and potential areas for further study. We detail each in the sections below.

The Role of HCBS Providers

LeadingAge believes that providers across the LTSS continuum, including HCBS providers, must ensure the safety of people in their care. We support action by CMS to ensure this in 1915(c) waivers.

HCBS providers have an important role to play in both the prevention and management of critical incidents. In addition, they bring operational insight toward how to prevent incidents,

manage incidents when they occur and which types of incident reporting mechanisms do and do not work. We believe a key part of advancing this effort is to engage providers from the beginning.

As such, we believe CMS would benefit from incorporating the perspective of HCBS providers as it pursues stronger oversight of incident management. We recommend CMS pursue efforts to hear from providers of 1915(c) waiver services and LeadingAge, with HCBS members across the continuum, stands ready to help facilitate this.

Incident Information Sharing

A number of questions (e.g., section II Q14, Section IV Q22) on the survey ask whether state agencies allow providers to access incident management system information and/or share information with providers about incident resolutions/investigations. LeadingAge takes no issue with the language of these questions.

We do, however, encourage CMS to work with states and providers to ensure robust information sharing throughout the incident management process. While we expect that most states share information with providers about the outcomes of investigations, for example, ensuring that states have processes in place to do so systematically would be helpful toward preventing future incidents from occurring.

Providers can be an important partner to states, and need to be kept informed of incident report outcomes to inform their own procedures and, where needed, to resolve problems.

Areas for Further Study

Over time, we recommend that CMS consider expanding the scope of this survey effort beyond 1915(c) waivers. While other authorities have different policies and requirements (or lack thereof) regarding incident management systems, it would be useful to survey all types of HCBS programs to understand how each approaches and addresses incidents. This could include surveying managed care organizations that provide coverage for HCBS.

It could also be a valuable resource to survey state HCBS programs periodically, rather than one time. This would allow for change-over-time analysis at both the state and aggregate levels, and would help CMS understand how and whether states are improving their incident management systems, and assess the extent to which states benefited from and applied technical assistance from CMS.

Again, LeadingAge appreciates the opportunity to submit comments on the public notice. Please do not hesitate to contact Brendan Flinn (bflinn@leadingage.org), Director of Home and Community-Based Services, if you wish to discuss any of these comments further.

Sincerely,

Brendan Flinn

Director of Home and Community-Based Services

LeadingAge