



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

April 2, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, DC 20515

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Leaders McConnell and Schumer and Speaker Pelosi and Leader McCarthy,

The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. We write in response to the growing outbreak of COVID-19 across the United States, and the growing needs of people with disabilities in the face of the pandemic. The first three legislative packages all but ignored the critical needs of the disability community.

People with disabilities are, and will be, particularly at risk as COVID-19 continues to spread across the country, facing high risk of complications and death if exposed to the outbreak and needing to isolate themselves for protection. We were pleased to see that the package that passed last week included the Ensuring Direct Access to Direct Support Professionals Act (S. 3220/H.R. 5443) so that people with disabilities have access to staffing while in the hospital. We are disappointed that the rest of the bill and prior legislation failed to address crucial issues for people with disabilities. We urge Congress to focus on people with disabilities and their needs in the fourth COVID-19 bill.

Specifically, as the fourth piece of legislation moves forward, we urge Congress to ensure that these crucial elements that will help the disability community are included in the next COVID-19 legislative package:

Economic Stimulus and Increased Asset Limits and Social Security Benefits

- Congress should mandate that the Social Security Administration, the Department of Veterans Affairs, and Treasury should share the necessary data to automatically process Recovery

Rebates to low-income individuals with disabilities and older adults who rely on Supplemental Security Income, Social Security, and certain VA benefits.

- Social Security and Supplemental Security Income benefits should be boosted for the duration of the epidemic to help people with disabilities afford the increased costs of health care supplies and medically necessary isolation.
- Increased benefits should not affect recipients eligibility.

Home and Community-Based Services (HCBS)

- Increase FMAP match beyond the 6.2 bump to ensure that Medicaid and state governments have the resources they need to ensure care for people with disabilities. All FMAP bumps must continue to remain coupled with the maintenance of effort provision articulated in Families First Coronavirus Response Act
- Pass the [To Assist Older Americans and People with Disabilities Affected by COVID-19 Act](#) including its HCBS grants to support Direct Support Professional (DSP), Personal Care Attendant, and Home Health Workforce and to support aging adults and people with disabilities in their homes and communities.
- Direct Support Professionals, personal care attendants, and other direct care workers whether paid for through Medicaid, the VA or other federal programs or through private payment arrangements should be designated essential personnel to ensure access to PPE.
- Implementation of Electronic Visit Verification requirements should be delayed by no less than one year. Because of unexpected strains on HCBS service systems, states are unable to spend time operationalizing these new federal requirements.

Housing

- Institute a broad, comprehensive moratorium on evictions and foreclosures. Extend all protections for the duration of the emergency.
- The COVID-19 emergency has exacerbated the severe housing crisis people with disabilities, and particularly the lowest-income people with disabilities, already faced. Expand housing resources to address further damage to a system already under significant strain, including increases for the Section 8 Housing Choice Voucher program, the Section 811 Supportive Housing for Persons with Disabilities program, National Housing Trust Fund, the HOME Investment Partnerships program, and the Low Income Housing Tax Credit.
- Longer term, prevent evictions by creating a new emergency assistance fund, as proposed in the Eviction Crisis Act, to provide short-term financial assistance and housing stabilization services.

Medication/Treatment

- Ensure that all testing and treatment for COVID-19 are provided at no cost for all individuals whether insured or not. The Families First Coronavirus Response Act focuses on testing, not treatment.
- Everyone should have access to medication and supplies refills for up-to-90 days, including allowances for partial fills and controlled substances, without cost sharing and with financial assistance to allow for self-isolation for at-risk people with disabilities and in line with CDC guidelines. The protections extended in the CARES Act to Medicare beneficiaries should be extended to all payers and should include controlled substances.
- Ensure that service providers have access to the necessary training, equipment and medical supplies.

- Ventilator and PPE Production for individuals with disabilities and their caregivers: Congress must appropriate funds specifically for ramping up production of both Personal Protective Equipment and ventilator production. The Secretary of Health and Human Services should be given authority to expedite bringing new production facilities online and do everything possible to mobilize a “whole-of-country” response to meet these production challenges.

Paid Leave/Sick

- Ensure paid sick days and paid leave provisions include caregivers who can’t work because they are caring for an adult with a disability or aging family member whose program has closed or care worker is sick. This was not included in the Families First Coronavirus Response Act or in the CARES Act.

Rights

- Provide states with resources they need to ensure that even during this crisis, people with disabilities have the supports they need to remain in the community and are not forced into institutional or other congregate settings in violation of their civil rights under the Americans with Disabilities Act (ADA) and the Supreme Court’s decision in *Olmstead v. L.C.*, and at increased risk to their health. These actions should include:
 - Funding state, local, tribal and territorial government entities to track the displacement of people with disabilities into skilled nursing facilities (SNF) and other institutions with or without the use of a CMS 1135 Blanket Waiver.
 - Requiring and funding federal, state, local, tribal, and territorial government entities to ensure disability services and supports are provided in the most integrated settings appropriate to the person.
 - If the person is in an acute care setting, ensuring that all reasonable accessibility accommodations and modifications of policies and practices are provided without interruption.
 - Ensuring that all reasonable accessibility accommodations and modifications of policies and practices are provided without interruption at home and throughout transition home from an acute care or institutional setting.
- Fund federal entities to monitor recipients and subrecipients of federal funds to ensure compliance throughout all disaster-related placement decisions by recipients and subrecipients of federal financial funds within 30 days, and with quarterly reports to Congress.
- Adopt the recommendations for legislative action outlined in the 5/24/19 report from the National Council on Disability report to President Trump: Preserving Our Freedom: Ending Institutionalization of People with Disabilities During and After Disasters
- Ensure the rights of individuals with disabilities and older adults, to be free from discrimination on the basis of disability or age in programs and activities, are protected during all phases of disaster preparation, response, recovery, and mitigation.
- Do not allow any weakening of the protections of the ADA for businesses or in the building of new facilities if necessary.
- Provide additional funding to states to ensure that the right to independent and accessible voting as states are moving to absentee and mail-in voting.
- Provide the nationwide network of Congressionally mandated Protection and Advocacy agencies additional funding to ensure that even in this crisis people with disabilities have the supports

they need to remain within the community, have their civil and human rights protected, are free from discrimination, and protected from abuse and neglect.

