



# Leadership Council of Aging Organizations

*Richard J. Fiesta, Chair*

**December 3, 2018**

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives

The Honorable Greg Walden  
Chairman  
House Energy & Commerce Committee

The Honorable Frank Pallone  
Ranking Member  
House Energy & Commerce Committee

## **Re: Extend Spousal Impoverishment Protections for Medicaid HCBS Recipients**

Dear Speaker Ryan, Minority Leader Pelosi, Chairman Walden, and Ranking Member Pallone:

The Leadership Council of Aging Organizations (LCAO) is a coalition of 69 national nonprofit organizations concerned with the well-being of America's older population and committed to representing their interests in the policy-making arena. LCAO serves as a source of information about issues affecting older adults and provides leadership and vision as America meets the challenges and opportunities presented by our aging society. Our organizations have expertise in health care, economic security, nutrition and food security, housing, and other issues facing older adults and people with disabilities, and are committed to advancing public health and promoting access to affordable medicines to keep these populations healthy and improve their well-being and the well-being of their families. We are writing to urge Congress to extend vital financial protections for married couples when one spouse requires long-term services and supports available through Medicaid home and community-based services (HCBS). These protections are set to expire at the end of this year, on December 31, 2018.

Medicaid's "spousal impoverishment protections" make it possible for an individual who needs a nursing home level of care to qualify for Medicaid while allowing their spouse to retain a modest amount of income and resources. Since 1988, federal Medicaid law has required states to apply this protection to spouses of individuals needing institutional long-term care and has helped ensure that the spouse who is not receiving long term care can continue to pay for rent, food, and medication while the other spouse receives their needed care in a facility. Congress extended this protection to eligibility for HCBS in all states beginning in 2014, so that married couples have the same financial protections whether or not care is provided in a facility or in the community.

Ensuring that these protections are available to individuals eligible for HCBS is aligned with a long history of bipartisan policies intended to promote access to less costly HCBS and to ensure older adults and people with disabilities have a meaningful choice about where they live when receiving Medicaid supports. In that same spirit, we are deeply thankful to Representatives Debbie Dingell (D-MI) and Fred

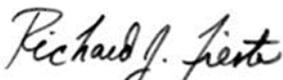
Upton (R-MI) for introducing H.R. 7149, *the Protecting Married Seniors from Impoverishment Act*, to permanently extend these protections to HCBS.

While we understand passing a permanent fix may take time, allowing the policy to expire now could force people who are now eligible for HCBS at a nursing facility level of care into more costly institutional care against their wishes and stall or even reverse progress states have made in helping older adults and people with disabilities remain at home and in the community. The Kaiser Family Foundation's recent analysis of the spousal impoverishment protections concluded that "applying more stringent Medicaid financial eligibility rules to HCBS than to nursing homes could affect states' progress in expanding access to HCBS, rebalancing LTSS spending, and promoting community integration."

Moreover, allowing the protections to expire will put a tremendous administrative burden on states. In addition to adjusting their eligibility determination processes, guidance from the Centers for Medicare and Medicaid Services on the sunset of the spousal impoverishment rules for HCBS recipients indicates that states will have to re-determine Medicaid eligibility for all affected beneficiaries immediately at the start of 2019.

We greatly appreciate your consideration of our request. This common-sense policy ensures that families can stay together when dealing with the struggles that come with caring for loved ones with disabilities and conditions such as dementia, multiple sclerosis, or traumatic brain injury. We look forward to working with you to extend these vital protections before the end of the year.

Sincerely,



Richard J. Fiesta  
Chair