

Joint Hearing of Senate
Aging and Youth
Appropriations
Health and Human Services
and
Intergovernmental Operations Committees

Examining the Proposed Consolidation of the Departments of Aging, Drug and Alcohol
Programs, Health, and Human Services

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Introduction

Good afternoon. My name is Diane Menio and I am the Executive Director for the Center for Advocacy for the Rights and Interests of the Elderly (CARIE). Thank you for sponsoring this important hearing and for the opportunity to present testimony today. We genuinely appreciate the multiple hearings and due diligence the legislature is pursuing to determine the best next steps regarding the proposed dismantling of several cabinet level departments.

Founded in 1977, CARIE is a nonprofit organization dedicated to improving the quality of life for frail older adults. CARIE's focus of concern spans the long-term care continuum from those who live at home to those who are living in facilities. Older adults with physical or psychological impairments are often a silent group who may not be able to advocate for themselves. CARIE works to protect their rights and promote awareness of their special needs and concerns.

My testimony is divided in two parts. The first includes a brief oral overview of our concerns about the consolidation that I will present today, followed by more detailed comments CARIE submits for your consideration and inclusion in the record.

CARIE Strongly Opposes including the Department of Aging in the Proposed Consolidation

Since first proposed, CARIE has been a vocal opponent to the inclusion of the Pennsylvania Department of Aging (PDA) in the proposed consolidation. As an agency providing advocacy services to older Pennsylvanians for 40 years, CARIE has seen the benefits of having a cabinet level department focused on the needs of older adults. As you know, the Department of Aging was created by Pennsylvania's Act 70 of 1978, which established "a cabinet-level State agency whose jurisdiction, powers, and duties specifically concern and are directed to advancing the well-being of Pennsylvania's older citizens." It further established that PDA would "serve as an advocate for the aging at all levels of government." The mission of the Department of Aging is: "Enhance the quality of life of older Pennsylvanians by empowering diverse communities, the family, and the individual." (Pennsylvania Department of Aging State Plan on Aging 2016-2020.) In fact, Pennsylvania's having a cabinet level

department, and a lottery fund dedicated to the needs of older adults, has made Pennsylvania a leader among states in addressing the challenges of an aging population.

It is interesting to note that while the proposal to eliminate the Department of Aging is being considered, Pennsylvania has among the highest numbers of aging adults in the nation. And, by 2020, the population of those age 60 and older is expected to grow and reach as much as 25% of Pennsylvania's population. Nowhere will this be felt more than in Southeastern Pennsylvania. In Philadelphia alone, more than 290,000 adults are over age 60; 58% are Minority; 61% are women; 33% live alone and there are high rates of poverty with 16% living below the Federal Poverty Level (FPL) just \$11,880; 31% below 150% of FPL - \$17,820; and 43% below 200% of FPL - \$23,760. And, it is difficult to see how including the Department of Aging in the consolidation will save money since funding is solely derived from lottery and federal dollars.

We are concerned that the proposed consolidation places significant risk to the future of the lottery. The lottery has helped older adults, including those who need long term services and supports, to avoid or delay exhausting their resources to remain in the community. Many middle-income older adults who need long term care can quickly exhaust their resources and then find themselves facing a Medicaid system that favors institutional care. The lottery has helped countless individuals and the state's bottom line by helping people avoid or delay the need for Medicaid funded long term care. Should PDA be included in the final consolidation and merged with DHS, there is a high risk that a state Medicaid director will look to the lottery as the base for matching dollars to make-up for budget shortfalls, particularly since Medicaid budgets are overwhelmed trying to meet long term care needs. The traditional lottery-funded programs could be lost or so under-funded that more people will need to rely on Medicaid funded care.

PDA should not be eliminated but rather strengthened to meet the needs of our increasing aging population and the growing demographic of those aging with chronic conditions. Simply using words like "reimagining" and having positive goals to improve service delivery does not mean this will occur. It is important not to demolish or weaken systems that have proven to work fairly well. For

example, PDA already efficiently administers many programs, works to consolidate services for older Pennsylvanians, and provides a single point of contact through which older Pennsylvanians can address their concerns to state government such as through the local area agencies on aging (AAAs). The AAAs are a community resource older adults and their caregivers are accustomed to contacting with questions about resources and benefits. PDA also works with other state agencies not included in the proposed consolidation on behalf of the interests of older Pennsylvanians.

