



SUPPORT ACCESS TO PRIVATE DUTY NURSING FOR PATIENTS WITH COMPLEX CHRONIC CONDITIONS

OVERVIEW

Private duty nursing (PDN) is continuous skilled nursing care provided in the home for medically-complex and vulnerable pediatric and adult patient populations under Medicaid, many of whom require assistive technology such as ventilators and tracheostomies to sustain life. PDN services are required by some of the most medically fragile individuals in the country — including children with complex chronic conditions along with adult patients who require similar services. These individuals require skilled nursing services from between 4 to 24 hours per day every day in order to manage their chronic condition and keep them safe in their homes and communities. While PDN services allow medically-complex individuals to remain at home and promote their highest quality of life, there are several ongoing policy challenges that create hurdles for treating these patients.

CONSISTENT NATIONAL STANDARDS

- **The Problem.** Limited quality measures and standards of care for Medicaid home care and private duty nursing agencies, which vary significantly from state to state, make it difficult to establish national metrics for cost-effectiveness and value-added models. Meanwhile, the Medicare Conditions of Participation (COPs) do not appropriately capture the quality of continuous skilled nursing visits for adults and children with complex medical conditions. These COPs are geared towards intermittent nursing visits for an older adult population and are not relevant to the needs of the PDN population.
- **The Solution.** Policymakers should consider establishing national metrics to assess factors that have the most significant impact on Medicare and Medicaid costs, including hospitalizations, time to transition from hospital to home, consumer satisfaction, and direct care worker job satisfaction. Additionally, policymakers should update the national standards of care for PDN outside of Medicare COPs. This updating of the standards of care will ensure that there are standards in place to protect patients by requiring mandated reporting on critical health elements and ensuring that caregivers are properly trained to care for individuals in the home.

REDEFINING PDN SERVICES

- **The Problem.** The current definition of Private Duty Nursing as outlined in the code of regulations loosely defines PDN care and includes information that allows for confusion amongst state Medicaid departments and lawmakers.
- **The Solution.** Similar to the steps taken in Massachusetts in 2007, policymakers should revisit the definition of private duty nursing to more accurately reflect the services and beneficiaries the services cover. For example, CMS should be encouraged to define these services in federal regulations under home and community-based services rather than home health, and service-specific HCBS metrics could be collected via state Medicaid agencies and reported back to CMS. To promote continuity and patient and health system clarity, we also support changing the definition to “continuous skilled nursing care” to better articulate the service.

SUPPORTING TIMELY PATIENT ACCESS TO HCBS

- **The Problem.** An institutional bias exists in long-term care (LTC) that prioritizes facility-based care over home and community-based services, which is compounded by ongoing delays in approving patients to access HCBS and PDN services. For example, even after eligibility determination, it currently takes 30 to 60 days to assess, create, and approve a person-centered care plan in the home. Additionally, many LTC facilities are misinterpreting the requirements of Section Q of the MDS surveys, which are administered quarterly to LTC residents and gives those individuals a direct voice in expressing preference in their preferred treatment setting.
- **The Solution.** Enabling immediate access to HCBS ensures that consumers are not institutionalized against their will. This can be done via legislation that would allow every qualifying consumer to begin PDN services within five calendar days and all other HCBS services within 30 calendar days. Further, Congress could consider mandating updates to ensure Section Q of the MDS is properly used to facilitate state compliance and promote access to home health services and avoid discrimination against HCBS.

ENSURING SUFFICIENT STATE MEDICAID RATES FOR SKILLED NURSING SERVICES

- **The Problem.** Given the economic challenges created by the pandemic and increases in minimum wage in other unskilled industries that drive up the wage demands of nurses and other clinicians, many providers have been forced to close their agencies, jeopardizing patient access and increasing costs for states.
- **The Solution.** In order to enable home care agencies to offer competitive wages and benefits that are commensurate with minimum wage increases throughout the country, we urge lawmakers to consider funding streams for national increases in caregiving and nursing rates with an enhanced Federal Medicaid Assistance Percentage (FMAP).

WORKFORCE DEVELOPMENT: SUPPORT SKILLED AND UNSKILLED WORKERS

- **The Problem.** Some states have attempted to adopt policies that limit access to PDN services by prohibiting certain types of care from being performed in a home health care setting. States have also mandated additional training, education, and other requirements to do so, regardless of a RN or LPN's state scope of practice. Additionally, with Medicaid being the payer of last resort, Medicaid dollars for HCBS are not guaranteed — especially when state budgets need to find Medicaid services to cut. This results in yearly funding fluctuations and leaves providers vulnerable to reduced hours and reimbursement cuts.
- **The Solution.** Congress should prevent states from specifically adopting policies that would prevent an RN or LPN from practicing within the full scope of their license in an HCBS setting. Additionally, lawmakers should consider making these life sustaining PDN HCBS services a mandatory Medicaid service option, rather than making them available for yearly budget cuts across states.

LEGISLATION

Please support [S.4122, the Continuous Skilled Nursing Quality Improvement Act](#), sponsored by Senator J.D. Vance (R-OH) and Senator Maggie Hassan (D-NH), which:

- Redefines private duty nursing (PDN) services under the code of regulations as “Continuous Skilled Nursing” (CSN) to ensure all entities are referring to the same population when referencing the service, and
- Creates appropriate and consistent national standards for PDN.