- Build on guidance released by HHS OCR to protect against discrimination on the basis of age and disability in the allocation of scarce medical resources;

Create a Permanent Infrastructure to Support Those with Access and Functional Needs in All National Emergencies and Disasters

- Establishment and funding of one or more Disability, Emergency and Disaster Technical Assistance Centers led and managed by disability inclusive emergency management experts, operational within 30 days of enactment in order to meet the immediate life saving and life sustaining needs and protecting the rights of 61 million adults with disabilities and for others who also have access and functional needs in a disaster or public health emergency.
- Amendment to Stafford Act - Use of Disaster Response and Recovery Funds -
 - To fund certain “nonprofit entities” in Category B language - amended to define funding for a training & technical assistance center.
 - To fund disability-led organizations providing life saving and life sustaining assistance in a federally declared, Stafford Act eligible disaster or emergency.
- Enactment, funding and implementation of all elements of the Real Emergency Access for Aging and Disability Inclusion (REAADI) in Disasters and Disaster Relief Medicaid Act (DRMA) Acts not otherwise specified in these recommendations to ensure that the rights of people with disabilities are protected and that the needs of people with disabilities and older adults are met in concurrent and future disasters.
- Adoption of the recommendations for legislative action outlined in the 5/24/19 report from the National Council on Disability report to President Trump: Preserving Our Freedom: Ending Institutionalization of People with Disabilities During and After Disasters

School/Education

- Significantly increase funding for IDEA Parts B, C, and D that provide early intervention, preschool, k-12 special education and related services, parent information, personnel development, technology, and other services.
- Protect students with disabilities and their families during the crisis. Do not waive provisions of the IDEA or the Rehabilitation Act of 1973. The IDEA offers flexibility by design and states, districts, communities, and families can work together to find solutions to the problems they are sure to face in the next several months.
- Ensure that any additional flexibilities provided to the Secretary of Education during the pandemic preclude the use of federal funds for schools that do not have to adhere to the IDEA, the Rehab Act, the ADA and other civil rights laws.
- Ensure states and local education agencies have the resources they need to provide compensatory education services (including related services) for students with disabilities, including those with significant disabilities that may require services beyond virtual, web-based instructions.
- Ensure that any legislation to support access to virtual education and other supports are inclusive of the unique needs of people with disabilities, including requirements under the Individuals with Disabilities Education Act.

Supports & Systems for Families

- Ensure that children and adults with disabilities and their family caregivers have the information, support, tools, resources, and protections they need, particularly when usual sources of care are unavailable due to the Corona virus and when changes to systems due to this emergency result in significant increases in the need for information, support, and advocacy.

Technology:

- Provide \$30 million for Section 4 State Assistive Technology Act Programs to address the programs' current front-line needs which are between \$300,000 to \$700,000 per state to accommodate remote working environments; meet the need of consumer demands for devices to combat social isolation, educational needs, employment needs (possibly due to working remotely); and create innovative solutions to a rapidly changing.
- Significantly increase funding for the Lifeline program which provides discounted or free phone services and devices for low income households who qualify based on federal or state-specific eligibility criteria, such as Medicaid and Medi-Cal. Lifeline is critical to bridging the digital divide during the crisis, as more than 10% of U.S. households do not presently have a computer (including hand held devices) and only 19% have a broadband Internet subscription.

Transportation:

- Allocate emergency stimulus for USDOT's Section 5310 program which provides specialized transit services for people with disabilities where other services are unavailable, insufficient or inappropriate.
- Convene the Coordinating Council on Access & Mobility to identify alternatives to receiving services, groceries, care, etc. if transit shuts down and traveling is not an option (as it has in some areas).
- Maintain ADA paratransit service areas as they existed prior to the pandemic, both during and after. Reestablish all transit bus routes entirely after the pandemic, and maintain as much as possible during. Provide alternative transportation to all riders in need if routes are cut during the pandemic.

Work/Employment:

- Increase Investment in WIOA Title Formula Funding. The nation's workforce system needs further investment by Congress to ensure that it is equipped to retrain laid off workers, connect disclosed workers to new opportunities and meet the unique needs of jobseekers with disabilities. The nation's workforce system, defined in the titles (I, II, III, and IV) of the Workforce Innovation and Opportunity Act (WIOA), stands ready to meet the needs of workers with and without disabilities caught up in this crisis. However, funds are needed now to address the massive scope of job losses due to COVID-19. According to the Campaign to Invest in America's Workforce (CIAW), the workforce system experienced "a 234 percent increase" in clients during the Great Recession. The current situation is projected to be far worse. Investment at least comparable to the American Reinvestment and Recovery Act of 2009 (ARRA) is desperately needed.
- Ensure that Unemployment Doesn't Threaten Benefits. The supplemental federal payment for individuals collecting unemployment must not count toward income-based eligibility for

Supplemental Security Income, Medicaid, or other means-tested programs. Without a disregard for this additional income, the increased income may jeopardize access to life-sustaining care.

We know that we must act now to prevent much of the worst impact of this outbreak, and we are grateful for the prompt action so far taken. But we urge both chambers to reconvene and address all of the unfinished business discussed in this letter. If you have any questions, feel free to contact Nicole Jorwic (jorwic@thearc.org)

Sincerely,

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