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September 8, 2021

The Honorable Nancy Pelosi
Speaker of the House
1236 Longworth H.O.B
Washington, D.C. 20515

The Honorable Frank Pallone
Chair
House Energy & Commerce
Committee
2107 Rayburn H.O.B.
Washington, D.C. 20515

The Honorable Richard Neal
Chair
House Ways & Means Committee
372 Cannon H.O.B.
Washington, D.C. 20515

The Honorable Charles Schumer
Senate Majority Leader
322 Hart S.O.B.
Washington, D.C. 20510

The Honorable Ron Wyden
Chair
Senate Finance Committee
221 Dirksen S.O.B.
Washington, D.C. 20510

Dear Speaker Pelosi, Leader Schumer, Senator Wyden and
Representatives Pallone and Neal:

As the Senate and House move forward on landmark Medicaid legislation, we urge you to invest the resources necessary to meaningfully increase home and community-based services (HCBS) and to equitably close the Medicaid coverage gap. While we understand that at some points in the process there will inevitably be restrictions on committee expenditures and competing interests, we urge you not to shortchange either of these two racial, economic, and disability rights priorities, and ensure investments are robust enough to achieve systemic improvement.

Adequately Funding Medicaid's Home and Community Based Service System

One critically important piece of Congress's reconciliation package is the proposed investment in chronically underfunded Medicaid HCBS for people with disabilities and older adults. The Better Care Better Jobs Act (BCBJA) proposes a historic investment that would help reverse decades of under-resourcing HCBS and fix structural biases that make it easier to access institutional care than community-based services. HCBS must remain robustly funded to achieve the goals of BCBJA.

HCBS allows people with disabilities and older adults to remain at home and active in their communities, while improving health and quality of life outcomes. Additionally, HCBS typically costs less per-person than institutional services. The proposal would help build a sustainable framework for HCBS, reducing lengthy wait lists for services in many states, filling gaps in coverage, and creating a more stable direct-care workforce.

HCBS is a key component of Medicaid, and Medicaid is one of the only types of health insurance that covers the services people with disabilities need in their own homes. Yet the currently underfunded system is unsustainable. People with disabilities and older adults languish on waiting lists, experience gaps in coverage, or are forced into institutional settings when they are unable to access care due to inadequate coverage. Enrollees fortunate enough to get off a waitlist often struggle to find staff to support them, largely because low Medicaid rates lead to systemic staffing shortages, high turnover rates, and inadequate training. The essential workers who provide HCBS services—primarily women and people of color—are among the lowest paid health care workers in the United States, which perpetuates more racial and economic injustices. Quite simply, we cannot improve access to Medicaid-funded HCBS without also raising the rates for these services, and ensuring those rate increases go to increased wages and benefits for HCBS direct care workers.

As the reconciliation package moves forward, we ask that you strongly invest in HCBS to allow for both expansion of service to address unmet needs and investment in wages to address the workforce shortage.



Equitably Closing the Medicaid Coverage Gap

The millions of people in the Medicaid coverage gap already bear the brunt of systems of oppression such as structural racism, sexism, and ableism that drive vast health inequities. They deserve equitable access to comprehensive coverage and tailored protections to match.

To equitably close the Medicaid coverage gap, any federal solution—a federally-administered Medicaid program, a solution building on Marketplace coverage or a hybrid—must ensure access to the full range of services and protections that Medicaid expansion enrollees currently receive. Comprehensive benefits tailored to the needs of low-income and underserved populations are a defining component of the Medicaid entitlement. Most Medicaid expansion enrollees receive benefits equivalent to coverage under the State plan for medical assistance where they live.

Absent parity with what current Medicaid expansion enrollees receive, a coverage gap fix will enshrine in federal law a separate and **unequal** system of health coverage for millions of underserved people, particularly Black, Latinx, and other people of color in the South. No one wants a coverage gap fix to establish a lower standard of coverage with fewer protections for people with low incomes and underserved communities. We are equally concerned that such a system would lead states, including current expansion states, to abandon Medicaid expansion, and set the precedent needed for a future Congress to lower the standard of coverage provided by the Medicaid entitlement nationwide. Likewise, Congress must ensure that legislation to close the gap does not impose new or expand upon existing restrictions in abortion coverage. The National Health Law Program recently published [a framework](#) with essential elements for designing an equitable coverage gap solution that does not undermine Medicaid more broadly.

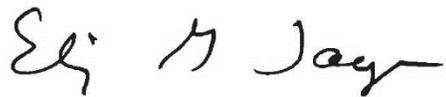
Conclusion

We acknowledge the many competing priorities vying for funding and attention in the reconciliation package. But we remain concerned that if Congress does not appropriately fund **both** the HCBS provisions **and** a federal solution to the Medicaid coverage gap, the resulting policies will create new and exacerbate existing structural problems for people with low incomes and underserved communities.



We must ensure sufficient HCBS funding to meaningfully expand access to services, improve the workforce, and make significant strides towards eliminating the institutional bias. We also cannot acquiesce to a substandard solution to the Medicaid coverage gap that is inadequate and inequitable for intended beneficiaries and may also undermine access for current Medicaid enrollees in expansion states. Congress has a historic opportunity to solve both of the systemic injustices described above. We look forward to continuing to work with you to achieve these goals. Please feel free to contact Mara Youdelman (youdelman@healthlaw.org) with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Taylor". The signature is written in a cursive, flowing style.

Elizabeth Taylor
Executive Director

