

JUSTICE IN AGING
FIGHTING SENIOR POVERTY THROUGH LAW

50 ADVANCING EQUITY
BUILDING JUSTICE
years

Expanding Health Care Affordability for Older Adults and People with Disabilities

May 11, 2022

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JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

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](https://justiceinaging.org/resource-library), justiceinaging.org/resource-library. A recording will be posted to [Justice in Aging's Vimeo page](https://Justice%20in%20Aging's%20Vimeo%20page) 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 spenddown 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

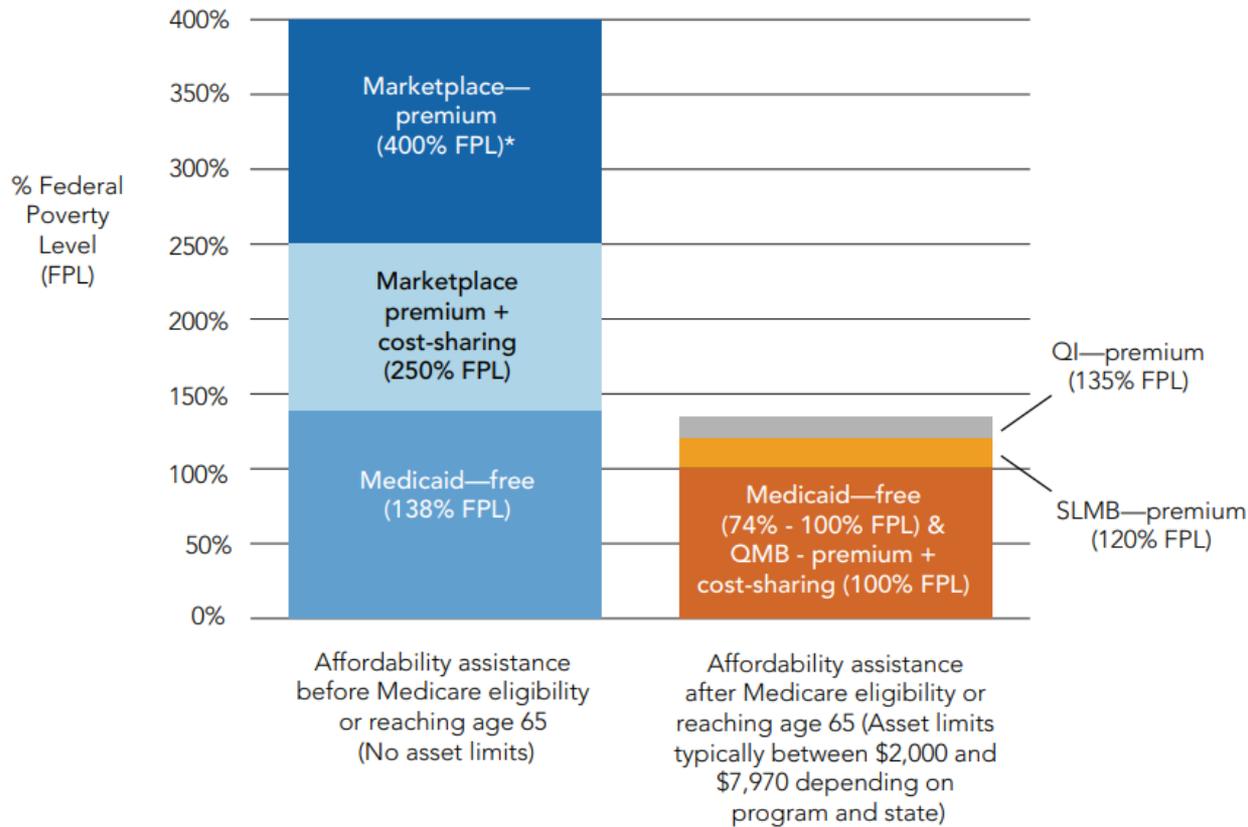
Affordability

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*

<https://justiceinaging.org/wp-content/uploads/2022/03/Expanding-Health-Care-Affordability.pdf>

MARCH 2022

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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).¹ 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

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 California

2022 Legislative Bills Related to the Master Plan for Aging

Updated March 11, 2022

HOUSING • HEALTH REIMAGINED • INCLUSION EQUITY • CAREGIVING • AFFORDING AGING

In January 2021, Governor Newsom released California's out a ten-year plan to prepare the state for an aging and major goals: Housing for All Ages and Stages; Health R Caregiving that Works; and Affording Aging.

