



State Legislative & Regulatory Resource Toolkit

Tools for a successful state lobbying initiative

Prepared by the American Association for Homecare
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TABLE OF CONTENTS

Purpose: Mission Statement & Goal..... Page 2
Executive Summary..... Page 3
Identify Issues: Legislative & Regulatory Issues to Address..... Page 4
Advocacy Resources & Best Practices..... Page 5
 Government People & Entities
 External Resources
 Advocacy Tips
 10 Steps to Effective Meetings with State Legislators
 10 Steps to a Great Site/Facility Tour for State Legislators
Pros & Cons of Pursuing Regulatory vs. Legislative Changes..... Page 9
MCO Proposal Workflow..... Page 10
Passed Legislative Language for Specific State Initiatives..... Page 11
Suggested Legislative Language..... Page 11

PURPOSE

Mission Statement

The purpose of the AAHomecare State Legislative and Regulatory Workgroup is to establish proactive and consistent state legislative, regulatory, and payer strategies for the Durable Medical Equipment (DME) Industry. This will facilitate a streamlined and timely response by state and regional associations as well as consistent legislative, regulatory, and payer contract language. These initiatives will benefit the DME community in establishing service and rate sustainability while enabling quality products to be provided, ensuring adequate patient access and choice, and positive patient outcomes.

Goal

Each regional/state association to evaluate their legislative, regulatory and payer landscape and to develop a legislative, regulatory and payer goals. Associations are encouraged to utilize language already created that can be modified to fit their needs. This will allow for consistency while also creating an efficient process.

EXECUTIVE SUMMARY

The payor landscape continues to evolve with an increasing number of Medicaid programs utilizing Managed Care Organizations (MCOs) to help manage their patient population who require Durable Medical Equipment (DME) often referred to as Home Medical Equipment (HME), supplies, and services. The HME Industry faces common challenges across the states regarding issues like transparency, reimbursement, and network adequacy; however, there is tremendous opportunity to help influence the nature of these arrangements, ensuring that sustainable rates and best practices are in place to allow for quality products, patient choice, and excellent patient outcomes.

The American Association for Homecare prepared a comprehensive state toolkit to aid in the HME Industry's efforts to establish proactive and consistent state legislative, regulatory, and managed care strategy to strengthen and protect the HME benefit. This toolkit streamlines efforts for Industry stakeholders, providing a cohesive approach and messaging across the HME landscape that can be tailored to meet state-specific needs. The toolkit:

- Provides information and insight on legislative and regulatory avenues to address payor issues, identifying players, including key legislators, regulators, government bodies, and vested external entities, who play a pivotal role in driving efforts and facilitating change
- Highlights best practices to help HME stakeholders evaluate opportunities and processes to advance HME initiatives at the state legislative and regulatory level, which can differ from strategy at the federal level
- Evaluates pros and cons of legislative and regulatory avenues and provides real world examples of legislative language states have explored and/or adopted to create a more sustainable environment for the HME Industry

The HME Industry has already experienced success utilizing the strategy outlined in the state toolkit in states like Kentucky that adopted a rate floor for MCOs and requires any willing provider for all Kentucky MCOs. History has shown that activities in one state can create a ripple effect across others; it is imperative that HME stakeholders work together to resolve detrimental payor practices and promote initiatives that will help achieve the triple aim while protecting the HME safety-net for this vulnerable patient population.

The American Association for Homecare works in partnership with members and local state/regional HME associations to champion these initiatives and empower the HME community to affect change in a coordinated effort. Those interested in pursuing state payor initiatives may reach out to AAHomecare's Payor Relations team for guidance and support.

IDENTIFY ISSUES

Sample Legislative and Regulatory Issues

- Appeals/Claims Project Timeframes
- Audit Timeframes
- Consistent medical policy for MCO Plans
 - Authorization
 - Claims adjudication process
 - Denial Codes-Standard
 - HIPAA Act of 1996-Administrative Simplification Process
 - Limiting frequency of prior approval timeframes
 - Medical record collection process and timeframes
 - Medical Policy
 - Quantity
 - Rent to Purchase Timeframes
 - Scope of Service
 - Timely filing
- Data transparency
 - Medicaid programs-utilization
 - MCO contract PMPM
 - MCO utilization
- Payment rate stability
- Innovation Models
- MCO ownership of a DME company
- MCO under jurisdiction of Insurance Commissioner
- MCO transition language
 - Timeframe and accountability for claims payments when terminating
 - Timeframes-authorization
 - Timeframes-elimination of contract
 - Timeframes transitioning of patients
- Medicaid Rates cannot follow competitive bidding
- MSRP Pricing and cost multiplier when no MSRP
- No audits for medical necessity for prior approved items
- No documentation required for secondary
- Ordering prescribers in state
- Prescription Requirements
- Patient Choice
- Proof of Delivery consistency
- Recoupment Timeframes

ADVOCACY RESOURCES & BEST PRACTICES

GOVERNMENT PEOPLE & ENTITIES

Note: Committees, agencies, and departments may vary from state to state and go by different names.

