JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

September 21, 2017

United States Senate Committee on Finance
Attn. Editorial and Document Section
Rm. SD-219
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

RE: Statement for the Record on Monday, September 25, 2017 Hearing to Consider the Graham-Cassidy Heller-Johnson Proposal

Dear Chairman Hatch, Ranking Member Wyden, and Members of the Committee:

Justice in Aging is writing to strongly oppose the Graham-Cassidy Amendment to H.R. 1628. We urge you to reject this proposal and continue the transparent, bipartisan dialogue that the Health, Education, Labor and Pensions Committee began to enact needed reforms to enhance health care access and affordability for older adults, people with disabilities, and their families.

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

First and foremost we oppose the Graham-Cassidy amendment because it fundamentally changes the promise and structure of Medicaid by imposing a per capita cap on federal funding for state Medicaid programs. 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,[3] who require mental health care or substance abuse treatment,[4] and who live in rural communities.[5] The proposed Medicaid per capita caps threaten the care of all of these seniors and would place undo financial and emotional strain on their families. This short video illustrates how services provided by Medicaid enable an older woman, Sadie, to remain at home and connected to her family and community.

---

[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* Catherine Bourque and Georgia Burke, "Proposed Cuts to Medicaid Put Medicare Savings Programs At Risk" (Justice in Aging: July 2017) available at: www.justiceinaging.org/wp-content/uploads/2017/07/Proposed-Cuts-to-Medicaid-Put-Medicare-Savings-Programs-At-Risk.pdf.

[4] *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.

[5] *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/.

WASHINGTON
1444 Eye Street, NW, Suite 1100
Washington, DC 20005
202-289-6976

LOS ANGELES
3660 Wilshire Boulevard, Suite 718
Los Angeles, CA 90010
213-639-0930

OAKLAND
1330 Broadway, Suite 525
Oakland, CA 94612
510-663-1055

Medicaid is a lifeline for older adults who need long-term services and supports (LTSS). Medicaid pays for approximately 61 percent of all LTSS spending,[6] 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,[7] few persons can afford this level of expense on an ongoing basis, and more than half of nursing home residents rely on Medicaid.[8] In addition, home and community-based services (HCBS) waiver programs benefit over 1.5 million Medicaid enrollees in 47 states and the District of Columbia.[9] However, the older adults who rely on these services may no longer be able to receive them if Medicaid funding is capped.

The proposed per capita cap would cut Medicaid program federal spending by $164 billion by 2027 and by over $1 trillion by 2036, on top of massive cuts to other federal funding for Medicaid expansion and health insurance subsidies.[10] By design, caps will leave states without enough funds to meet the health and long-term care needs of older adults over time and will inevitably 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.

Graham-Cassidy would also end the ACA's Community First Choice Option, a successful and popular program that helps older adults and people with disabilities live in their homes and communities. The proposed replacement in the Graham-Cassidy amendment is temporary and far more limited, and would cover only an estimated 4% of what states would otherwise have spent on home and community-based services.[11] In short, the caps and reduced funding for HCBS would prevent states from taking the actions needed to improve care and lower long-term costs for their older residents.

Furthermore, per capita caps would particularly strain state budgets in light of the aging baby boomer demographic. Regardless of their growth rate—which could too easily be dialed down when additional federal savings are desired—the caps would fail to adjust for increasing longevity and significant state differences due to an aging population and the fact that older adults aged 85+ have 2½ times higher Medicaid costs than those aged 65-74.[12]

---

[6] *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.

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

[8] *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/.

[9] *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/.

[10] Elizabeth Carpenter and Chris Sloan, "Graham-Cassidy-Heller-Johnson Bill Would Reduce Federal Funding to States by $215 Billion" (Avalere Health: September 20, 2017), available at: http://avalere.com/expertise/life-sciences/insights/graham-cassidy-heller-johnson-bill-would-reduce-federal-funding-to-sta

[11] Stephen Kaye, "The Potential Impact of the Better Care Reconciliation Act on Home and Community-Based Services Spending" (Community Living Policy Center: July 2017), available at: http://clpc.ucsf.edu/sites/clpc.ucsf.edu/files/reports/Impact%20of%20BCRA%20on%20HCBS%20spending%20updated%207-14-17_0.pdf.

[12] Jacobson, G., Neuman, T., and MB, Musumeci, "What Could a Medicaid Per Capita Cap Mean for Low-Income People on Medicare?," (Kaiser Family Foundation: March 2017), available at: http://files.kff.org/attachment/Issue-Brief-What-Could-a-Medicaid-Per-Capita-Cap-Mean-for-Low-Income-People-on-Medicare

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 ending Medicaid expansion, this bill will take away care for low-income older adults under age 65. We know that millions of older adults rely on Medicaid to see their doctors and meet their medical needs before they qualify for Medicare, thanks to the expansion, and millions more have benefitted from other coverage under the Affordable Care Act.[13] Coverage and care for all of these adults is threatened by this proposal.

On top of these devastating funding cuts, the Graham-Cassidy Amendment proposes other changes to Medicaid that would greatly harm older adults with limited income and resources. For example, Graham-Cassidy would end federal funding of retroactive Medicaid eligibility. Retroactive coverage is vital for persons needing nursing facility care or other long-term services and supports. Medicaid eligibility rules for long-term care are complex, and it can take a significant amount of time to put together an application and required documentation. Without retroactive eligibility, many older adults who need long-term services and supports would either be saddled with unaffordable health care bills or not be able to receive the care they need in the first place.

Finally, eliminating consumer protections will cause older adults buying health insurance in the individual market to face prohibitively high costs. The Graham-Cassidy Amendment is even more dangerous to seniors than other versions of this bill the Senate has considered because it allows states to waive three of the ACA's critical consumer protections: the age-ratio limit, community rating, and the essential health benefits package. Eliminating any of these protections would essentially impose an "Age Tax" on our seniors, 84 percent of whom have pre-existing conditions[14] and have greater health care needs. We know that without these vital protections, the individual market will return to the pre-ACA days when older adults and anyone with significant health care needs could not afford comprehensive health coverage.

We firmly believe that the massive changes being contemplated in this legislation demand a full and transparent process with time for ample input from stakeholders, most especially the millions of Americans who rely on Medicaid and the ACA for their health care. Rushing to vote on this bill without knowing its full impact is irresponsible. We strongly urge you to reject the Graham-Cassidy Amendment and any legislation that includes per capita caps and other structural changes and cuts to Medicaid.

If you have questions, please contact Jennifer Goldberg, Directing Attorney, at jgoldberg@justiceinaging.org. Thank you.

Sincerely,

Kevin Prindiville
Executive Director
Justice in Aging

[13] *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.

[14] *See* HHS ASPE, "Health Insurance Coverage for Americans with pre Existing Conditions: The Impact of the Affordable Care Act" (January 5, 2017) *available at* https://aspe.hhs.gov/system/files/pdf/255396/Pre-ExistingConditions.pdf.