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**Testimony of the Michigan Elder Justice Initiative before the Michigan House
Appropriations Subcommittee on ASC Health and Human Services**

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Good afternoon, Chairwoman Whiteford and members of the Subcommittee. I am Dan Wojciak, a staff attorney at the Michigan Elder Justice Initiative. Our program provides a variety of free legal and advocacy services for vulnerable older adults and people with disabilities. We focus on issues including elder abuse, long term care, guardianship, and public benefits. We are also proud to house the Michigan Long Term Care Ombudsman Program which serves residents of licensed long term care facilities. We also manage the MI Health Link Ombudsman Program which serves individuals eligible for Medicaid and Medicare in four regions of the state and for which I serve as Ombudsman.

Although we have additional issues to bring to your attention in the coming weeks, today we want to focus on the ability of Michigan citizens who need long term care to be able to receive those supports and services in their own homes and communities instead of in nursing homes. Over the years, few of our clients have been happier or more grateful than those we have helped remain at home or return home from nursing homes. National studies have revealed that more than half of older adults would rather die than go to a nursing home.¹ And our clients who are thrilled to receive services and supports in the community are not just older adults; we have assisted individuals ranging in age from 22 to more than 100. Each one had a compelling reason

¹ See, e.g., <https://www.fa-mag.com/news/survey-reveals-older-americans-would-rather-die-than-live-in-a-nursing-home-36281.html> which cites a Nationwide Retirement Institute report that found 61% of older adults would rather die than enter a nursing home.

to want to retain or regain their access to their friends and families, familiar routines and possessions, community resources like the churches or clubs some had attended for decades, and the privacy and dignity that can be lost in even the best nursing facilities.

Providing more long term services in the community is not just a personal preference; it is a long-standing, cost-effective² trend across the country. In addition, states have an obligation pursuant to the Americans with Disabilities Act and the Supreme Court *Olmstead* decision to permit individuals to live in the community instead of in institutions like nursing homes. Unfortunately, according to the AARP Long Term Services and Supports State Scorecard³, Michigan lags behind approximately half the other states in the nation in important criteria like “choice of setting” and “provider and affordability and access.”

Our MI Choice program, which provides a wide range of Medicaid-funded supports and services to individuals in the community who need nursing home level of care, has a waiting list of approximately 3,000 people. That list would be longer if the program were well advertised and if consumers desperate for services were not dissuaded by months long waitlists in some parts of the state. Distressingly, we are going *backwards* in some important respects. For example, according to the Department’s own data, the number of transitions of nursing home residents back to the community peaked in 2013 with 1,821 transitions.⁴ Last year, it was only

² One reason home and community services are more cost-effective is because programs that provide home and community based services do not pay for the beneficiaries’ room and board but those costs are covered by Medicaid in nursing homes. Moreover, when beneficiaries live in the community, they often benefit from the informal support of friends and family. In the nursing home, all their services are provided by paid caregivers. Finally, nursing facilities have extensive overhead costs which are significantly reduced in home and community based services programs. While home and community based services do represent cost-effective opportunities to more carefully focus expenditures on the services people need, it is important not to seek savings from suppressing wages of direct care workers or imposing unreasonable and unwelcome burdens on friends and family who volunteer to provide informal support.

³ See <http://www.longtermscorecard.org/databystate/state?state=MI>

⁴ Douglas, Weylin, MI Choice Waiver Data Update powerpoint, Waiver Director’s Meetings, MI Department of Health & Human Services, slide 2, 3/27/19

1,326.⁵ And the number of MI Choice diversions—when people who are just barely hanging on in the community are moved to the top of the waiting list because they will otherwise likely have to move to a nursing home immediately -- peaked in 2010 with 414 diversions⁶. Last year, there were only 39, more than a 90% reduction.⁷

Expanding home and community based services to meet demand and the state's obligation of proper stewardship of public long term care funding is a complex undertaking. It's equally important to fund programs adequately and to understand and determine how to resolve any barriers to expanding these critical, cost-effective services. We therefore respectfully request that the Legislature take the following actions:

1. **Restore \$8.3 million to the MI Choice budget for FY '20** thus ensuring the MI Choice appropriation is not reduced from FY '19 levels. We understand this cut reflects funds that were not utilized by MI Choice providers this year, not any dissatisfaction with MI Choice itself. While it is not possible for providers across the state to hit the appropriation precisely on the nose, we also understand there were other challenges this year, such as the rocky implementation of the Universal Caseload system, that caused significant delays. Waiver providers expect to be able to serve more individuals next fiscal year now that some of these issues are being resolved. We cannot afford to serve fewer people in FY'20 and the program requires at least the equivalent appropriation it received in FY'19. To that end, we are also requesting a five (5) percent increase from the FY'19 appropriation. This will allow

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

providers to modestly increase the number of individuals served and make at least a dent in the 3,000 person waiting list.

2. **Include boilerplate language that requires MDHHS to report to the Legislature on barriers it has identified to expanding home and community based services and strategies the Department plans to implement to address those barriers.** The Department has repeatedly expressed its commitment to serving more individuals in the community and has tried various innovations over the years. But staff have not had time to focus on identifying barriers and devising solutions, a critical step in long term care reform.

- a. **Suggested boilerplate language:** By March 1 of the current fiscal year, the department shall report to the senate and house appropriations subcommittees on the department budget, the senate and house fiscal agencies, and the state budget office on barriers it has identified to expanding home and community based services and strategies the Department has implemented or plans to implement to address those barriers.

3. **Include boilerplate language that requires MDHHS to prepare a plan for expanding long term care ombudsman services to serve beneficiaries enrolled in MI Choice and the Program of All-Inclusive Care for the Elderly (PACE).** For decades, residents of nursing facilities, adult foster care homes, and homes for the aged have benefitted from the advocacy and education efforts of the Michigan Long Term Care Ombudsman Program which is now housed in our office. These ombudsman focus on dignity, autonomy, and resident rights. They help consumers

and their families, often in times of crisis, navigate the confusing, overwhelming, and foreign maze of services, programs, and benefits.

Unfortunately, individuals in the community who need the same level of care and who may well have cycled in and out of nursing homes do not have access to any advocates who can troubleshoot, resolve problems, and negotiate with and educate their providers. The absence of a corps of advocates focused on this population also means we are losing valuable insights by independent advocates on the ground who can spot trends and propose solutions to practices or issues that disadvantage consumers. Providing problem-solvers for this population as well as for their counterparts who live in institutions recognizes the trend to serving more long term care consumers in the community. And it responds to the state's obligation to provide a beneficiary support system, pursuant to federal managed care regulations, for participants in MI Choice and PACE. Some other states have already expanded their ombudsman programs in this way; Michigan should as well.

- a. **Suggested boilerplate language:** The department shall prepare a plan to expand the long term care ombudsman program to assist beneficiaries enrolled in MI Choice and the Program of All-inclusive Care for the Elderly (PACE).

Thank you for your attention to my testimony and these issues. I would be happy to answer questions.

