



## **PASC Annual Public Policy Summary October 7, 2020**

Respectfully submitted by The Afflerbach Group, LLC

We began the year with prospects of resolving long-standing issues directly or indirectly affecting community senior centers, such as amendments to the Older Adult Protective Services Act and safeguarding lottery funds for senior programs. Then the Ides of March fell upon us with a COVID plague resulting in mandatory closures of everything except “essential services”. Since then, as you well know, COVID has overshadowed, and continues to overshadow, everything we try to do in our daily lives and in government, with no near end in sight.

Consequently, public policy issues of the past year have not significantly changed. An annual budget for Lottery Fund expenditures, including the \$2 million Senior Center Grants line item, and AAA federal funds was passed on time but was held at 2019 levels, without addressing issues for the elderly who are not enrolled in Community Health Choices (CHC). Consequently, AAAs are again forced to triage funds to individuals with the most critical needs and create wait lists for necessary but less critical services.

The remainder of the Commonwealth budget except for mandated expenditures, however, was only a five-month budget, ending on November 30<sup>th</sup>. Currently, it appears the Legislature will convene a lame duck session in November for the first time in ten years (twelve for the Senate) to complete the budget process. This means we will need to be extremely watchful of the Lottery Fund.

The Governor and the Legislature have routinely siphoned money from the Lottery to apply to the Medicaid match required by the Federal government. The 2019-2020 budget had \$400 million moved to the General Fund for this purpose, leaving waiting lists in some counties for services under the Options program and causing AAAs to shift funds away from some Lottery programs to bolster Older Adult Protective Services (OAPS). This year an additional threat looms in the effort to legalize the so-called games of skill slot machines proliferating around the Commonwealth. Senator Jake Corman (R-Centre), who is on track to become President Pro-Tempore of the Senate, has made this legalization effort his top priority for the end of this session.

The Department of Revenue has been urging passage of legislation to strictly outlaw the proliferation of so-called “Pennsylvania Games of Skill” and other similar such games, which are estimated to siphon between \$200 million and \$400 million from Lottery revenues. However, because of the worsening budget situation brought about by COVID, the prospect of attaining an additional funding source for the Commonwealth’s General Fund with minimal risk to the Lottery may be more enticing and will free the Commonwealth from court expenses to prosecute under the present murky legal situation.

SB 1256 embodies Senator Corman’s vision and includes designating a 2% share of gross revenue to the Department of Aging for senior programs. Presently, the proposal restricts the installation of the skill game slot machines to LCB licensed establishments and truck stops. There is a county and municipal option included to allow the governing bodies of these local entities to prohibit installation of the slots within their jurisdiction. The Senate Community Economic and Recreational Development Committee held a public hearing on the bill on October 6<sup>th</sup>. Further intent is unknown.

Demonstrating court decisions do not always resolve problems, the most critical issue with the Older Adult Protective Services Act (OAPSA) arose because of a PA Supreme Court ruling stating individuals



convicted of a crime could not be denied employment for life in any field. This ruling means an applicant with a past conviction of a crime that could be a legitimate red flag for being hired as a direct care service worker could no longer be denied the job solely because of his/her conviction. In 2018 and in 2019 the Senate passed legislation to categorize crimes with less than life-time employment bans relating to care for vulnerable individuals [SB819 sponsored by Senator Mensch (R-Montgomery)], but neither bill cleared the House. Rather, the House is poised to pass a different version embodied in HB 1930, sponsored by Rep. Tim Hennessey (R-Montgomery), but has not done so. With the few session days left this year, unless there is a lame duck session, it appears OAPSA will be carried over.

PASC has been at the table with the Senior Support Coalition (SSC), an informal consortium of nine organizations including AARP, Alzheimer's, Home Care, Adult Day, Senior Centers, Behavioral Health, P4A, and the Center for Advocacy for the Rights and Interests of the Elderly (CARRIE), working with Legislators and the Administration to resolve the Lottery and OAPSA issues. We have met with sponsors of the bills, committee chairs and members, legislative leaders, the Governor's Budget Secretary, the Legislative Secretary, the Secretary of Aging, and a host of other administrative officials.

