JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

June 21, 2019

Nancy Potok, Chief Statistician
Office of Management and Budget
9257 New Executive Office Building
725 17th St. NW, Washington, DC 20006

Submitted via www.regulations.gov

Re: Request for Comment on the Consumer Inflation Measures Produced by Federal Statistical Agencies (Directive No. 14), 84 Fed. Reg. 19961 (May 7, 2019), Docket No. OMB-2019-0002

Dear Dr. Potok,

Justice in Aging is a national nonprofit legal advocacy organization that fights senior poverty through law. We are committed to ensuring access to social safety net programs on which elderly populations rely, such as Medicare, Medicaid, Social Security, and Supplemental Security Income (SSI). Our work focuses especially on older adult populations that have been marginalized and excluded from justice, such as women, people of color, LGBTQ+ individuals, and people with limited English proficiency. We regularly work to highlight and address the needs of low-income older adults.

We are writing in response to the request from the Office of Management and Budget (OMB) for comment on the differences among the various consumer price indexes and their potential use in the annual adjustment of the Official Poverty Measure. The notice proposes replacing the Consumer Price Index for All Urban Consumers with the chained CPI or the Personal Consumption Expenditures Price Index.

Inflation Measures

OMB currently uses the Consumer Price Index for All Urban Consumers (CPI-U) to measure inflation for the purpose of updating the federal poverty line each year. OMB seeks comments regarding the use of the chained Consumer Price Index (chained CPI) or the Personal Consumption Expenditures Price Index (PCEPI) for the production of official statistics. We strongly oppose the use of either of these measures. Both of these measures rise more slowly than the CPI-U. As a result, over time the poverty line resulting from the use of the chained CPI or the PCEPI would be significantly lower than if the poverty line were to be calculated using the CPI-U. While the effect would be even greater with the PCEPI than the chained CPI, both consumer price indexes would cause the number of people, including seniors, who were counted as poor or near poor to be lower than the number counted under a calculation based on the CPI-U.

It is not at all clear that the use of the chained CPI is accurate when it comes to measuring the rise in costs for basic necessities among low- and middle-income households. Rather, research has shown that the inflation rate for *high-income households* is significantly lower than that of low-income households, making the chained CPI a less reliable measure of inflation for those at or near poverty.[1] This is partly due to the fact that low-income households are less able to change their consumption patterns and switch from higher to lower-priced goods, as is assumed by the chained CPI calculation. Low-income households also spend a significant portion of their income on necessities whose costs are increasing more quickly than the overall CPI, such as housing and health care. Failing to take into account the differences in the ability of households at different income levels to substitute higher-priced goods for lower-priced goods would lead to serious problems in the calculation of the poverty measure, and suggests that the chained CPI is a particularly inferior measure to use when adjusting the poverty threshold.

We are extremely concerned that OMB's proposed changes could undercount millions of low- and middle-income older Americans and their families struggling to meet their basic needs. However, OMB has not engaged in any discussion or research on the adequacy of the current poverty line or the implications of changing it for the people who access programs that use a derivative of the poverty line to determine eligibility. The inflation measure is just one component of the poverty line calculation—it should not be viewed in isolation.

The Official Poverty Measure is already thought by many to be incomplete and outdated. The U.S. Census Bureau has discussed some of these inadequacies as part of its production of the Supplemental Poverty Measure (SPM). Since it was first set during the Johnson Administration the Official Poverty Measure has been increased for inflation, but there have been no serious revisions based on the spending patterns of today's households. These issues need to be thoroughly discussed and addressed before making a single change to the inflation measure that would most likely severely undercount the number of people in poverty. We have seen from the SPM that seniors are one of the groups more likely to be undercounted under the Official Poverty Measure, with over 2.5 million more seniors categorized as being in poverty under the SPM (7.2 million versus 4.7 million).

