Expanding Health Care Affordability for Older Adults and People with Disabilities

May 11, 2022

Amber Christ, Directing Attorney, Justice in Aging
Vivian Kwok, Peter Harbage Fellow, Justice in Aging
Valerie Bogart, Director Evelyn Frank Legal Resources Program, New York Legal Assistance Group
Ann Vining, Staff Attorney, Northwest Health Law Advocates
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.
Justice in Aging’s Commitment to Advancing Equity

To achieve Justice in Aging, we must:

• **Advance equity** for low-income older adults in economic security, health care, housing, and elder justice initiatives.

• Address the enduring harms and inequities caused by systemic racism and other forms of discrimination that uniquely impact low-income older adults in marginalized communities.

• Recruit, support, and retain a diverse staff and board, including race, ethnicity, gender, gender identity and presentation, sexual orientation, disability, age, and economic class.
Housekeeping

• All on mute. Use Questions function for substantive questions and for technical concerns.

• Problems with getting on to the webinar? Send an email to trainings@justiceinaging.org.

• Find materials for this training and past trainings by searching the Resource Library, justiceinaging.org/resource-library. A recording will be posted to Justice in Aging's Vimeo page at the conclusion of the presentation, vimeo.com/justiceinaging.

• Enable closed captioning by selecting “CC” from the Zoom control panel.
Today’s Agenda

• Medicaid Eligibility & Affordability Cliffs
• Addressing These Cliffs
  • California
  • New York
  • Washington
• Strategies
• Questions
Medicaid Eligibility & Affordability Cliffs
Definitions

- **Medicaid Expansion**: expansion of Medicaid under the Affordable Care Act to adults under age 65 and without Medicare

- **Aged, Blind, Disabled (ABD) Medicaid**: Medicaid program for individuals age 65 and over and individuals with disabilities

- **Medicare Savings Programs**: programs that make Medicare more affordable, administered by Medicaid
  - QMB, SLMB, QI
Medicaid Expansion & Older Adults and People with Disabilities

• The enactment of the Affordable Care Act (ACA) significantly expanded Medicaid

• However, Medicaid financial eligibility for older adults and people with disabilities remained unchanged

• States have broad discretion to adjust eligibility criteria for these populations
Income Eligibility

• The ACA increased the income limit to qualify to **138% of the FPL** for the “Medicaid expansion population”

• For older adults and people with disabilities receiving Medicaid via the Age, Blind, and Disabled (ABD) program, income limits generally remain **at or below 100% FPL**

• Beneficiaries may lose coverage when they turn 65 despite having a fixed/less income
Income Eligibility
Current Landscape

• As of 2018, states’ income limits ranged from 63% to a maximum 100% FPL
  • The majority tie their ABD income limits to the SSI income limit (74% FPL)
  • Just 17 states set a limit of 100% FPL
• California is the only state to raise it beyond 100% FPL, and New York just passed legislation this year to do so as well and to raise their MSP limits
• For MSPs, 4 states have increased income limits beyond the federal minimum
Asset Eligibility

• The ACA **eliminated the asset test** to qualify for the expansion population

• ABD Medicaid utilizes low asset limits, like the SSI program
  • $2,000 for an individual
  • $3,000 for a couple

• Even with meager savings, people may lose coverage when they turn 65 or spend down their assets
Asset Eligibility
Current Landscape

• Only Arizona and California have eliminated their asset tests for ABD Medicaid
• Just 9 states have increased ABD Medicaid asset limits above $2,000
• Connecticut and New Hampshire, have Medicaid ABD asset limits below $2,000 for an individual
• For MSPs, 12 total states have no asset limits
  • NY repealed the test in 2008.
  • Last year, CA passed legislation to eliminate in 2024.
  • This year, WA advocates were able to include the change in their operating budget, which was accepted by the legislature and signed by the governor, to be effective in 2023.
  • IL has temporarily eliminated the asset limit during the public health emergency.
Affordability

• The ACA ensured individuals will pay no more than 8.5% of their income for health insurance coverage.

• When people turn 65 or are Medicare eligible, they lose these subsidies and may face higher out-of-pocket costs for premiums and coinsurance, or they may forgo needed care and services.
  - MSPs provides some financial assistance.
Affordability
Current Landscape

• Work underway this year in California to make Medi-Cal via the Medically Needy Program more accessible, as individuals can pay **60% of their incomes** as their share-of-cost

• 33 states including DC have a Medicaid medically needy program for older adults and people with disabilities

• The majority of states maintain very low Maintenance Need Income Levels, from 10% to 100% FPL
**Affordability**

**HEALTH CARE AFFORDABILITY ASSISTANCE**

Source: This table was originally created by Northwest Health Law Advocates and included here with permission.
Available at:

Justice in Aging website
>> Resource Library >> Issue Briefs & Guides


MARCH 2022
Amber Christ, Director of Health Policy & Advocacy
Georgia Burke, Directing Attorney
Vivian Kwok, Peter Harbage Fellow

INTRODUCTION
Medicaid provides health care coverage for 74 million people, including over 7.8 million older adults and people with disabilities who rely on the Medicaid for critical benefits like home- and community-based services (HCBS). Over its 56-year history, Medicaid has undergone significant change and growth. Most notably, the enactment of the Affordable Care Act (ACA) extended Medicaid coverage to millions of low-income adults under age 65 and implemented eligibility criteria and program rules that have lifted people out of poverty and helped to address racial disparities. The ACA, however, did not change eligibility or program rules for Medicaid financial eligibility for older adults and people with disabilities. Medicaid programs across the country continue to use outdated and overly stringent eligibility criteria that force older adults and people with disabilities relying on the program to live in deep poverty in order to gain access to care.