Last year, 11 bills in alignment with MPA goals were again have an unprecedented opportunity to partner to and people with disabilities can age in place and live the bills that have been introduced in 2022 that would disabilities and that would advance the MPA.

Justice in Aging compiled this summary of 2022 legislation and additions, including to sponsors, ca justiceinaging.org. Inclusion on this list does not in

Goal 1: Housing for All Ages and

- [AB 1721](#) (Rodríguez): California Emergency Aid Program

- LeadingAge CA
 - This bill would implement a Long California. The LTC-MAP program (RCFEs) and Skilled Nursing Facility and mutual aid support in the

- [AB 2493](#) (Malenschein): Housing for independent living

- Corporation for Supportive Housing
 - This bill would offer incentives

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ACTION

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It's time to ditch the deductible.

The Medi-Cal share of cost program extends Medi-Cal eligibility to low-income older adults and people with disabilities who have significant health care needs but are just above the free Medi-Cal income limit. **The share of cost program acts as a critical pathway to health care coverage.** But every month, this share of cost – or what amounts to an enormous monthly deductible – forces older adults and people with disabilities into extreme poverty or they forgo care entirely. It's time to ditch the deductible!

The problem:

The problem is that right now California's share of cost program only allows an individual to maintain **\$600 a month to meet their monthly expenses.** They must pay the rest of their income towards their health care to become eligible for Medi-Cal. This \$600 amount is called the "maintenance need income level" and **hasn't changed since 1989.**

The solution:

Raise the maintenance need income level to **138% of the federal poverty level even with the current income eligibility limit for free Medi-Cal.** Here are some examples of how the program works today and how it would work when fixed.

RIGHT NOW

If Sally's monthly income is \$1,483, just \$1 over the income limit:

Sally keeps **\$600** Sally pays **\$883**

WITH THE FIX

Sally's monthly income, \$1,483

Sally keeps **\$1,482**

Sally pays **\$1**

RIGHT NOW

Sally's monthly income, \$1,600

Sally keeps **\$600** Sally pays **\$1,000**

WITH THE FIX

Sally's monthly income, \$1,600

Sally keeps **\$1,482**

Sally pays **\$118**

Could you live on \$600 a month?
That's what the program demands of older adults and people with disabilities who need care.

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THE VAST MAJORITY OF OLDER ADULTS AND PEOPLE WITH DISABILITIES WANT TO LIVE AT HOME.

Unfortunately, many people can't access the support they need to live independently in the community. A major reason why is because Medicaid Home and Community-Based Services (HCBS) is underfunded. We need to speak with one voice and share stories about how expanding equitable access to HCBS will transform lives.

Recent messaging research has revealed best practices for who rely on these services in ways that are persuasive to

KEY PRINCIPLES FOR ADVOCATES WHEN TALKING ABOUT HCBS

Using the term "home" is key, because it's simple to understand and conveys the clear idea of "home" vs. "institution." Adding "community" tends to confuse the issue.

Talking about "care," "help," or "support" (singular nouns) is more persuasive than "services" or "supports" (plural nouns).

Use "at-home" interchangeably with "in-home" or "home-based" or "home-based model."

Emphasize that investments in HCBS will provide a meaningful choice for people between institutions and home.

People currently understand intuitively that there isn't really a choice for most people and that a lot of people are institutionalized who would do well at home.

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Medicaid Home- and Community-Based Services for Older Adults with Disabilities: A Primer

APRIL 2021
Amber Christ, Directing Attorney
Natalie Kean, Senior Staff Attorney

INTRODUCTION

When asked about where they want to live as they age, almost all older adults say they want to live in their homes and get the services they need in the community as opposed to moving into a nursing facility! The COVID-19 pandemic has added an urgent need to honor this desire, as ongoing outbreaks and deaths demonstrate that residential congregate settings are the most dangerous places for anyone to live or work right now. And the more than year-long separation from family and friends that those living in nursing facilities and other congregate settings have experienced is leading to severe distress and, in some cases, early death. Unfortunately, the reality is that many older adults cannot make the choice to live at home because they do not have access to the necessary supports and services. While significant barriers to home- and community-based service