Key Legislators

Identify individuals and groups with an interest in the issues at hand. Consider both those whose jurisdictions are relevant for the role they play in government as well as those with personal experience who can understand and champion your cause.

- **Relevant State House and Senate Committees**
 - Health Care Related Jurisdictional Focus
 - Health Care
 - Human Services
 - Oversight of State Health Regulatory Bodies
 - Insurance
 - Contracting for Outsourcing Government Functions (ex. MCOs)
 - Other Related Jurisdictional Focus
 - Small Business
 - Rural Focus
 - Advisory Groups and Other Relevant Bodies
- **Individual Legislators**
 - Health Care Background
 - Small Business Background

Key Regulators

- **Agencies/Departments with Relevant Focus**
 - Medicaid
 - Medicaid Oversight
 - CMS Regional Offices
 - Health & Human Services
 - Government Contractors
 - Consumer Affairs
 - Managed Health Care
 - Commerce & Insurance
 - Small Business Administration
 - Department of Aging
 - Licensure Bodies
 - Department of Taxation

EXTERNAL RESOURCES

Online Information

Take advantage of governmental resources to stay abreast of developments and to familiarize yourself with the processes and opportunities to weigh in or engage others in doing so.

- **Government Information**
 - General Assembly Legislation
 - Specific Bill Search
 - Relevant Legislation

- Medicaid Web Site
 - Listserv
 - Announcements
 - Public Meetings of Committees and Groups, such as “Medical Care Advisory Committee” as required by [federal law](#)
 - Public Comment Periods
- **Third Party Info**
 - MCO Web Site
 - Listserv
 - Announcements

Local/State Groups

Get involved with influential local/state groups who would be beneficial allies to help raise awareness and bring support for your priorities. Consider joining relevant groups, attending meetings, support activities, and highlight crossover issues where there is a vested interest.

- **Chamber of Commerce**
- **National Federation of Independent Business**
- **Relevant Groups with Shared Focus/Population**
 - Trade Associations
 - Consumer Advocacy Associations/Chapters
 - Other Non-Profits

ADVOCACY TIPS

Meet with Legislators

Meet with legislators and walk them through the issue(s) at hand and how they can help. Follow these tips and best practices for a successful meeting.

- Legislator Office Meeting Preparation & Tips
- DME Office/Facility Tours Preparation & Tips

Consider Regulation Before Legislation

Consider regulatory avenues that could address your issues prior to seeking legislation. A statutory change may be needed, but oftentimes it is faster and less expensive to seek a regulatory clarification/change first.

- Ask for 30-minute meetings unless an extensive topic is to be covered.
- Utilize white paper formats with clear issues and proposed solutions.
- Avoid power point presentations.
- Ensure appropriate level of leadership will be attending the meeting.
- Keep the tone as collaborative as possible while focusing on outcomes for patients and benefits for the state.
- Ask the scheduler who will be at the meeting including names and titles; provide the scheduler the attendee information from your end as well.
- Consider utilizing CMS Regional Office in cases of non-response from state level.

10 Steps to Effective Meetings with State Legislators

- 1. Call to request a personal meeting with your elected official.** Call the state legislator's office to schedule a brief meeting. Coordinate and attend with other suppliers from your state or state congressional district, if possible, to demonstrate that the issues affect many organizations and different types of people.
- 2. At your meeting, briefly and succinctly describe the key issue.** Focus on only one or two key issues. Your time may be limited to 10-15 minutes. Include points about how the issue affects the legislator's constituents, including your patients, your company, and your employees. Always come with a proposed solution for every problem you present.
- 3. Ask for a commitment or action from your legislator.** For example, you may request that the legislator write a letter to the state Medicaid Director or to the leadership of a key committee of jurisdiction. Or you may ask the legislator to co-sponsor a specific bill.
- 4. Describe the role your organization plays in the community.** Describe the population you serve, the types of services you provide, the number of patients served, the number of employees, the areas in which you provide services, the cost effectiveness of homecare, and the difference that your services make in patients' lives.
- 5. Put a face to homecare consumers.** Include patients or their family members in your meeting, if possible. Provide testimonials. Mention patients' situations and how homecare affects their lives.
- 6. Stick to the facts.** Tell a compelling story and provide good information, but do not exaggerate.
- 7. Be firm and polite.** Lobbying is a First Amendment right; effective lobbying requires diplomacy.
- 8. Bring written materials to leave behind with your legislators.** Include a brief summary with attachments expanding on your key points. For your own use, develop simple talking points, and stick with your message.
- 9. Ask how you can help your legislator.** Establish a good relationship with your legislator and their staff, and be available as a resource on health care issues.
- 10. Follow up.** After your visit, send a letter thanking your legislator for his/her time and briefly restate your issue and request. Follow up with a phone call a week later to see if you can provide any additional information.

