



MEMORANDUM

To: Subcommittee on Health Members and Staff
From: Committee on Energy and Commerce Majority Staff
Re: Health Subcommittee Hearing on April 30, 2024

The Subcommittee on Health will hold a hearing on Tuesday, April 30, 2024, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building. The hearing title is “Legislative Proposals to Increase Medicaid Access and Improve Program Integrity.”

I. Witnesses

- **Mr. Daniel Tsai**, Deputy Administrator and Director, Center for Medicaid and CHIP Services

II. Background

The Medicaid program serves as a vital safety net for the nation’s most vulnerable, covering an estimated 32 million children, 8.6 million seniors, and 9.5 million people with disabilities.¹ What makes Medicaid unique compared to other payers – whether that’s Medicare, private coverage, or TRICARE – is its coverage of long-term services and supports (LTSS).

Broadly defined as a wide array of services needed to assist in the completion of activities of daily living, like eating, walking, or bathing, so that an individual can otherwise live an independent life, LTSS range significantly from institutional care in nursing homes and intermediate care facilities to home and community-based services (HCBS) in order to meet the particular care needs of an individual. Beneficiaries who rely on Medicaid coverage for LTSS are among the program’s highest need beneficiaries, accounting for just 6 percent of all beneficiaries in the program but 37 percent of all program spending.²

Nonetheless, access to LTSS is limited for many Medicaid beneficiaries. While coverage for institutional care is mandatory, most coverage for home and community-based services is optional, with states often forced to create waitlists for HCBS in order to balance budgets. In

¹ Medicaid and CHIP Payment Access Commission, “Section 3: Program Enrollment and Spending – Medicaid Overall, EXHIBIT 14”, *MACSTATS: Medicaid and CHIP Data Book*, 2023. <https://www.macpac.gov/wp-content/uploads/2023/12/EXHIBIT-14.-Medicaid-Enrollment-by-State-Eligibility-Group-and-Dually-Eligible-Status-FY-2021.pdf>

² Kaiser Family Foundation, “How Many People Use Medicaid Long-Term Services and Supports and How Much Does Medicaid Spend on Those People?”, 2023. [https://www.kff.org/medicaid/issue-brief/how-many-people-use-medicaid-long-term-services-and-supports-and-how-much-does-medicaid-spend-on-those-people/#:~:text=People%20who%20used%20Medicaid%20LTSS%20comprised%206%25%20of%20Medicaid%20enrollment,and%20drugs%20\(Figure%205\)](https://www.kff.org/medicaid/issue-brief/how-many-people-use-medicaid-long-term-services-and-supports-and-how-much-does-medicaid-spend-on-those-people/#:~:text=People%20who%20used%20Medicaid%20LTSS%20comprised%206%25%20of%20Medicaid%20enrollment,and%20drugs%20(Figure%205))

addition, for beneficiaries who are able to receive institutional care or HCBS, workforce shortages across LTSS industries further limits the availability of care.³

Beyond the challenges covering LTSS, the Medicaid program is at a critical juncture in its near 60-year history. By the end of 2022, the program had grown to cover more than 93 million individuals,⁴ spending over \$600 billion in just that year alone.⁵ This was due to pandemic-era policies that prevented states from disenrolling individuals who should have otherwise been considered ineligible for coverage. With these policies now expired, the program's size has dropped to about 80 to 85 million covered lives, with further reductions expected through June as the unwinding period continues. The Congressional Budget Office (CBO) estimates that the program will spend an estimated \$517 billion over the course of this fiscal year. The decrease in the size of the program will be short-lived, with the CBO projecting costs for the program to eclipse the previous pandemic highs by 2027 and reach nearly \$900 billion in spending for fiscal year 2034 alone and a total of \$7.1 billion in cumulative spending over the next decade.⁶

The financial integrity of the Medicaid program is not just critical to the states and the federal government, who jointly finance the program, but to the beneficiaries who rely on the program for care. Medicaid is consistently among largest line item in state budgets,⁷ and its growth threatens to crowd-out other state spending, such as education or infrastructure, or limit state flexibilities within the Medicaid program, such as raising physician reimbursement rates or reducing waitlists for HCBS. In just 2024 alone, states like Indiana⁸ and New York⁹ have had to make tough choices on how to balance budgets due to increasing costs in the Medicaid program.

