



Leadership Council
of *Aging Organizations*

Richard Fiesta, Chair

June 3, 2024

The Honorable Brett Guthrie
Chair
House Energy and Commerce Health Subcommittee
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member
House Energy and Commerce Health Subcommittee
Washington, DC 20515

Re: Legislative Proposals to Increase Medicaid Access and Improve Program Integrity

Dear Representatives Guthrie and Eshoo,

The Leadership Council of Aging Organizations (LCAO) is a coalition of 68 national nonprofit organizations concerned with the well-being of America's older population and committed to representing their interests in policy-making arenas. LCAO thanks you for the Subcommittee's efforts to support older Americans relying on the Medicaid and Medicare programs for crucial health care services, and to ensuring we all can maintain optimal health, safety, and independence as we age.

The undersigned members of LCAO write in strong support of the legislation listed below under consideration by the Subcommittee:

- H.R. 8107, the **"Ensuring Access to Medicaid Buy-In Program Act,"** introduced by Reps. Juan Ciscomani and Marie Gluesenkamp Perez. This legislation would remove the age limit for the Medicaid Buy-In program so that working adults with disabilities who wish to and are able to continue working after age 65 can continue being covered by Medicaid, so long as they continue paying premiums.

We support the legislation because older adults with disabilities who rely on home-based and long-term care through Medicaid Buy-In should have the option to continue working without losing crucial Medicaid benefits.

- H.R. 7573, **"Stop Unfair Medicaid Recoveries Act,"** introduced by Rep. Schakowsky. This legislation would repeal the requirement for States to engage in estate recovery practices and limit the ability of States to place liens on a Medicaid beneficiary's property.

As the Medicaid and CHIP Payment and Access Commission (MACPAC) has pointed out, States' pursuit of modest estates to repay long-term services and supports (LTSS) benefit -- often including the home and only asset of surviving family members -- "contributes to generational poverty and wealth inequity, placing particular burdens on people of color. Variation in state policies treat heirs inconsistently. Estate recovery recoups relatively little—only about 0.55 percent of total fee-for-service LTSS spending. Policies for recovering capitation payments for those covered under managed LTSS programs can also be inequitable." ¹ Although hardship waivers are technically available for low-income heirs, evidence indicates they are infrequently used or allowed, and are not effectively protecting families from poverty. ² The current Medicaid estate recovery policy should end because it is perpetuating generational poverty and inequality with only minimal return to States.

- [H.R. 8106](#), introduced by Reps. McMorris Rodgers and Pallone. This legislation would allow the Secretary to grant waivers to States under section 1915(c) from the requirement that beneficiaries meet an institutional level of care requirement to receive home and community-based services (HCBS), so long as there is no material impact on average wait times for institutional level of care beneficiaries in the State. The bill would also strengthen current State reporting requirements with respect to HCBS waiting lists. Under current law, in order to be eligible to receive HCBS, individuals generally must meet not only financial and categorical eligibility requirements but also a "level of care" requirement; that is, the individual must require care that would otherwise be provided in an institutional setting, such as a nursing home. Level-of-care criteria are typically defined through a mix of "functional" criteria (e.g., the inability to perform two or more activities of daily living) and "clinical" criteria (such as diagnosis of an injury, illness, disability). We support expanding eligibility for HCBS to include individuals needing a lower level of care than institutional care and stronger State reporting requirements on wait lists. Not only do HCBS cost less than care in institutional settings, services in the home and community foster independence, inclusion, and better health outcomes, and incentivize the provision of the services and supports that matter most to individuals over the long term.

- [H.R. 8109](#), introduced by Reps. Debbie Dingell and Troy Balderson, would amend the Deficit Reduction Act of 2005 to make permanent the Money Follows the Person rebalancing demonstration.

This legislation would permanently authorize the Money Follows the Person (MFP) rebalancing program, which provides enhanced federal funding for services to help¹²

¹ MACPAC, Report to Congress on Medicaid and CHIP, ch. 3 (Medicaid Estate Recovery: Improving Policy and Promoting Equity), at 72 (March 2021).

² See, e.g., Justice in Aging, When States Recoup Medicaid Costs by Seizing Family Homes, Poor Families Suffer While State Budgets Are Barely Affected (Apr. 22, 2024).

transition individuals who wish to leave a nursing home or other institutional care settings and move to the community. The MFP program has helped States develop the infrastructure needed to expand community living opportunities for older adults and people with disabilities, allowing eligible individuals to live where they prefer to live and saving money for the Medicaid program by preventing re-institutionalization. Lapses in funding and multiple short-term extensions of the program for several months at a time have led to significant reductions in state efforts to transition people out of institutions. We support making the MFP program permanent to ensure its success continues.

- [H.R. 8110](#), introduced by Reps. Debbie Dingell and John James, would amend title XIX of the Social Security Act to make permanent the State option to extend protection against spousal impoverishment for recipients of home and community-based services under Medicaid.

The spousal protection in this legislation aligns with current protections for spouses of beneficiaries receiving institutional care. Without these protections, people who are eligible for HCBS at a nursing facility level of care could be forced into more costly institutional care against their wishes and progress made by states in helping older adults and people with disabilities remain at home and in the community may be stalled or reversed.

We look forward to working with the Subcommittee and the full Committee as you advance these important measures to ensure that older Americans have access to Medicaid programs that are person-centered and allow individuals to age in place with safety, dignity and the requisite supports while remaining in their homes, and that we address inequities by assuring that all States provide these services.

Sincerely,

Aging Life Care Association®
Alliance for Retired Americans
American Foundation for the Blind
American Geriatrics Society
AMDA Society for Post Acute and Long Term Care Medicine
Center for Medicare Advocacy
Community Catalyst
Justice in Aging
LeadingAge
Medicare Rights Center
National Adult Day Services Association (NADSA)
National Association of Social Workers (NASW)
National Committee to Preserve Social Security and Medicare
National Council on Aging
National Indian Council on Aging, Inc.

Network of Jewish Human Service Agencies
Social Security Works
Village to Village Network