

Testimony of the Pennsylvania Association of Elder Law Attorneys (PAELA) for the Joint Hearing of the Senate Aging & Youth, Appropriations Subcommittee on Health and Human Services, Health & Human Services and Intergovernmental Operations Committee- May 1st 2017

Good morning, I am Julian Gray an attorney at Julian Gray Associates and I am joined by Carol Sikov Gross, an attorney at Sikov and Love. We are both Certified Elder Law Attorneys and members of the Pennsylvania Association of Elder Law Attorneys (PAELA), an association of attorneys who concentrate our practices on assisting older Pennsylvanians with multiple issues.

We are here today, because PAELA opposes the proposed consolidation of the Department of Aging with the Department of Human Services. Before we detail our opposition, it is important that we do not lose sight of the reasons the General Assembly created the Department of Aging almost 40 years ago.

Act 70 of 1978 created the Department of Aging. A truly bipartisan effort passed the law, with only three negative votes in the House and Senate. The law established a cabinet level state agency whose jurisdiction, powers and duties specifically concern and are directed to advancing the well-being of Pennsylvania older citizens.

The Department of Aging is responsible for receiving funds under the federal Older Americans Act, and with those funds, provides services to the Commonwealth's seniors as well as administers programs for older adults through a statewide network of local Area Agencies on Aging (AAA). This funding source and the process for spending the funds is much different from the Medicaid Long Term Care Program, which is the major funding program for seniors in the present Department of Human Services.

While the Department of Aging is one of the smaller state departments, it has effectively carried out its objectives. Over the last 40 years, there has been a significant improvement in the health and quality of life of Pennsylvania's seniors. Senior clubs and associations have grown, housing opportunities flourish and there has been efficient administration of the federal funds coming to Pennsylvania for the Ombudsman Program, Protective Services, Apprise, Family Caregiver Support and other services. Senior centers have become vital hubs in their communities, providing in-home meals and a wealth of other opportunities and services for our older citizens.

The AAA are critical to your neighborhoods and older constituents. Your AAA provides information, outreach, active community involvement, response to the direct needs of the elderly

and are the frontline for community based senior services.

Merging the Department of Aging with Department of Human Services will not make things better and may make things worse. To the extent there is a need to eliminate duplication of functions between the Department of Aging and DHS, there are ways of doing so that won't compromise the vital role of the Department of Aging.

Bigger is not always better. The Department of Human Services is already too big and sometimes fails to adequately handle its current duties.

In February 2006, federal law dramatically revamped the eligibility conditions for medical assistance long-term care benefits. Since that time, the Commonwealth has failed to promulgate regulations to make the program work effectively in Pennsylvania. For 11 years and over three Administrations, a major state program, both in its necessity and financial impact, has been operating without regulatory direction, instead it functions on a web of operation memoranda. This reality has left well-meaning and overworked case workers and legal counsel to attempt reasonable interpretations of Department memos, but they struggle because Pennsylvania has no clear regulations on how Medicaid long-term care benefits operate.

If Pennsylvania is serious about becoming more efficient, more cost effective and more uniform in the administration of its programs, then the Department of Human Services needs to take care of its own business first. Issuing regulations for this critical program would be a good first step.

The Maximus fiasco for the Aging Waiver Program is another example. Since April 2016, a qualifying person, age 60 and over cannot access the necessary in-home programs in less than 60 days and it often takes longer. If someone who is waiver eligible needs immediate help, he or she has no alternative but to enter a nursing home. Imagine if you, your spouse or your parent were being discharged tomorrow from the hospital and you had to wait 60 days or more before you could get in-home care.

DHS took a system that was not perfect, but worked, and basically threw it out, despite warnings to the Secretary of DHS from aging advocates about the inevitable problems and despite a history of problems with Maximus as independent enrollment broker for the under age 60 waiver programs. The explanation for this change was that CMS directed the Commonwealth to eliminate a perceived conflict by separating the care management and enrollment broker functions. Steps to address this conflict should have been done in a way that better protected the vulnerable consumers served by the waiver. DHS has not demonstrated an ability to handle this transition effectively. We do not think this will get better with a larger and more bureaucratic department.

The issues related to aging are different and in many ways more complex than long-term care issues with which DHS has experience working. Lumping both entities together will not make synergies that produce better results. It will probably just make a larger, more ineffective organization.

Pennsylvania has more than 2.9 million residents over the age of 60, the fourth highest

percentage in the nation. The aging Baby Boomers will result in rapid and continuing growth in the Commonwealth's older population. By 2020, 1 in 4 Pennsylvanian will be 60 and over. These demographic trends should cause you to pause and think about the importance of an independent and committed cabinet level Department of Aging that is singularly focused on 1 in 4 Pennsylvanians and does not have a large portfolio of missions.