

The Disability and Aging Collaborative

May 22, 2024

The Honorable Brett Guthrie
Chair
House Energy and Commerce
Health Subcommittee
2434 Rayburn House Office Building
Washington, DC 20515

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

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

Dear Chair Guthrie and Ranking Member Eshoo:

The undersigned member organizations of the Disability and Aging Collaborative (DAC) and allied organizations write to urge swift action on the legislation outlined in this letter to improve the functionality of the Medicaid program, to increase access and improve program integrity. The Disability and Aging Collaborative (DAC) is a coalition of approximately 40 national organizations that work together to advance long-term services and support policy at the federal level. Formed in 2009, the DAC was one of the first coordinated efforts to bring together disability, aging, and labor organizations. Together we have been pushing to protect and strengthen Medicaid, which is why we are deeply concerned with proposals that include Medicaid per capita caps and work requirements.

The Disability and Aging Collaborative appreciates the opportunity to submit feedback on the legislation discussed at the hearing Legislative Proposals to Increase Medicaid Access and Improve program Integrity. We thank the subcommittee for holding a hearing focused on better supporting aging adults and people with disabilities in accessing critical Medicaid services and we write in support of several bills that align with our priorities:

Make Permanent Money Follows the Person Program: The MFP program provides enhanced funding to states to help transition individuals who want to move out of institutional care and back to the community. The enhanced funding assists with the costs such as identifying and coordinating affordable and accessible housing and providing additional services and supports to make successful transitions. MFP has consistently led to positive outcomes for people with disabilities and older adults and shown cost-savings to states since it began in 2005. The Centers for Medicare &

Medicaid Services (CMS) found an average cost savings of \$22,080 in the first year per older adult participant, \$21,396 for people with physical disabilities, and \$48,156 for people with intellectual disabilities.¹

The program works, and without it, people with disabilities and older adults in institutions and other segregated settings would not have the option to move to the community. In fact, recent analyses “suggest that after five years of operating an MFP demonstration, approximately 25 percent of older adult MFP participants and 50 percent of MFP participants with intellectual disabilities in 17 grantee states would not have transitioned if MFP had not been implemented.”² However, this success is at risk of ending without permanent reauthorization and funding. After a lapse in funding and a series of short-term reauthorizations, the number of transitions declined by 50% from 2017 to 2019,³ and several states stopped transitions or dropped out of the program entirely while awaiting the assurance of long-term funding. The successful program is set to expire in 2027, but permanent reauthorization is necessary so that states know the funding is sustainable and can build on this success or restart programs they have ended due to the unpredictability of the recent short-term extensions.

We ask for your support for H.R. 8109, which would make the Money Follows the Person rebalancing demonstration permanent.

Make Permanent Spousal Impoverishment Protections: 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 these protections to spouses of individuals receiving institutional LTSS. This has helped ensure that the spouse who is not receiving LTSS can continue to pay for rent, food, and medication while the spouse who needs LTSS 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 receiving services in a facility or in the community.

This common-sense policy ensures that couples can continue to live together in their homes and communities as they age and families can stay together when caring for loved ones with dementia, multiple sclerosis, and other disabilities. Permanently

¹ <https://www.medicaid.gov/medicaid/ltss/downloads/money-follows-the-person/mfp-rtc.pdf>
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² <https://www.medicaid.gov/medicaid/ltss/downloads/money-follows-the-person/mfp-rtc.pdf>
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³ <https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/mfp-2020-transitions-brief.pdf>

authorizing the extension of spousal impoverishment protections to HCBS is an important step towards ending the institutional bias.

We ask for your support for H.R. 8110, which would make permanent the protection against spousal impoverishment for HCBS recipients under Medicaid.

Create More Flexibility for States Around Institutional Level of Care Requirement: Many older adults and people with disabilities are left without the supports that they need, because of the strict institutional level of care requirement to access a Medicaid HCBS waiver program. States should have the flexibilities to expand access to HCBS based on criteria that recognize the spectrum of needs of those who should be eligible for services.

We appreciate the subcommittee's interest in supporting states' ability to expand access to HCBS by lowering the level of care requirement. We welcome the opportunity to work with you on refining H.R. 8106 to expand access while ensuring people with higher level of care needs are not at increased risk of institutionalization.

End the Harms of Estate Recovery: The Collaborative appreciates the subcommittee's attention on estate recovery and its harms on low-income families. Current federal law requires state Medicaid programs to seek repayment of Medicaid HCBS and nursing facility care received by people age 55 and older. In practice, this means states must seek recovery from the heirs of the deceased Medicaid recipient, often forcing the sale of the family home, preventing families from building generational wealth through homeownership and exacerbating existing economic inequities. Estate recovery is especially detrimental to families of color that have lower homeownership rates because of discriminatory lending and housing policies, and the families of people with disabilities, who need months or years of long-term services and supports. It also harms farmers and others who rely on the family home for income. While states already have the option to grant some exemptions to low-income heirs from estate recovery, much more needs to be done to ensure low-income families are not harmed and give states the flexibility to end this administratively burdensome practice.

We ask for your support for H.R. 7573, the Stop Unfair Medicaid Recoveries Act, which would repeal the Medicaid estate recovery program.

On behalf of people with disabilities and older adults, we urge passage of the bills outlined above. For additional information or questions, feel free to contact DAC co-chairs Nicole Jorwic (nicole@caringacross.org), Natalie Kean

(nkean@justiceinaging.org), Howard Bedlin (howard.bedlin@ncoa.org), and David Goldfarb (goldfarb@thearc.org).

Sincerely,

The Disability and Aging Collaborative

Access Ready Inc.

Allies for Independence

American Association of People with Disabilities

American Association on Health and Disability

American Civil Liberties Union (ACLU)

American Network of Community Options and Resources (ANCOR)

Autism Society of America

Autistic Self Advocacy Network

Caring Across Generations

Coalition on Human Needs

Disability Policy Consortium

Diverse Elders Coalition

Epilepsy Foundation

Families USA

Hand in Hand: The Domestic Employers Network

Justice in Aging

Lakeshore Foundation

LeadingAge

Medicare Rights Center

National Academy of Elder Law Attorneys

National ADAPT

National Association of Councils on Developmental Disabilities

National Association of State Directors of Developmental Disabilities Services

National Center for Parent Leadership, Advocacy, and Community Empowerment
(National PLACE)

National Committee to Preserve Social Security and Medicare

National Consumer Voice for Quality Long-Term Care

National Council on Aging

National Council on Independent Living

National Disability Rights Network (NDRN)

National Health Law Program

Network of Jewish Human Service Agencies

New Disabled South

North Central PA ADAPT

Roads to Freedom Center for Independent Living (RTFCIL) of North Central PA

TASH

The Arc of the United States

United Spinal Association
Well Spouse Association