This hearing follows hearings by the Subcommittee on Health on October 25, 2023, regarding long-term services and supports, and the Subcommittee on Oversight and Investigation on April 16, 2024, regarding improper payments and program integrity in the Medicaid program. This hearing will examine legislative solutions to support beneficiaries who rely on LTSS and to ensure that the program's spending is more accountable to the beneficiaries that need it most.

³ ANCOR, "The State of America's Direct Support Workforce Crisis 2023", 2023. https://www.ancor.org/wp-content/uploads/2023/12/2023-State-of-Americas-Direct-Support-Workforce-Crisis_Final.pdf

⁴ Center for Medicaid and CHIP Services, "January 2023 Medicaid and CHIP Enrollment Trends Snapshot", 2023. <https://www.medicaid.gov/media/155471>

⁵ U.S. Congressional Budget Office, "The Budget and Economic Outlook: 2024 to 2034", 2024. <https://www.cbo.gov/system/files/2024-02/59710-Outlook-2024.pdf>

⁶ *Id.*

⁷ Medicaid and CHIP Payment Access Commission, "Section 1: Overview – Key Statistics, EXHIBIT 5", MACSTATS: Medicaid and CHIP Data Book, 2023. <https://www.macpac.gov/wp-content/uploads/2023/12/EXHIBIT-5.-Medicaid-as-a-Share-of-States-Total-Budgets-and-State-Funded-Budgets-SFY-2021.pdf>

⁸ *Id.*

⁹ Nolan, E., "Anticipating Cuts, Rural Schools Look to Upcoming N.Y. Budget With Dread", *The New York Times*, 2024. <https://www.nytimes.com/2024/03/01/nyregion/ny-schools-budget-cuts-hochul.html>

III. Legislation

H.R. 124, Byron Nash Renal Medullary Carcinoma Awareness of 2023 (Rep. Green)

This legislation would support education on the risk of renal medullary carcinoma for individuals who are eligible to receive medical assistance for sickle cell disease under Medicaid.

H.R. 468, Building America's Health Care Workforce Act (Reps. Guthrie and Dean)

This legislation would extend waivers for nursing homes to retain temporary nurse aides for more than 120 days and would allow for competency requirement evaluations to be conducted at nursing home where the temporary nurse aide is employed.

H.R. 670, Think Differently Database Act (Reps. Molinaro and Sherrill)

This legislation would establish a publicly available clearinghouse within the Department of Health and Human Services (HHS) focused on improving accessibility of health service information and resources for individuals with an intellectual disability.

H.R. 3227, Ensuring Seniors' Access to Quality Care Act (Reps. Estes and Connolly)

This legislation would modify requirements that otherwise prohibit a nursing home from running nurse aide trainings and competency evaluations when the nursing home has been subject to civil monetary penalties, so long as the facility has addressed deficiencies associated with the penalties and has not been found to have deficiencies related to patient harm or quality of care for more than 2 years.

H.R. 7513, Protecting America's Seniors Access to Care Act (Reps. Fischbach and Pence)

This legislation would prohibit the Secretary of HHS from finalizing regulations that would require long-term care facilities to adhere to minimum staffing standards.

H.R. 7573, Stop Unfair Medicaid Recoveries Act (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.

H.R. 8084, To amend title XIX of the Social Security Act to require States to verify certain eligibility criteria for individuals enrolled for medical assistance quarterly, and for other purposes (Reps. Bilirakis and Craig)

This legislation would require States to perform quarterly verifications of the Social Security Administration's Death Master File and to disenroll any individuals enrolled for medical assistance under the State plan that are found to be deceased.

