JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

March 10, 2017

The Honorable Mitch McConnell
Leader, U.S. Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader, U.S. Senate
Washington, DC 20510

The Honorable Paul Ryan
Speaker, U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader, U.S. House of Representatives
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan, and Minority Leader Pelosi:

Justice in Aging is writing to express our grave concerns about the American Health Care Act (AHCA). We are disappointed that these bills were marked up and voted on by the House Ways and Means and House Energy and Commerce Committees in a rushed process, without sufficient time to read the bill, assess its implications, and review the score from the Congressional Budget Office. We urge you not to move forward with this proposal, or any other proposal that makes radical structural changes to the Medicaid program through per capita caps or block grants.

Justice in Aging is an advocacy organization with the mission of improving the lives of low income older adults. Justice in Aging has decades of experience with Medicaid and Medicare, with a focus on the needs of low-income beneficiaries, including those dually eligible for both programs.

We are particularly opposed to the Medicaid cuts and caps at the heart of the American Health Care Act. The bill fundamentally changes the promise and structure of Medicaid by capping federal funding for the program at levels that, by design, will leave states without enough funds to meet the health and long-term care needs of older adults over time. Over six million older adults rely on Medicaid,[1] and two-thirds of all Medicaid spending for older adults goes to essential long term care services in nursing homes and at home and in the community[2]. Medicaid coverage is particularly important for older adults who need services not covered by Medicare, who cannot afford Medicare premiums and cost-sharing, who require mental health care or substance abuse treatment[3], and who live in rural communities.[4] AHCA threatens the care of all of these seniors and the peace of mind of their families.

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[1] *See* Molly O'Malley Watts, Elizabeth Cornachione, and MaryBeth Musumeci, "Medicaid Financial Eligibility for Seniors and People with Disabilities in 2015" (Kaiser Family Foundation, March 2016) available at http://kff.org/medicaid/report/medicaid-financial-eligibility-for-seniors-and-people-with-disabilities-in-2015/.

[2] Kaiser Family Foundation, "Medicaid's Role in Meeting Seniors' Long-Term Services and Supports Needs" (August 2016) available at http://files.kff.org/attachment/Fact-Sheet-Medicaids-Role-in-Meeting-Seniors-Long-Term-Services-and-Supports-Needs.

[3] *See* Han et al. Addiction, "Substance use disorder among older adults in the United States in 2020" (2009) available at: https://www.ncbi.nlm.nih.gov/pubmed/19133892.

[4] *See* Rural Health Information Hub, "Medicaid and Rural Health" available at https://www.ruralhealthinfo.org/topics/medicaid. *See also* Vann Newkirk & Anthony Damico, "The Affordable Care Act and Insurance Coverage in Rural Areas," (Kaiser Family Foundation, May 2014) available at http://kff.org/uninsured/issue-brief/the-affordable-care-act-and-insurance-coverage-in-rural-areas/.

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Medicaid is a lifeline for older adults who need long-term services and supports (LTSS). Medicaid pays for approximately 62 percent of all publicly-funded LTSS,[5] including services in a person's home, in assisted living, adult foster homes, and nursing facilities. With the costs of nursing home care averaging over $82,000 annually,[6] few persons can afford this level of expense on an ongoing basis. As a result, six out of ten nursing home residents are Medicaid-eligible.[7] For those older adults who want to and are able to live at home instead of in an institution, through a home and community-based services (HCBS) waiver, a state can provide a package of services that enable Medicaid beneficiaries to receive necessary services at home. These waivers are widespread: over 1.5 million Medicaid enrollees in 47 states and the District of Columbia were served through HCBS waivers in 2013.[8] HCBS waivers are a win-win arrangement: the Medicaid program pays less than it would have paid for nursing home care, and the older person receives necessary services at home. However, the older adults who rely on these services may no longer be able to receive them if Medicaid funding is capped.

In addition to our concerns about per capita caps for the older adults who are included in Medicaid's elderly category, **we are also concerned that by freezing Medicaid expansion, this bill will take away care for the many low-income older adults ages 55-64** who rely on Medicaid to see their doctors and meet their medical needs before they qualify for Medicare. While we have no specific numbers because the Congressional Budget Office has not yet provided its analysis, we know that 4.5 million adults age 55-64 benefitted from coverage under the Affordable Care Act,[9] and care for all of these adults is threatened by this bill.