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Resource Examples New York



August 24, 2021

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Hochul,

As advocates for older New Yorkers, people with disabilities, individuals covered by Medicaid and the uninsured, we are writing to strongly urge you to take decisive action in this year's state budget to prevent widespread Medicaid coverage loss and remedy a Medicaid eligibility disparity which penalizes older adults and individuals with disabilities. As you know from your travels around the state, the coronavirus pandemic has exposed longstanding racial disparities in health care, with poorer health status and higher death rates inflicted on poor, older adults and people with disabilities—especially those living in poverty. Today, we urge you to follow the lead of other states and take action in the Executive Budget to address these health disparities by 1) expanding Medicaid eligibility for older New Yorkers and people with disabilities shut out from protections of the Affordable Care Act (ACA), and by 2) expanding access to crucial Medicare subsidies. We also ask you to continue some of the rules for accessing Medicaid that the federal government allowed states to use during the pandemic, which New York can and should continue. These easements enabled over one million New Yorkers to newly enroll in Medicaid, facilitating their access to health care

We now face the specter of tens of thousands of people losing eligibility for coverage once COVID easements end, only because they became enrolled in Medicare during the pandemic (either because they turned 65 or received Social Security Disability). Many of these individuals, who are disproportionately people of color, could retain Medicaid if the changes recommended here are made. Tens of thousands more could have free Medicaid instead of "spending down" money they cannot afford. At a moment when disproportionate harm could be inflicted on vulnerable New Yorkers, you have the opportunity to create both immediate and long-lasting change to reduce health disparities in New York.

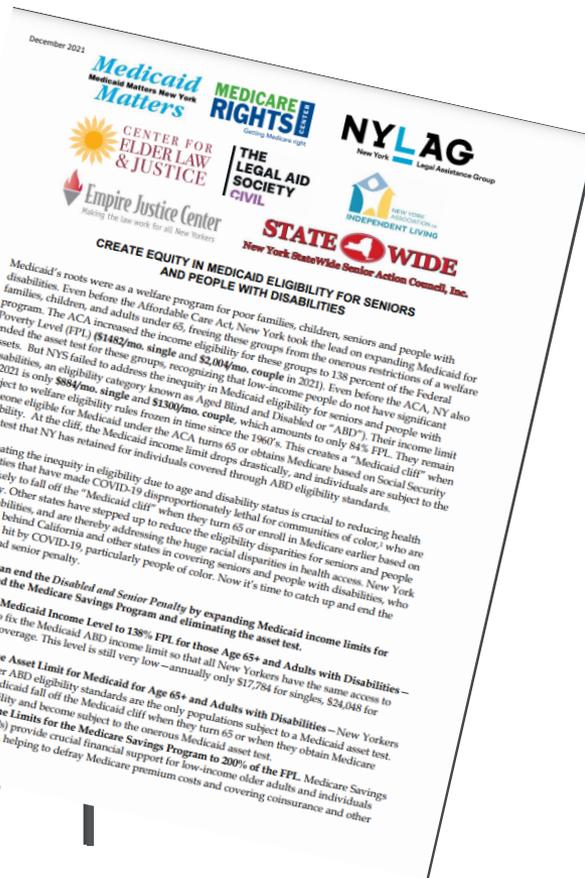
Stop the Senior Penalty – Expand Medicaid Income Limits for Medicaid and the Medicare Savings Program and Eliminate the Asset Test

1. **Raise the Medicaid Income Level for those Age 65+ and Adults with Disabilities –** In 2014, the ACA increased the income eligibility level for Medicaid to 138% of the Federal Poverty Level (FPL)—just \$17,131 annually for a single person. But older adults and

For more information, contact Medicaid Matters Coordinator, Lara Kassel, at lkassel@medicaidmattersny.org



**Eliminate or Increase the Medicaid Asset Test
Enable Self-Sufficiency for Older Adults and Adults with Disabilities on Medicare**



Available at <http://www.wnylc.com/health/news/90/>; <https://tinyurl.com/Medicaid-parity>;
<https://tinyurl.com/Medicaid-12-2021>



Questions?

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