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State Associations Welcome DOL Temporary Non-Enforcement, but States Still Face Challenges

Washington, D.C. – The National Association of Medicaid Directors, the National Association of State Directors of Developmental Disability Services, and the National Association of States United for Aging and Disabilities issued the following statement in response to a Department of Labor announcement.

“On October 7, 2014, the U.S. Department of Labor (DOL) announced that it will uphold its January 1, 2015, effective date for extending federal minimum wage and overtime protections to home care workers. Importantly, DOL coupled this with a decision to temporarily delay the Department’s enforcement of the new rule.

Previously our associations – which represent the state Medicaid, developmental disability, and aging and disability directors -- notified DOL of our concerns that the rule presents significant financial, policy and operational issues that many states could not resolve by the effective date of January 1, 2015.

We welcome DOL’s decision to delay federal enforcement in response to our collective requests to delay the effective date. We believe DOL has sought to recognize the realities of what states must do to implement such a significant new federal policy. As part of the non-enforcement policy announcement, we also appreciate the Department clarifying its commitment to two goals: “extending basic labor protections to home care workers, and ensuring that people with disabilities and seniors continue to have access to critical home and community-based services, particularly services delivered through innovative models of care.”

By removing the threat of federal penalties, we believe DOL mitigates some of the concerns states would otherwise have had as they rushed to meet the deadline while also endeavoring to minimize the impact on Medicaid enrollees. Non-enforcement will help states, providers, consumers and other stakeholders to continue a thoughtful planning and implementation process for compliance.

However, we want to be clear that hurdles still exist. There is uncertainty that private citizens may pursue legal action against states. Further, the operational and fiscal issues that require resolution are significant. For some states the changes often times require the approval of state and national entities, with time frames over which the states have limited control and states will need to forge their own paths towards resolution.

Our Associations will continue to work with the Department of Labor, the Centers for Medicare & Medicaid Services (CMS) and our state members to monitor implementation over the coming months.

We will evaluate progress at key points in 2015 to determine the feasibility of compliance with DOL's policy."

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