Numerous Programs Use the Poverty Threshold to Determine Eligibility Levels

Because OMB is not seeking comment on the impact that would result from the change to the HHS poverty guidelines we are not commenting directly on that issue. However, any change to the poverty threshold would affect the poverty guidelines, and it would be incumbent upon OMB to engage in serious research and analysis, and also seek public comments, regarding the impact of such changes on: the number and type of people and households able to access programs that use the poverty guidelines to determine eligibility; the effects on low- and middle-income populations in need of the services and supports provided by these programs; the effect on the organizations that provide these services; whether the resulting changes would accurately identify the low- and middle-income populations targeted for, and in need of, these programs; and related questions. This research and analysis is necessary to determine the potential effect of a change in the inflation measure, including the potential harm to people currently using, or likely to use, the benefits and services provided on the basis of income. People likely to be harmed by the use of the chained CPI or the PCEPI to adjust the poverty threshold include older adults served by Justice in Aging. These older adults, including older adults of color, those with disabilities, and older adult women, among others, are already struggling to meet their basic needs. Changing the poverty threshold would affect the following programs that are priorities for aging and disability groups.

---

[1] Greg Kaplan & Sam Schulhofer-Wohl, "Inflation at the Household Level," Journal of Monetary Economics (2017).

Subsidies for Medicare Prescription Drug and Physician Coverage

Although Medicare eligibility generally is not based on income, lower-income enrollees qualify for help paying for their premiums, deductibles, and cost sharing through certain programs that determine eligibility using the poverty threshold. Seniors and people with disabilities can get help paying for Medicare Part D prescription drugs if they receive Medicaid or if their incomes and resources are otherwise low enough to qualify. If the poverty measure's annual inflation adjustment is reduced, by the tenth year it is estimated that more than 250,000 people on Medicare would lose their eligibility for or get less help from prescription drug low-income subsidies, meaning their prescription drug costs would increase substantially. Moreover, over 150,000 low-income seniors and people with disabilities would lose help paying for Medicare Part B premiums, meaning they would have to pay over a thousand dollars per year to maintain physician coverage.[2] Those with the lowest incomes would also lose help paying for Part A and Part B deductibles and cost-sharing. Justice in Aging serves older adults struggling to meet their basic needs and the loss of this assistance could easily mean the difference between critical medications and going without to meet other equally critical needs.

Medicaid

Smaller annual adjustments to the federal poverty line means that Medicaid income eligibility limits—the maximum amount a family can earn to be eligible for Medicaid benefits—will be lower than they otherwise would be in any given year, and they will continue to decrease over time. The Administration is effectively proposing an automatic cut to eligibility, which will adversely affect the health and welfare of low-income seniors and people with disabilities by making them ineligible for critical Medicaid services upon which they rely.[3]

Medicaid expansion, which was adopted by thirty-seven states and the District of Columbia, resulted in increased health care coverage for millions of adults, including older adults age 50+ not yet eligible for Medicare, whose incomes fall below the current income-eligibility cutoffs. OMB's proposal will shrink the inflation adjustment for the poverty measure, thereby undoing some of this progress and leading to fewer adults being insured. This proposed change could affect hundreds of thousands of people by causing them to lose critical Medicaid coverage.[4]

Affordable Care Act (ACA) Marketplace Health Insurance for Individuals

Because eligibility for cost-sharing assistance and premium tax credits depends on relationship between people's income and the poverty level, shrinking the inflation adjustment for the poverty line would

---

[2] Aviva Aron-Dine & Matt Broaddus, *Poverty Line Proposal Would Cut Medicaid, Medicare, and Premium Tax Credits, Causing Millions to Lose or See Reduced Benefits Over Time,* CTR. ON BUDGET & POL'Y PRIORITIES (May 22, 2019), https://www.cbpp.org/research/poverty-and-inequality/poverty-line-proposal-would-cut-medicaid-medicare-and-premium-tax.

[3] Edwin Park, *Trump Administration Proposes to Make Many Fewer Low-Income Individuals and Families Eligible for Medicaid and CHIP Over Time*, Georgetown U. Health Pol'y Inst. Ctr. For Children & Families (May 9, 2019), https://ccf.georgetown.edu/2019/05/09/trump-administration-proposes-to-make-many-fewer-low-income-individuals-and-families-eligible-for-medicaid-and-chip-over-time/.

