March 20, 2020

Executive Commissioner Phil Wilson
Texas Health and Human Service
Brown-Heatly Building
4900 N. Lamar Blvd.
Austin, TX 78751-2316

Dear Commissioner Wilson:

AARP Texas, on behalf of our 2.3 million members and all older Texans, is writing regarding the Centers for Medicare & Medicaid Services (CMS) guidance issued March 13, 2020, on preventing transmission of COVID-19 in long term care facilities. We understand the focus on protecting the health and safety of our state’s nursing home residents, which is paramount. We are, however, concerned that guidance from the CMS truly enable nursing home residents and their families to virtually visit and communicate during this public health emergency. Requiring nursing home residents to go weeks, or perhaps months, without visits from loved ones is extremely serious and potentially harmful to residents and we ask that you provide new guidance to reflect this by requiring nursing homes to prioritize virtual visits and caregiver communications.

The CMS guidance contains a restriction on visitation and only advises that facilities “should consider” offering “alternative means of communication for people who would otherwise visit, such as virtual communications (phone, video-communication, etc.).” People living in nursing homes have the right under state and federal law to receive visitors, “subject to reasonable clinical and safety restrictions and the resident’s right to deny or withdraw consent at any time.” The law also requires that nursing homes “must provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.”

During this stressful and difficult time when in-person visitation is restricted, we strongly recommend that Texas immediately provide additional guidance to require nursing homes to offer and facilitate reasonable and practicable alternative means of communication for individuals who would otherwise visit in person, such as virtual communications. Keeping in touch with loved ones through such virtual visits is essential to the emotional, mental, physical, and social well-being of nursing home residents. Keeping in place communication with loved ones in this way, for some residents, may be the difference between life and death.
Given the widespread adoption of video-chat options (from FaceTime to Skype to Zoom and so on), AARP Texas believes virtual visitations must include the ability to communicate on video, not only for the emotional well-being of the resident, but also so family caregivers can ensure their loved ones are being well cared for. If funding is needed to ensure video-chat options, we encourage the provision of such funding and consideration of how such communications could be part of telehealth.

In addition, during these times of great uncertainty for families, we believe nursing homes should be required to provide proactive communications to the primary caregiver(s) of nursing home residents regarding their physical and emotional health, as well as more general updates or information for families. We urge the state to provide guidance to reflect that nursing homes must also create additional or increase listerv communications, assign staff as primary contact for families, and offer a phone hotline for family members to get information about their loved one’s care.

We also note that the state guidance recently issued for assisted living facilities expressly states that “the facility should provide alternative means of communication for people who would otherwise visit, such as virtual communications.” This approach is consistent with what we are asking you to require in Texas nursing homes. One simple approach would be to add the same requirement to nursing facilities along with the requirement for more regular communication with family members.

We appreciate Texas’ efforts to ensure the health and safety of nursing home and assisted living facility residents and understand the challenges LTSS facilities are facing. At the same time, it is essential for residents and families to be able to communicate and visit virtually, especially during this public health emergency. Thank you for your prompt attention to this issue of great importance to long term care facility residents and their families. If you have questions, please contact me or Amanda Fredriksen at 512-484-0643.

Sincerely,

Tina T. Tran
State Director