One reason the PDA can administer programs in a cost-effective way relates to the aging network, that is the system in place to serve older adults that includes both government and non-governmental agencies. In addition to the 52 AAAs throughout Pennsylvania (with 33 AAAs being part of county government and the remaining 19, private, non-profit agencies), there are hundreds of providers, provider organizations, and advocacy groups that provide services and supports and comprise the aging network. These groups are found in every community and a strong, long-standing relationship has evolved with PDA, particularly with the local AAA network. The shared sense of purpose has allowed the aging network to accomplish a lot with few resources. Moving from a mission driven agency solely focused on the needs of older adults to a state Medicaid agency whose purpose is to address countless issues for people of all ages, as well as having aging related programs dispersed throughout various divisions in the new agency, is not likely to be as responsive to the myriad of needs of older Pennsylvanians.

As additional details about the proposed unification are released, we are even more concerned that proposed streamlined efficiencies touted to benefit consumers may actually create new barriers for older consumers, and may cost the state more. The online organizational flow chart recently posted indicates that the programs presently administered by PDA will be spread among four new “Offices” and even more “Bureaus and Divisions” within the new Department of Health and Human Services (DHHS). In this instance, we do not believe “bigger is better” and that creating a behemoth bureaucratic agency that diffuses the programs related to older adults among numerous divisions will neither be an effective nor efficient organizational structure to meet their needs. We do not want to

see a “Humpty Dumpty” proposal implemented that may lead to significant problems for older adults and may be impossible to fully repair should the PDA be eliminated.

What do we recommend as an alternative to dismantling the PDA? There are many ideas that could be pursued to improve service delivery and reduce government inefficiencies that will not risk major disruptions for consumers, such as improving the well-known enrollment issues related to the Aging waiver, creating a Community HealthChoices ombudsman to help consumers understand their rights and get help resolving problems with the new massive systems change, moving from an annual to an every three-year redetermination process for financial certification for OLTL Waivers, allowing for presumptive eligibility for Medicaid funded home and community-based care, permitting spend-down for OLTL Waiver consumers, streamlining IT and administrative functions, and establishing more uniform licensing policies for providers.

Conclusion

In summary, we urge that the Pennsylvania Department of Aging be maintained as a cabinet-level agency and excluded in any future consolidation of Pennsylvania’s health and human services agencies. Older Pennsylvanians need a strong and independent advocate. Lottery funded programs must be protected and funding levels must keep pace with need.

We hope that older Pennsylvanians can count on your support to preserve the Department of Aging to help ensure their dignity and well-being. Thank you again for the opportunity to comment and for sponsoring today’s hearing.

Additional Written Comments:

CARIE Strongly Opposes including the Department of Aging in the Proposed Consolidation

CARIE has been providing advocacy services to older Pennsylvanians for 40 years. We can testify that older Pennsylvanians have benefitted by having a cabinet level Department of Aging (PDA) focused on their needs. While we have concerns about the consolidation of the Departments of Human Services, Health, Aging, and Drug and Alcohol Programs into a new Department of Health and Human Services (DHHS), we are strongly opposed to including the Department of Aging in this proposed consolidation.

We are deeply concerned about losing the Department of Aging as our “single state agency” as defined in the Older American’s Act of 1965. The Secretary of Aging serves a critical role as the Commonwealth’s leading advocate for older Pennsylvanians, both within and outside of government. In the 1970s Pennsylvania took bold steps to show its commitment to its older citizens. First, in 1971 by establishing funding for aging programs through the Pennsylvania Lottery and then in 1978 by enacting Act 70 elevating the department to its current cabinet level position – no other state has shown this commitment. This has had a dramatic impact in helping to amplify and address the needs of older Pennsylvanians. Including the Department of Aging in the new DHHS will bury the needs of older adults within a behemoth of a bureaucratic agency while saving little in the budget as funding for the Department is solely derived from lottery and federal dollars and not from the General Fund.

In addition, we are concerned that the proposed consolidation will threaten the viability of many lottery programs that older Pennsylvanians have come to rely upon many of which help to avoid unnecessary institutionalization. We are worried that under the consolidation, lottery funds could more easily be diverted to pay for Medicaid General Fund obligations – a DHHS Secretary would be more inclined to rely upon lottery funds to fill gaps in the Medicaid budget.

Much is at stake with this proposed transition. We hope you will consider the following points as you discuss the merits of any consolidation proposal.

Demoting the Secretary of Aging diminishes effective advocacy for older Pennsylvanians

Advocacy on behalf of older Pennsylvanians is needed now more than ever. As proposed, the Secretary of Aging who now reports directly to the Governor would be demoted to a Deputy Secretary for Aging & Adult Community Living. This new position is one of ten deputy secretaries identified in the new organizational structure. These ten deputies report to the “Executive Deputy Secretary” who reports to the Secretary of DHHS who reports to the Governor. How effective could a deputy secretary be when policy recommendations conflict with their superiors’ positions?