H.R. 8089, To amend title XIX of the Social Security Act to require certain additional provider screening under the Medicaid program (Reps. Garcia and Peters)

This legislation would require States to perform quarterly verifications of the Social Security Administration's Death Master File and to remove providers enrolled in the State's Medicaid program that are found to be deceased.

H.R. 8094, To amend title XIX of the Social Security Act to modify certain asset recovery rules (Rep. Kean)

This legislation would modify asset recovery under a State plan, so that States may choose to not pursue adjustments or recoveries of medical assistance through a property lien if, after the death of an individual, that individual's home would be transferred to another individual who is eligible for Medicaid or has an income that is 138 percent of the Federal Poverty Level or below.

H.R. 8106, To amend title XIX of the Social Security Act to remove the requirement that an individual need an institutional level of care in order to qualify for home and community-based services under a Medicaid waiver (Reps. McMorris Rodgers and Pallone)

This legislation would amend Medicaid's section 1915(c) waivers to allow States to provide home and community-based services to beneficiaries who do not meet an institutional level of care. Additionally, this legislation would require States to report on the state of waiting lists for HCBS care.

H.R. 8107, To amend title XIX of the Social Security Act to remove certain age restrictions on Medicaid eligibility for working adults with disabilities (Reps. Ciscomani and Gluesenkamp Perez)

This legislation would amend the Medicaid buy-in program to repeal the eligibility pathway's age limit of 65 to allow current beneficiaries to continue to be able to retain coverage through the program.

H.R. 8108, To amend title XIX of the Social Security Act to require medical assistance under the Medicaid program for certain home and community-based services for military families (Reps. Kiggans and Kaptur)

This legislation would require States that currently provide Medicaid coverage for home and community-based services to dependents of military families to maintain the coverage for care in the event that the family moves out of state for active duty.

H.R. 8109, To amend the Deficit Reduction Act of 2005 to make permanent the Money Follows the Person rebalancing demonstration (Reps. Dingell and Balderson)

This legislation would permanently extend the Money Follows the Person rebalancing demonstration, which supports the transition from living in an inpatient facility to HCBS for LTSS eligible individuals.

H.R. 8110, To 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 (Reps. Dingell and James)

This legislation would permanently extend spousal impoverishment protections for beneficiaries receiving home and community-based services, akin to current protections for beneficiaries receiving institutional care.

H.R. 8111, To amend title XIX of the Social Security Act to ensure the reliability of address information provided under the Medicaid program (Reps. Miller-Meeks and Cartwright)

This legislation would streamline processes for States and managed care organizations to update address information for currently enrolled beneficiaries, to ensure that beneficiaries currently reside in the State.

H.R. 8112, To amend title XIX of the Social Security Act to require certain additional provider screening under the Medicaid program (Rep. D'Esposito)

This legislation would require States to check the Data EXchange (DEX), a CMS-run database that identifies providers who have been removed from participating in the Medicare program.

H.R. 8113, To amend title XIX of the Social Security Act to require reporting on certain directed payments under the Medicaid program (Rep. Griffith)

This legislation would require States to report on provider level data from amounts paid by the State through State Directed Payments.

H.R. 8114, To prohibit the Secretary of Health and Human Services from finalizing a rule proposed by the Centers for Medicare and Medicaid Services to place certain limitations on Medicaid payments for home and community-based services (Rep. Cammack)

This legislation would prohibit the Secretary of HHS from finalizing regulations that would require pass-through payment requirements for home and community-based services.

H.R. 8115, To amend title XIX of the Social Security Act to allow for the deferral or disallowance of portions of payments for certain managed care violations under Medicaid (Rep. Sarbanes)

This legislation would establish enforcement mechanisms for the Secretary of HHS to make partial deferrals of payments to Medicaid managed care organizations, in addition to other existing enforcement tools, for purposes of ensuring compliance with federal laws.

IV. Staff Contacts

If you have questions regarding this hearing, please contact Emma Schultheis of the Committee staff at (202) 225-3641.