



# The Bell Policy Center

January 8, 2016

The Honorable Cynthia Coffman, Esq.  
Attorney General of the State of Colorado  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 10<sup>th</sup> Floor  
Denver, CO 80203

Re: Master Plan of Conversion, Total Community Options, Inc, d/b/a InnovAge

Dear Attorney General Coffman:

We appreciate the opportunity to comment on the proposal to convert InnovAge from a nonprofit to a for-profit entity. A significant portion of our work at the Bell Policy Center has focused on addressing the public policy issues associated with Colorado's aging population.

Our comments reflect our concerns about the proposed conversion and offer recommended actions that you can take to ensure the public's interest is protected in this process. As demonstrated by the wide range of concerns expressed at December's public hearing, a number of people in the community also have questions about the proposed conversion.

The proposed conversion is financially substantial and will set an important precedent. It would be the first nonprofit to for-profit conversion of a Program for All Inclusive Care for the Elderly (PACE) service provider in the United States. As such, it represents an opportunity to set a high standard for protecting the community's interests and ensuring that a vulnerable and growing population continues to receive valuable services.

Our concerns can be grouped into three broad categories: (1) potential negative effects on the services provided to PACE participants, (2) undervaluation of the proposed conversion, and (3) need to ensure the conversion proceeds are used for the public's benefit. We describe our concerns in each category below.

## **Negative Effect on PACE Services**

The conversion has the potential to negatively affect the services provided to some of Colorado's most vulnerable residents. Those elderly and disabled Coloradans served by the PACE program suffer from a high level of impairment and the majority have dementia. Many are eligible for both Medicare and Medicaid, indicating that they have low incomes and limited financial resources. The patients served by PACE are dependent on these services.

Given the very low reimbursement rates under Medicaid and Medicare for services to PACE participants, there is always a concern that services will be skimmed on to meet the revenues provided. This will only be made worse by the switch to a for-profit model. Providers will face increased pressure to keep costs down to generate investment returns, which could affect the quality of services provided to this population. It is not clear to us how a for-profit entity can succeed over the long term without impacting service quality or increasing costs for PACE clients. In our opinion, the publicly released conversion plan does not adequately address these concerns.

In addition to carefully considering this aspect of the conversion, we also urge you to direct a portion of the funds from the conversion for the ongoing support of an independent ombudsman. The ombudsman should be directed to monitor the quality and level of services this population receives and to bring problems to the attention of the responsible oversight authorities.

### **Undervaluation of the Conversion**

Because this is the first conversion of its kind, it is extremely important that we carefully scrutinize valuation of assets involved, understand how the value was determined and ensure this assessment is done in a transparent fashion. Because the assets that will be transferred in the conversion are the result of public funding and savings from the current entity's nonprofit tax status, the public has a significant interest in the outcome of this valuation. These assets belong to the people and should be used to benefit the populations that the nonprofit entity was established to serve.

InnovAge has valued the assets being converted at \$186.4 million. However, a third-party analysis conducted for the Colorado Center on Law and Policy suggests the fair market value of InnovAge may be as high as \$354 million, not including real estate.<sup>1</sup>

Being the first conversion of its kind, what happens with InnovAge could set a precedent—not only for Colorado, but nationally. It is critical that we get it right. Therefore, we urge you to hire a qualified financial firm, paid for by InnovAge, to conduct a thorough and independent analysis of the value of the assets being converted and to report its findings to you and the public. You should adjust the value of the conversion based on this analysis and make the report containing your decision available to the public.

### **Public Should Benefit from Conversion Proceeds**

It appears that under the current conversion plan, the proceeds from the conversion will be transferred to the InnovAge Foundation, to be renamed the NextFifty Initiative. We have significant concerns about the independence of the proposed conversion foundation and

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<sup>1</sup> Objections and comments to the master plan of conversion filed by total community options, Inc., D/B/A/ InnovAge and its subsidiaries, by the Colorado Cross Disability Coalition, Julie Reiskin on behalf of Pamela Carter, and the Colorado Center on Law and Policy.

whether it would be the best possible steward of the charitable purpose for which InnovAge was founded. It will be controlled in whole or significantly by individuals who are closely associated with InnovAge. We believe that given its structure, the proposed foundation board could put InnovAge's profit-oriented interests above those of the public.

There is a significant case to be made for the funds to be transferred to an existing and reputable foundation that will fairly distribute the money back to the elderly population. However, if a new foundation is created, we recommend that the board of that foundation be appointed by an independent third party, such as the governor, and that it should include representatives of groups with significant community membership. The conversion foundation should be funded directly by the proceeds from the sale of InnovAge and accountable to the community.

Again, thank you for the opportunity to submit comments on this very important issue and for your consideration of our recommendations.

Respectfully submitted,

A handwritten signature in blue ink that reads "Wade Buchanan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Wade Buchanan  
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The Bell Policy Center  
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