[4] Larisa Antonisse et al., *The Effects of Medicaid Expansion Under the ACA: Updated Findings from a Literature Review*, Kaiser Family Foundation (Mar. 28, 2018), https://www.kff.org/medicaid/issue-brief/the-effects-of-medicaid-expansion-under-the-aca-updated-findings-from-a-literature-review-march-2018/.

over time reduce or eliminate subsidies that make insurance more affordable. Older adults age 50+ would lose cost-sharing assistance and have to pay higher deductibles, when they are already overburdened by health care costs and struggle to afford adequate medical care. Justice in Aging has fought to ensure that older adults who tend to have more chronic and serious health conditions have access to the health care they need. This proposal would take important assistance away from some of the people least able to afford it.

Supplemental Nutrition Assistance Program (SNAP)

Households are ineligible for SNAP if their gross income exceeds an amount that is tied to the federal poverty guidelines (between 130 and 200%, depending on the option the state adopts). Each year, that figure is adjusted for inflation. If the adjustment shrinks, gradually fewer households will qualify for assistance. Approximately 5.4 million seniors receive SNAP assistance. These benefits help supplement seniors' available income to pay for food. The program is particularly important to older women, who receive benefits at almost twice the rate of older men. Using the chained CPI would mean that over time more people would lose eligibility for SNAP benefits than they would have under the CPI-U, making it even more difficult for them to afford a healthy diet.

Low Income Home Energy Assistance Program (LIHEAP)

About 6 million people received LIHEAP assistance in 2018. Most states set eligibility for LIHEAP at 150% of the federal poverty guidelines.[5] A 2018 survey conducted by the National Energy Assistance Directors' Association (NEADA) found that

- 46% of LIHEAP households had a senior in the household aged 60 or older.
- 52% had a disabled household member.
- 82% had annual household income below $20,000.

The NEADA survey found that one-third of low-income households who received LIHEAP last year received shut-off notices that caused many families to go without food or medicines to pay their bills, and 15% had their heat and light shut off before receiving LIHEAP assistance. The poor are hit hard by energy bills, which take about 12% out of a low-income paycheck, but only 2.7% from households with higher wages. In winter, the heating bill can cost a poor family 25% of its income. Over time, shrinking the inflation adjustment for the poverty measure will mean more households will exceed the 150% cutoff, so that they will be denied LIHEAP assistance.

Weatherization

This program improves the energy efficiency of low-income households. Although eligibility levels for this program differ by state, the maximum income for eligibility set by the federal government is below 200% of the poverty guidelines. Weatherization assistance can effectively lower annual heating and cooling costs for low-income seniors who have difficulty paying high housing and utility costs. An inadequate inflation adjustment means that fewer low-income households will receive the help they need because they will become ineligible for having "too much" income. These households may be forced to cut back on other basic necessities, such as food or medical care, in order to pay their heating or cooling bills, thus threatening the health and well-being of seniors and people with disabilities.

[5] States can elect to set a lower eligibility level not lower than 110% of the poverty guidelines.

Conclusion

OMB should not ignore the evidence of low-income household spending and income patterns, including those of the older adults that Justice in Aging serves. An attempt to shrink the inflation adjustment will not only be an inaccurate reflection of consumer finances, but also have catastrophic effects for already disadvantaged populations including older adults, people with disabilities, people of color, and women. Low-income seniors rely on programs whose eligibility thresholds would be affected by the proposed change in the inflation measure used to calculate the poverty line. Denying people benefits by making the poverty threshold a less accurate reflection of their circumstances is contrary to Congressional intent and the national interest.

Thank you for the opportunity to comment on these proposed regulations. If there are questions concerning this submission, please contact Tracey Gronniger, at tgronniger@justiceinaging.org.

Respectfully submitted,

Tracey Gronniger
Directing Attorney