



*Richard J. Fiesta, Chair*

March 14, 2019

The Honorable Mitch McConnell  
Majority Leader  
United States Senate

The Honorable Charles Schumer  
Minority Leader  
United States Senate

The Honorable Chuck Grassley  
Chairman  
Senate Finance Committee

The Honorable Ron Wyden  
Ranking Member  
Senate Finance Committee

Dear Leader McConnell, Minority Leader Schumer, Chairman Grassley, and Ranking Member Wyden:

The undersigned members of the Leadership Council of Aging Organizations (LCAO), a coalition of national nonprofit organizations dedicated to improving the lives and well-being of America's older adult population, write in strong support of the recently introduced bipartisan, bicameral EMPOWER Care Act ("Ensuring Medicaid Provides Opportunities for Widespread Equity, Resources, and Care Act") (S. 548/H.R. 1342) and the bipartisan Protecting Married Seniors from Impoverishment Act (H.R. 1343). We applaud you for your leadership in enacting the Medicaid Extenders Act of 2019 (Pub. L. 116-3), which extended the spousal impoverishment protection for three months and authorized an additional \$112 million to help maintain existing state Money Follows the Person (MFP) programs until a longer reauthorization could be addressed. We urge swift passage of the EMPOWER Care Act before states once again begin to exhaust their federal MFP funding, and of the Protecting Married Seniors from Impoverishment Act before the spousal impoverishment protection expires on March 31st.

We applaud Senators Rob Portman (R-OH) and Maria Cantwell (D-WA), as well as Representatives Debbie Dingell (D-MI) and Brett Guthrie (R-KY), for sponsoring the EMPOWER Care Act, which would extend and improve the MFP program, one of the most successful demonstration programs in Medicaid's history. First authorized in the Deficit Reduction Act of 2005 with strong bipartisan support and signed into law by President George W. Bush, MFP has helped more than 88,000 older adults and people with disabilities—nearly one-third of them older adults—voluntarily transition out of nursing and other facilities back to living in their communities, giving them greater agency over their own lives. In its 2017 report to Congress based on independent evaluation, the U.S. Department of Health and Human Services noted that MFP participants who made this transition reported significant and lasting improvements in quality of care, quality of life, and community integration after returning to their communities while also achieving lower readmission rates. Independent evaluations also found significant reductions of approximately 23% in overall Medicaid and Medicare expenditures after individuals return to the community.

MFP benefits not only the individuals participating in the program, but it has also helped 43 states and the District of Columbia develop the needed infrastructure to enhance people’s access to home and community-based services (HCBS). MFP’s success in this area is demonstrated by the fact that states throughout the country are now devoting more of their Medicaid resources to HCBS—approximately 57% nationally<sup>1</sup>—while reducing Medicaid expenditures on institutional services.

Despite these encouraging findings, MFP’s authorization expired on September 30, 2016. As a result, states started running out of funding, winding down their programs and transitioning fewer individuals. Although the Medicaid Extenders Act of 2019 provided critical new funding of \$112 million to maintain state MFP programs, states will soon exhaust these monies as well. The progress we have made across the country in serving older adults and people with disabilities in their own communities thanks to the MFP program is once again at risk.

Likewise, we are deeply thankful to Representatives Dingell and Fred Upton (R-MI) for introducing the Protecting Married Seniors from Impoverishment Act, to permanently extend vital financial protections to married couples when one spouse requires long-term services and supports available through Medicaid HCBS. These protections are set to expire at the end of this month, on March 31, 2019.

Medicaid’s “spousal impoverishment protection” makes 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 to pay for rent, food, and medication while the other spouse receives their needed care. While federal Medicaid law has required states to apply this protection to spouses of individuals needing institutional long-term care since 1988, Congress extended this protection to eligibility for HCBS in all states beginning in 2014. This extension ensures that married couples have the same financial protections whether or not care is provided in a facility or in the community. It is aligned with a long history of bipartisan policies, such as MFP, intended to promote access to less costly HCBS while giving older adults and people with disabilities receiving Medicaid supports a meaningful choice about where they live.

Although we understand that 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 may stall or even reverse progress states have made in helping older adults and people with disabilities remain at home and in the community. Moreover, allowing the protections to expire will put a tremendous administrative burden on states to adjust their eligibility determination processes. The Centers for Medicare & Medicaid Services has issued guidance instructing states to re-determine Medicaid eligibility for all affected beneficiaries immediately as of April 1, 2019.<sup>2</sup>

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<sup>1</sup> Medicaid Innovation Accelerator Program, Medicaid Expenditures for Long-Term Services and Supports in FY 2016 (May 2018), available at <https://www.medicaid.gov/medicaid/ltss/downloads/reports-and-evaluations/ltss expenditures2016.pdf>.

<sup>2</sup> CMS Informational Bulletin, *Temporary Extension of the Affordable Care Act’s Spousal Impoverishment Provision for Married Recipients of Home and Community-Based Services* (Feb. 8, 2019), <https://www.medicaid.gov/federal-policy-guidance/downloads/cib020819.pdf>.

Both the HCBS spousal impoverishment protection and MFP are essential to allowing and facilitating older adults' ability to live with dignity in their communities while simultaneously improving care and achieving cost savings. We greatly appreciate your long-standing leadership and commitment to caring for older adults and people with disabilities in innovative ways that promote their independence and improve care, and we look forward to working with you to reauthorize MFP before the end of the fiscal year and ensure that the HCBS spousal impoverishment protection does not expire on March 31st.

Sincerely,

AARP

Alliance for Retired Americans

Alzheimer's Association

Alzheimer's Impact Movement

AMDA: The Society for Post-Acute and Long-Term Care Medicine

American Geriatrics Society

American Society on Aging

Community Catalyst

Families USA

The Gerontological Society of America

The Jewish Federations of North America

Justice in Aging

LeadingAge

Lutheran Services in America

Meals on Wheels America

Medicare Rights Center

National Academy of Elder Law Attorneys

National Adult Day Services Association (NADSA)

National Association for Home Care and Hospice

National Association of Area Agencies on Aging (n4a)

National Association of Long-Term Care Ombudsman Programs

National Association of Nutrition and Aging Services Programs (NANASP)

National Association of Social Workers (NASW)

National Committee to Preserve Social Security and Medicare

National Consumer Voice for Quality Long-Term Care

National Council on Aging

PHI

Program to Improve Eldercare, Altarum

Service Employees International Union (SEIU)

WISER