States, however, have broad discretion to adjust their Medicaid eligibility criteria to make Medicaid and access to health care more affordable for older adults and people with disabilities. Advocates in one state, California, have had several recent successes in broadening Medicaid eligibility to better align programs with the eligibility criteria used
Addressing These Cliffs
California

• One of the first states to expand its Medicaid program (Medi-Cal) pursuant to the ACA

• Subsequently enacted several milestone changes, significantly broadening eligibility for older adults and people with disabilities to align with those of expansion Medicaid

• These improvements to eligibility and affordability come with nearly a decade of building partnership with stakeholders both in the community and at the state-level
Income Limit Increase
California

- **Was** 100% FPL for ABD Medi-Cal and included a standard disregard that raised the limit to approximately 124% FPL

- **Effective 12/2020**, raised to 138% FLP via the state budget process that was approved by CMS through a state plan amendment on 11/19/2020

- This expanded access to free Medicaid to over 40,000 older adults and people with disabilities
Asset Test Elimination
California

• *Was* the typical limit of $2,000 for an individual and $3,000 for a couple (the same for the SSI program)

• *Effective in two phases*, eliminated for ABD Medicaid, the 250% Working Disabled program, and for MSPs via the state’s 2021-2022 budget
  
  • *July 1, 2022*: will increase to $130,000 for an individual with an additional $65,000 for each additional family member up to 10
    • State plan amendment approved on November 24, 2021
  
  • *January 1, 2024*: will be eliminated completely

• Improved affordability for nearly 1.4 million older adults and people with disabilities AND expanded access to 18,000 Californians newly eligible without having to spend down or prove assets
Updating Medically Needy Program Maintenance Need Level

- Currently is set at $600 and has not been updated since 1989
  - If an individual is $1 over the free Medicaid limit (currently $1,482 in the state), they must pay $883 towards the cost of their care monthly before they are eligible for Medicaid coverage

- This year, legislation introduced (AB 1900) to raise the maintenance need level from the fixed $600 to 138% FPL, or the income cutoff for free Medi-Cal coverage
Income Limit Increase
New York

- *Was* effectively about 82% FLP in 2022, or tied to dated cash assistance levels

- *Effective January 1, 2023 with CMS approval*, the income limit will be raised to 138% FPL, which was accomplished via the state budget
  - Income limits for MSPs will also increase:
    - QMB: from 100% FPL to 138% FPL
    - QI-1: from 135% FPL to 186% FPL
Asset Test Limit Increase New York

- Was $16,800 for an individual and $24,600 for a couple in 2022

- While advocates asked for a full repeal of the asset test, asset limits for ABD Medicaid will be increased to $28,134 for singles and $37,908 for couples
  - Effective January 1, 2023 with CMS approval
  - Accomplished via the state budget
Asset Test Elimination
Washington

• **Was** $8,400 for an individual and $12,600 for a couple enrolled in MSPs as of 2022.

• **Effective January 2023**, accomplished through the state’s budget bill, the asset test for MSP enrollees will be removed.
Strategies From California

• **Equity** as a guiding principle for legislation and advocacy

• Consistent **messaging** and packaging/pithy communication

• Broad **coalition** with the aging and disability communities

• Having **legislative and administrative champions**
Strategies From New York

- **Equity** as a guiding principle for legislation and advocacy
- Broad **coalition** with the aging and disability communities
- Having **legislative and administrative champions**
- Imminent unwinding of the Public Health Emergency → 100,000 Medicaid recipients new to Medicare in the last 2 years would fall off the cliff without parity with MAGI levels
Strategies From Washington

Goals in June 2019:
• Educate stakeholders, agencies
• Find an organization to build advocacy coalition
• Seek parity with ACA for Medicare enrollees

How we started:
• Researched, wrote report, scheduled presentations in person
• With pandemic, retooled for virtual presentations
• Used feedback to refine messaging

Disappointments:
• Stakeholder focus went to the Pandemic
• Got support from orgs, but no coalition-builder emerged
• Pandemic reduced revenue needed to fix the “cliff”
• Data showed original parity goals not feasible at the time

Unexpected Opportunities:
• Medicaid agency proposed asset test removal for MSPs for Governor’s budget
• Invitation to educate at Joint Leg-Exec branch event (JIA’s Amber helped!)
Strategies From Washington

2022:

• Focused on more modest steps as goals
• Revised legislative strategy
  • Used budget as vehicle
  • Enlisted help from key supporters

Looking to 2023:

• Help shape the agency study
• Use budget to seek pieces deemed feasible
• Maximize help from supporters
Resource Examples
New York

Resource Examples Washington

More about WA’s Medicare Cliff, including updates and resources, available at https://nohla.org/index.php/2021/06/16/medicare-cliff/
Want to receive Justice in Aging trainings and materials?

Join Our Network!

Go to justiceinaging.org and hit “Sign up” or send an email to info@justiceinaging.org.