Other less critical but nevertheless important issues continue to occupy our attention. These include the still unpublished regulations to implement the Community Adult Respite Services Act (CARS). Despite continual assurances by both the previous and present Secretaries of Aging there is no indication the regulations will be published soon. It may require filing suit to force the publication in accordance with legislative direction included in the act. Center operators who are considering adding the CARS program need to pay attention to the OAPSA legislation. The CARS program is likely to be considered as fitting into the definitions included in OAPSA.

COVID has further inspired legislators to rapidly introduce bills requiring more than hasty thought. Two bills introduced by House Aging and Older Adult Services Committee Chairman Gary Day (R-Lehigh) attempt to address future needs for personal protective equipment (PPE). Both expand the bureaucracy and have questionable funding mechanisms. HB 2509 proposes to create a grant program within the Department of Aging to administer requests for PPE funds from all providers but provides no funding. HB 2867 would establish an Infectious Disease Advisory Commission and require providers to purchase PPE from a single state designated stockpile. Initial funding for the stockpile would be achieved with a fifty percent (50%) surcharge for all PPE purchased during the first year.

Representative Christopher Quinn (R-Delaware) has introduced HB 2779 proposing to retain certain innovations in health care and long-term care after the COVID crisis ends. These include such things as crossover services by similar providers, virtual telehealth, and the "center without walls" concept of providing virtual socialization. Some of these changes can be made permanent by state action, such as professional scope of practice crossovers, but others require federal approval because the relaxed rules have been a result of waivers granted by the Centers for Medicare and Medicaid Services or the Administration for Community Living.

Activity at the Federal level has been strenuous. For our purposes, in addition to COVID, two issues have been extremely important: Reauthorization of the Older Americans Act (OAA); and direct care workforce recruitment, training and retention.



On March 25<sup>th</sup>, the OAA was reauthorized as “The Dignity in Aging Act of 2019” (H.R. 4334). The reauthorization extended the OAA for five years and included authorized funding increases for home-delivered and congregate meals and AAA funding. Additionally, the Act included greater flexibility for AAAs to shift funds as needed.

Prior to COVID, the increasing shortage of direct care workers was rapidly becoming critical in every state. With COVID it has become extremely critical. The shortage is fueled in part by a rising senior and disability population vis-à-vis a slower growing work-age population. The Trump era strict limitations upon immigration have been exacerbating this gap and the relatively low pay for demanding work gives way to less demanding and higher paid fast-food employment. Ironically, one bright spot of COVID has been the recognition by Congress to include in the COVID relief acts funding specifically for training direct care workers to provide services to seniors.

In addition to PASC being at the table for workforce and other long-term care issues at the state level through the SSC, PASC is also being heard at the federal level through TAG’s membership in the Leadership Council of Aging Organizations (LCAO), the Long-Term Quality Alliance (LTQA), the Better Medicare Alliance (BMA) and the Modern Medicaid Alliance (MMA).

Finally, although it now appears there will not be another COVID relief package until after the November election or into the first quarter of 2021, our work with the National Association of Area Agencies on Aging (n4a) has resulted in additional funding for AAA administered programs in each of the relief proposals. It also has resulted in achieving senior centers as named priority recipients of the new rapid testing kits to be disbursed to the states. We will, however, need to make our case to the state for those kits because the state will decide who among the authorized services will receive them.

In summation, even under the duress of COVID restrictions, PASC remains well positioned for the immense changes taking place in health care, Home and Community Based Services (HCBS), Long-Term Supports and Services (LTSS) and COVID adjustments. But, as I wrote in 2019, positioning means nothing unless members educate and advocate for support at every opportunity to community leaders, local officials, state officials, and federal policy makers. The old cliché of “the squeaky wheel gets the grease” continues to hold true.

The squeaky wheel gets the grease because the continual squeaking educates the listener to know grease is needed before the system breaks down. PASC Members must be Big Wheels for Community Senior Centers squeaking audibly and consistently to get the grease they need! TAG looks forward to continuing to help PASC members in this effort!

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