

# JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

June 25, 2019

The Honorable Richard Neal  
Chairman  
U.S. House of Representatives  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

The Honorable Kevin Brady  
Ranking Member  
U.S. House of Representatives  
Committee on Ways and Means  
1139 Longworth House Office Building  
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Dear Chairman Neal, Ranking Member Brady, and Members of the House Committee on Ways & Means:

Justice in Aging appreciates your ongoing bipartisan efforts to strengthen the Medicare program and improve access for beneficiaries. In particular, we are writing to express our strong support for several provisions included in the Beneficiary Education Tools Telehealth & Extenders (BETTER) Act of 2019 (H.R. 3417) and the HEARTS and Rural Relief Act (H.R. 3429).

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Since 1972 we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

First, the extension and increase of funding for outreach and assistance for low-income programs included in H.R. 3417 is critically important to helping beneficiaries get the in-person assistance they need to navigate Medicare. In person assistance provided by State Health Insurance Program (SHIP) counselors is needed more than ever with 10,000 people a day becoming Medicare eligible. In addition, Medicare choices and programs are becoming more complex. The Chronic Care Act increased flexibility and options in Medicare Advantage (MA) which means beneficiaries need more education and help to make the choices that are right for them. Also, many Medicare beneficiaries now face choices of multiple different models in both MA and fee-for-service such as Special Needs Plans, Accountable Care Organizations and demonstrations. While these models offer a range of opportunities, beneficiaries, especially those with limited income, need help navigating these options more than ever. Furthermore, SHIPs and other benefit resource centers are essential to ensuring low-income beneficiaries are connected to underutilized programs that help them afford their Medicare, including the Medicare Savings Programs and the Part D Low-Income Subsidy.

We strongly support the provision to make the Limited Income Newly Eligible Transitional Program (LI NET) permanent. The Centers for Medicare and Medicaid Services created LI NET to

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address issues raised in *Situ et al v. Leavitt*, a lawsuit Justice in Aging brought challenging the failure of the Secretary of the U.S. Department of Health and Human Services to protect dual eligible beneficiaries in implementing Medicare Part D. When Medicare Part D was first implemented, dual eligible beneficiaries were not getting timely enrolled in Part D plans and thus losing access to critically needed prescription medications. LI NET works well to protect against such problems, which would still exist absent the program. CMS sought advocate input in designing LI NET and has introduced improvements that have been responsive to advocate concerns. We strongly support making LI NET permanent to ensure dual eligible beneficiaries have access to necessary medications.

We also strongly support the provision in H.R. 3429 that would exclude complex rehabilitative manual wheelchairs from the competitive acquisition program. Some of the most persistent issues advocates encounter in accessing durable medical equipment (DME) have been around complex wheelchairs. For the people who need them, these wheelchairs are the difference between spending their life in bed and having a life in the community. As the name suggests, they are highly complex and individualized. Unlike some DME, these wheelchairs are not “off-the-shelf” items and they can need frequent adjustment to work effectively for individuals. It is important to have a supplier who works well with the beneficiary and understands their condition, disability, and particular needs. Competitive bidding simply does not work well for these items and, because rebidding happens periodically, inserts uncertainty in the market. Though complex wheelchairs are not currently subject to competitive bidding, there is a lot of pressure to expand the categories of DME subject to competitive bidding. A statutory prohibition on including them in competitive bidding such as the one in H.R. 3429 will remove uncertainty for both the supplier and beneficiary communities.

We also strongly support the bipartisan, bicameral Beneficiary Enrollment Notification and Eligibility Simplification (BENES) Act (H.R. 2477) which will modernize and simplify the Medicare Part B enrollment process and help individuals who are new to Medicare avoid costly mistakes. The current enrollment process is far too complicated and leaves far too many people with late enrollment penalties and gaps in coverage that are barriers to accessing care and services.

We urge you to prioritize and pass these important improvements to help beneficiaries access and afford Medicare. If any questions arise concerning this submission, please contact Natalie Kean, Senior Staff Attorney, at [nkean@justiceinaging.org](mailto:nkean@justiceinaging.org).

Sincerely,



Jennifer Goldberg  
Deputy Director