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April 4, 2020

Mr. Lance Robertson
Administrator and Assistant Secretary for Aging
Administration for Community Living
United States Department of Health and Human Services
330 C Street, SW
Washington, D.C. 20201

Dear Assistant Secretary Robertson,

We are writing to you to express our concerns about states that are reaching the end of the timeframe for their current State Plans on Aging and to request that the Administration for Community Living (ACL) and the Department of Health and Human Services (HHS) authorize a time-limited extension of existing plans. As you know, the COVID-19 pandemic has not only diverted state and local resources in order to respond to the crisis, it has also created an environment where public forums and other stakeholder engagement activities are not only unsafe, they are outright banned in many parts of the country. Given the need for robust staff work from states, Area Agencies on Aging, and their partners, to develop a plan, coupled with the need to solicit robust involvement from the community, we do not believe it is prudent or feasible for a state agency to complete a state plan on aging until the public health emergency has ended.

We understand that it may be possible to extend current plans that were approved on a two- or three-year period by enabling them to become a three- or four-year plan, as described in statute. We further understand that state agencies ending a four-year plan have been informally advised that they cannot extend the plans further and would therefore risk losing their funding under the Older Americans Act (OAA). While we appreciate that ACL has no way to alter the statute, we ask you to work with us and our members to find a solution, as requiring states and Area Agencies on Aging to develop plans would divert needed manpower away from crisis response. Further, states would be forced to perform incomplete stakeholder engagement given that public events are not an option under current social distancing policy. Even if the state solicited feedback through alternate channels, such as web-based submissions or telephone and video conferencing, there are rural communities and older adults who would be unable to participate. We therefore offer two potential options that we think might provide flexibility to delay the requirement to submit a new plan for those states ending their four-year cycle.

Section 316(a) of the OAA provides that the Assistant Secretary may waive, "any State plan requirement described in section 307(a) if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this Act." The description of the two, three, and four-year plans on aging is included in section 307(a) and we believe that a waiver of this length-of-time requirement for the state plan will improve service delivery via protecting the health and welfare of



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individuals by adhering to social distancing requirements during the pandemic while allowing for proper engagement and public comment after the pandemic ends.

Alternatively, under a public health emergency, the Secretary of HHS may “Grant extensions or waive sanctions relating to submission of data or reports required under laws administered by the Secretary, when the Secretary determines that, wholly or partially as a result of a public health emergency, individuals or public or private entities are unable to comply with deadlines for such data or reports. The Secretary must notify Congress and publish a Federal Register notice before or promptly after granting an extension or waiver.”¹ Such an extension could be applied to State Plans on Aging that cannot be completed due to the current public health administration.

We appreciate you and your team’s continued engagement with our associations, as well as with the state and area agencies during this challenging time. We look forward to your response and are eager to work with you to find a solution to this problem. If you have any questions about this letter, please contact Damon Terzaghi of ADvancing States at dterzaghi@advancingstates.org or Amy Gotwals of n4a at Agotwals@n4a.org.

Sincerely,

A handwritten signature in blue ink that reads 'Martha A. Roherty'.

Martha A. Roherty
Executive Director
ADvancing States

A handwritten signature in black ink that reads 'Sandy Markwood'.

Sandy Markwood
Chief Executive Officer
National Association of Area Agencies on Aging

¹ <https://www.phe.gov/Preparedness/legal/Pages/phedeclaration.aspx>