The per capita cap proposed in the American Health Care Act will result in significant cuts to the Medicaid program overall for states. We are disturbed that we have no specific numbers because this bill is being rushed through before the Congressional Budget Office can report on them. A recent analysis, however, shows that the Medicaid program would lose over $370 billion over the next ten years.[10] Unlike the current Medicaid structure, states whose residents require more care (reflecting changes in a state's demographics, economy, medical needs, or the introduction of new, lifesaving breakthroughs, for example) would no longer receive matching federal funds above the per capita cap level.

Per capita caps would particularly strain state budgets in light of the aging baby boomer demographic. As more adults age into their 80s and beyond, their health care costs increase. We know that adults age

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[5] *See* O'Shaughnessy, Carol V., "National Spending for Long-Term Services and Supports (LTSS), 2012," (National Health Policy Forum, March 27, 2014), available at http://nhpf.org/library/details.cfm/2783.

[6] Genworth Cost of Care Survey 2016, *available at* genworth.com/about-us/industry-expertise/cost-of-care.html

[7] *See* Charlene Harrington & Helen Carrillo, Nursing Facilities, Staffing, Residents and Facility Deficiencies, 2009 Through 2014, at 1, 8, (Kaiser Family Foundation, 2016) available at http://kff.org/medicaid/report/nursing-facilities-staffing-residents-and-facility-deficiencies-2009-through-2014/.

[8] *See* Terence Ng & Charlene Harrington, Medicaid Home and Community-Based Services Program: 2013 Data Update, at 1 (Kaiser Family Foundation 2016), *available at* http://kff.org/medicaid/report/medicaid-home-and-community-based-services-programs-2013-data-update/.

[9] See Linda J. Blumberg, Matthew Buettgens, and John Holahan, "Implications of Partial Repeal of the ACA through Reconciliation," (Urban Institute Dec. 2016) available at http://www.urban.org/sites/default/files/publication/86236/2001013-the-implications-of-partial-repeal-of-the-aca-through-reconciliation_1.pdf.

[10] See Center on Budget and Policy Priorities, "House GOP Medicaid Provisions Would Shift $370 Billion in Costs to States Over Decade" (March 7, 2017), available at http://www.cbpp.org/blog/house-gop-medicaid-provisions-would-shift-370-billion-in-costs-to-states-over-decade.

85 and over incur 2.5 times more Medicaid costs than those ages 65 to 74.[11] Per capita caps do not account for this increase, and will almost unavoidably lead states to scale back benefits, tighten eligibility, impose waiting lists, implement unaffordable financial obligations, or otherwise restrict access to needed care for older adults. Additionally, a decrease in available funds means that states would not be able to provide the upfront investments and incentives needed to help providers transform their practices to provide more integrated services, better care coordination, or increase capacity to provide care at home and in communities. In short, the caps will prevent states from taking the actions needed to improve care and lower long-term costs for their older residents.

Capping Medicaid funding for the over 10 million older adults and people with disabilities who are dually eligible for Medicaid and Medicare would be particularly problematic. Doing so would create new incentives for states and providers to shift costs to Medicare and would disincentivize state investments that save Medicare money by preventing avoidable hospitalizations, nursing home stays, and more.

For these reasons, as well as the other significant changes that harm older adults, we cannot support the American Health Care Act. We urge you to reject per capita caps and other structural changes to Medicaid, which serves as a vital safety net program. If you have questions, please contact Jennifer Goldberg, Directing Attorney, at jgoldberg@justiceinaging.org. Thank you.

Sincerely,

Kevin Prindiville
Executive Director
Justice in Aging

CC:
The Honorable Orrin Hatch, Chairman, Committee on Finance
The Honorable Ron Wyden, Ranking Member, Committee on Finance
The Honorable Lamar Alexander, Chairman, Committee on Health, Education, Labor & Pensions
The Honorable Patty Murray, Ranking Member, Committee on Health, Education, Labor & Pensions
The Honorable Susan Collins, Chairman, Senate Special Committee on Aging
The Honorable Bob Casey, Ranking Member, Senate Special Committee on Aging
The Honorable Kevin Brady, Chairman, Committee on Ways & Means
The Honorable Richard Neal, Ranking Member, Committee on Ways & Means
The Honorable Greg Walden, Chairman, Committee on Energy & Commerce
The Honorable Frank Pallone, Ranking Member, Committee on Energy & Commerce

[11] See Edwin Park, "Medicaid Per Capita Cap Would Shift Costs and Risks to States and Harm Millions of Beneficiaries" (Center on Budget and Policy Priorities, February 27, 2017), available at http://www.cbpp.org/research/health/medicaid-per-capita-cap-would-shift-costs-and-risks-to-states-and-harm-millions-of.