Older Pennsylvanians need a strong, independent, and visible advocate and have come to rely upon the Department to serve this critical role. Older adults face many issues. They are often coping with multiple chronic conditions and sensory impairments, and may find themselves moving from a middle-class lifestyle into poverty in their old age at a time when they are least able to cope with these changes. Older adults are more susceptible to abuse and fraud. Alzheimer’s Diseases and related disorders is an epidemic causing hardship for individuals, caregivers, and government’s bottom line. These are only a few of the issues that require attention. The demotion of the Secretary of Aging will clearly diminish the ability to effectively advocate for older Pennsylvanians.

The Older Americans Act provides a clear mandate for states to engage in advocacy to improve the lives of older adults. Effective advocacy seems unlikely within this new massive agency, particularly given the structure and the poor record of accomplishment DHS has in meeting the needs of older adults when program changes are made. It may be fine to consolidate certain administrative functions to save costs and improve efficiencies but as evidenced by the currently shared IT services, consolidation is not the only answer. Stakeholder efforts to address policy and to advocate with the Secretary must not be diluted. **Older Pennsylvanians need and deserve an effective and independent advocate that reports directly to the Governor!**

Current DHS Issues

We are not against “reinventing” or “reimagining” government nor are we defending the status quo. What seems clear is that there is a proposed immense system change set to begin on July 1 that evolved without meaningful external stakeholder input, and as far as we can tell, without due diligence. The McKinsey report and the testimony provided thus far lacks details that would help ensure that this model is right for Pennsylvania and that potential problems have been identified. Of the 18 states that have “unified” departments, how many are comparable by staff and budgets? Did any have cabinet level aging departments, and if so, what were the positive and negative outcomes for older adults that resulted from the change? What were the unanticipated problems and costs that occurred when states made the transformation? What is the long-term impact both financially and on services? What other models or strategies to increase efficiencies were studied along with this option?

Many would argue that DHS is already too big and certainly, bigger does not mean better. How many people would be qualified to run such a huge entity? One poorly performing secretary could impact program integrity and put vulnerable people at risk. An overloaded bureaucracy may have the opposite impact on the stated goals for “less confusion and “easier access to services for an improved experience.” Will calling a mega agency ensure that consumers will get the information or resources they need? We believe the issues of import to older Pennsylvanians would be lost without the mission of the PDA and the workplace culture of staff focused on older adults would be lost in new department.

When DHS has worked to streamline programs; it has left older adults behind and their needs unmet. The legislature is well aware of the major problems that have been occurring for over a year with the Aging Waiver enrollment process. DHS restructured the application process for the Office of Long Term Living’s waiver programs on April 1, 2016, and transferred the responsibility for enrolling applicants age 60 and over from the Area Agencies on Aging to Maximus, an Independent Enrollment Broker (IEB). In short, the Commonwealth moved from a process that was working to one that is riddled with problems and costs considerably more – by our estimates more than six times as much.

Even though some improvements have been made, many problems remain. Is it wise to give a bigger DHS more responsibility for aging programs?

Community HealthChoices (CHC) is the most significant long term care systems change to ever be implemented in Pennsylvania. CHC is scheduled to begin in January 2018, eventually moving 420,000 nursing home residents, waiver participants and other individuals who are covered by both Medicaid and Medicare into managed care for the first time. It seems the timing could not be worse than to implement a massive reorganization at the same time as an immense system change that impacts the most vulnerable people in Pennsylvania.

The proposed DHHS may jeopardize many lottery-funded programs

There is a substantial risk that lottery funds will be further allocated to Medicaid funded programs while neglecting traditional lottery funded programs. Looking at five-year projections for the fund, we note that projections for PENNCARE decline over the years while other lottery-funded programs are flat-funded. At the same time, allocations to Medicaid – Long-Term Care increase. The new structure may also make it even more difficult to track lottery expenditures. How will lottery dollars be tracked and accounted for? Lottery programs must be protected and funding levels must keep pace with need.

The PACE program is a national model that all agree is well run and effectively serves beneficiaries. What are the risks involved with moving the PACE program and unifying it with other state pharmaceutical programs? Will changing the dispensing fee impact consumer access to needed prescriptions?

Including the PA Department of Aging in the consolidation will not reduce General Fund costs

The Department, including administrative costs and the programs it administers, are paid with lottery funds or federal funds and not the General Fund. Including the Department of Aging in the consolidation will not reduce the General Fund deficit unless more lottery funds are transferred to

offset General Fund expenditures. Some consolidation of functions could still occur to obtain cost-savings and increase efficiency without eliminating the Department.