10 Steps to a Great Site or Facility Tour for Your State Legislators

A tour of your facility is a great way to put a face on homecare issues. A tour can highlight the importance of homecare in your state and/or state representative's district. Here are a few guidelines to consider when arranging a tour for your elected officials.

- 1.** E-mail a polite, professional invitation letter to the state legislator in care of the staff person who schedules meetings. Mention the number of patients served by your facility, your service area, and number of employees.
- 2.** Be as flexible as you can about the timing. Allow for adequate time for the legislator and his/her staff to get a sense of your operation. Leave time for questions.
- 3.** In conversations with staff about a potential tour, offer to invite the local media or photographer to accompany the legislator on a tour. If a tour is scheduled, alert the press beforehand about the tour and how Medicaid/MCO policy affects your organization.
- 4.** During the tour, invite employees—and patients if possible—top let the legislator meet some of the people involved in your enterprise. Your legislator represents employees, patients, and their families.
- 5.** Share key facts, such as what types of patients your organization serves, what types of services and equipment are provided, how many employees work at the facility, the economic impact of the facility in the region, and other information about the role your organization plays in the community and in the lives of patients and families.
- 6.** In the tour, show all of the components that go into providing homecare, such as key services, after-hour responsibilities, medical equipment, regulatory compliance, billing, deliveries, and maintenance. Some suppliers have spread out on large tables all of the paperwork required for a single Medicaid/MCO patient.
- 7.** Make a connection between your organization's work and the critical homecare issues in your state. Connect the dots for the legislator and staff.
- 8.** Ask for the legislator's help with specific state legislative/regulatory issues affecting homecare.
- 9.** Offer to help the legislator in whatever way you can.
- 10.** Follow up with thank-you's to the legislator and those who helped with the tour.

PROS & CONS: PURSUING REGULATORY VS. LEGISLATIVE CHANGES

REGULATORY

Pros

- Can be less cumbersome to get this type of change implemented.
- If the relationship with the state Medicaid department is strong, then this route more likely to be well received.
- Does not require a lobbyist to be involved and less legal terminology required.
- Any level from policy to medical director can implement regulatory changes.
- Path to regulatory change can be quicker than legislative change.

Cons

- Policy can be changed with little to no notice through budgetary processes or regulatory review.
- Policy could be misinterpreted by MCO plans or by new policy staff or administration.
- Can be more difficult to address misinterpretations.

LEGISLATIVE

Pros

- Permanent unless additional legislation is passed to overturn.
- Multiple options available to find a champion to support a legislative effort.
- Legislators have an outside view that may not contain preconceived opinions and are often open to change.
- Less opportunity for misinterpretation by MCO plans.

Cons

- Often requires a lobbyist to assist in navigating this route.
- Path to legislative change can take longer than regulatory.
- Easier for opposing parties to slow, change, or stop legislative efforts.
- Often requires support from both Medicaid department and General Assembly.
- Still up to Medicaid department to issue guidance based on legislation
- Often adds a fiscal note.

EVALUATION OF STATE MCO REQUIREMENTS AND CONTRACTS

Identify and Coordinate with Stakeholders in the State



Initial Outreach to Medicaid Plan

Positive



Regulatory Path

Possible



Craft Rule or MCO Contract Amendment

Resistance



Approach CMS Regional Office

Impossible



Negative



Outreach to Legislature



Identify Champions



Legislation Crafted



Legislation Introduction

If no results





PASSED LEGISLATIVE LANGUAGE FOR STATE SPECIFIC INITIATIVES

Be sure to check with the AAHomecare [Payer Relations Team](#) and your individual [state association](#) for the latest information as changes happen frequently.

SUGGESTED LEGISLATIVE LANGUAGE FOR STATE SPECIFIC INITIATIVES

Be sure to check with the AAHomecare [Payer Relations Team](#) and your individual [state association](#) for the latest information as changes happen frequently.