



Leadership Council
of *Aging Organizations*

Debra Whitman, Chair

December 2, 2024

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Re: Increase Medicaid Access, Support Medicare Outreach Programs, and Strengthen Access to Mental Health Services for Medicare beneficiaries in Year-End Package

Dear Chairman Wyden and Ranking Member Crapo:

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 your continuing 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 strongly support greater access for older adults and people with disabilities to Medicaid coverage, including home and community-based services (HCBS). 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 us as we age. We also support stable funding for Medicare's outreach and assistance programs for low-income beneficiaries and strengthening access to much needed mental health services for individuals with Medicare. We urge the Finance Committee to include these bipartisan measures in year-end legislation.

[H.R.8107](#), as amended, the "Ensuring Access to Medicaid Buy-In Program Act," introduced by Reps. Juan Ciscomani (R-AZ) and Marie Gluesenkamp Perez (D-WA) 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 remain enrolled in 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. 8107](#) was amended by the Energy & Commerce Committee to include [H.R.8106](#), legislation introduced by Reps. Cathy McMorris Rodgers (R-WA) and Frank Pallone (D-NJ), to allow individuals to access HCBS services even if they do not meet the institutional level of care requirement under certain circumstances. Under current law, 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). Enactment of H.R. 8107 as amended would allow the Centers for Medicare and Medicaid Services to use Section 1915(c) waivers to remove the institutional level-of-care requirement associated with HCBS eligibility, provided such a waiver would not materially impact average HCBS wait times for Medicaid beneficiaries who do require an institutional level of care. The bill would also strengthen current State reporting requirements with respect to HCBS waiting lists. We are encouraged by the potential for this legislation to expand access to HCBS to individuals with disabilities and provide more transparency to States’ HCBS waiting lists. We support H.R. 8107, as amended, which was approved unanimously by the House Energy & Commerce Committee on September 18, 2024.

[H.R.8109](#), introduced by Reps. Debbie Dingell (D-MI) and Troy Balderson (R-OH), would amend the Deficit Reduction Act of 2005 to make permanent the Money Follows the Person rebalancing demonstration (MFP). This legislation would provide enhanced federal funding for services to help transition individuals who wish to leave a nursing home or other institutional care settings and move into 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 help people transition out of institutions. We support making the MFP program permanent to ensure its success continues.

[H.R. 8110](#), introduced by Reps. Debbie Dingell (D-MI) and John James (R-MI), 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 may have to transition to institutional care settings for lack of other options thereby stalling or reversing progress made by states in helping older adults and people with disabilities remain at home and in the community.

Continued Funding for Medicare Beneficiary Outreach and Assistance for Low-Income Programs. Funding for this vital program expires on December 31, 2024. Federal outreach and enrollment activities, originally authorized under the 2008 Medicare Improvements for Patients and Providers Act (MIPPA) and extended 12 times with bipartisan support, enable

beneficiaries with low incomes -- many of whom are dually eligible for both Medicare and Medicaid -- to access critical assistance for prescription drug coverage, Medicare premiums, and cost-sharing for which they are already eligible. Without continued funding, Medicare State Health Insurance Assistance Programs (SHIPs), Area Agencies on Aging, Aging and Disability Resource Centers, and Benefits Enrollment Centers will be significantly less able to help low-income beneficiaries afford the care they need. Current annual funding levels are a relatively modest \$50 million. This program is particularly important now to assist with re-enrolling individuals who lost Medicaid coverage due to the Medicaid unwinding and to focus additional resources on Medicare beneficiaries in rural communities. It is also increasingly important to respond to the growing need for Medicare low-income assistance. We urge Congress to make funding for this proven, crucial program permanent.

[H.R. 1638/S. 838](#), the Improving Access to Mental Health Act, introduced by Reps. Barbara Lee (D-CA) and Brian Fitzpatrick (R-PA) and Senators Debbie Stabenow (D-MI) and John Barrasso (R-WY). The need for mental health and substance use services for older adults and people with disabilities continues to grow as the population ages and the effects of COVID-19 persist. This bill would enhance Medicare beneficiary access to mental health services by:

- a) enabling Medicare beneficiaries receiving services in skilled nursing facilities under Medicare Part A to receive concurrent mental health services from clinical social workers (CSWs) under Part B;
- b) codifying the ability of beneficiaries to access, from CSWs, Health Behavior Assessment and Intervention (HBAI) services under Part B that help patients better manage physical health problems; and
- c) increasing Medicare reimbursement rates for CSWs from 75 percent of the physician fee schedule (the current rate) to 85 percent (the rate paid to other nonphysician providers) to encourage more CSWs to participate in the Medicare program.

We urge the Finance Committee to ensure that these important bipartisan measures are included in any 2024 year-end legislative package.

We would also appreciate the Committee's consideration of including [H.R. 7573](#), "Stop Unfair Medicaid Recoveries Act," introduced by Rep. Jan Schakowsky (D-IL). This legislation would prohibit States from engaging 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) benefits -- often including the home, frequently the sole asset available to 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.

We stand ready to support you in these efforts.

Sincerely,

Aging Life Care Association®
Alliance for Retired Americans
American Foundation for the Blind
American Geriatrics Society
Association for Gerontology and Human Development in Historically Black Colleges and Universities
Center for Medicare Advocacy
Community Catalyst
CT Long Term Care Ombudsman Program
Families USA
Gerontological Society of America
International Association for Indigenous Aging
Justice in Aging
LeadingAge
Lutheran Services in America
Meals on Wheels America
Medicare Rights Center
National Academy of Elder Law Attorneys (NAELA)
National Adult Protective Services Association
National Alliance for Caregiving
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 (NCOA)
National Hispanic Council on Aging
Network of Jewish Human Service Agencies
Post-Acute and Long-Term Care Medical Association (PALTmed)
Social Security Works
The National Caucus and Center on Black Aging, Inc. (NCBA)
USAgging
Village to Village Network
WISER

[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).