This change would be permanent, lasting well beyond this current Administration

Future administrations may be even less inclined to focus on the multitude of needs of older adults and the many programs and services they rely upon. The promises of this administration can only last as long as it is in power. We've seen past promises by administrations not realized after a transition of power, how can this be avoided?

There are numerous conflicts of interest that need to be identified and addressed

The comingling of numerous functions into one department such as payment, licensing/enforcement, and program provision, will lead to conflicts of interest. One example is the Long-Term Care Ombudsman Program (LTCOP) where there are clear federal regulations that must be met to avoid conflicts of interest. For example, the LTCOP could be prevented from performing the required individual and systemic advocacy when addressing poor performing providers or when consumer rights are being violated. As a consumer advocate, the ombudsman must often advocate for the rights of a consumer with a regulatory agency that may not properly enforce regulations, a payment agency that has not fixed an error, or a denial of a needed service. Placing all of these functions in one location can provide discomfort for staff who must challenge the work of peers and has the potential to disenfranchise individuals who need and deserve help.

The proposed consolidation is based in part on misinformation

Information presented in the McKinsey report did not consider the mission of the Department of Aging. The Department already acts as a focal point and provides older Pennsylvanians a single point of contact through which they can address their concerns and needs with state government.

The proposed change is happening too fast

We are concerned about the swift action to consolidate the departments starting next fiscal year. There was no public stakeholder input before the proposal was announced. At a budget hearing,

Secretary Osborne stated she heard about the proposed consolidation in December. Such major changes require a more thoughtful process that includes all stakeholders. It is important to have a public vetting of all issues, costs, and potential conflicts as well as identifying a transition process that will minimize disruption for consumers. It is important that all stakeholder groups be heard and must not be placed in competition with one another for funding.

We understand that there are about 18 other states with a consolidated HHS department; however, we also know that these changes must be done with care and they can take time to effectively implement. At least one state we talked with took three years to plan for this type of monumental change prior to implementation. We are concerned that many critical issues will be overlooked. When Pennsylvania has made quick changes in the past, on a smaller scale, we have often seen lengthy periods of devastating results for consumers while problems are being resolved. As mentioned earlier, one example is the April 2016 switch in enrollment for the Aging Waiver to a single contract resulting in long waits for services and too many problems for older Pennsylvanians and their dedicated providers to list here.

Recommendations as Consolidation Process Proceeds

We believe consolidation can be done without eliminating the Department of Aging and its mission and services for older adults but, at the very least, any plan to dismantle several cabinet level departments should include more detailed discussion, planning, and stakeholder input.

Previous testimony from the Administration indicates that they will be sharing enabling legislation for consolidation with the legislature soon. We request that as this bill is debated, it include more than a “shared vision.” While the legislation cannot be so prescribed that it impedes the ability to make needed changes as the process progresses, it should include language that ensures needed legislative oversight and approval by the legislature for policy changes. The expedited rulemaking authority under Act 22 of 2011 did not allow for the important oversight of the legislature or the engagement of stakeholders to offer meaningful input, troubleshoot, or plan for proper implementation that could have avoided disruption in services and barriers in accessing care. While

the legislature shared the Department of Public Welfare's vision at the time, the implemented policy went far beyond what the legislature intended and created significant service problems for older Pennsylvanians.

We are a member of the Disability Budget Coalition (the Coalition) which is comprised of more than 80 groups working together to achieve coordinated services and supports that meet the needs of individuals with physical and sensory disabilities and their family members. While the Coalition is deeply concerned with the proposed consolidation, there is no consensus within the Coalition on the consolidation. However, the Coalition agrees that any consolidation must adhere to the following principles that we hope the legislature will consider as the debate continues:

- Stakeholders must have meaningful input into the process. Meaningful input means participation in the process, not just reacting to a final plan. It requires transparency and sharing of information in a timely way. And it must be ongoing, not just once and done. As the new department evolves, all operations as well as proposed changes to policies and procedures must be transparent, engaging stakeholders in a meaningful way.
- Programs must not lose integrity. Care must be taken to ensure that groups do not lose their identity or be buried in a huge bureaucracy. When combining functions to increase efficiency, we must ensure that program knowledge is not lost.
- Programs must retain dedicated funding and dedicated line item appropriations. Lottery funds must be used to support traditional lottery-funded programs to help older Pennsylvanians live in the community and not be diverted for other purposes.
- Conflicts of interest must be satisfactorily addressed. Combining functions raises the threat of conflicts. There are a number of federally funded programs, like Long Term Care Ombudsman and Developmental Disabilities Council, which require separation of function as a condition for receipt of federal funds.
- Stakeholder efforts to address policy and to advocate with the highest level of government must not be diluted.

Thank you again for considering our comments and recommendations.