

# 2023 Health Policy Priorities for the Biden Administration and Congress

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## About Justice in Aging

Justice in Aging is a national nonprofit organization that uses the power of law to fight senior poverty by securing access to affordable health care and economic security for older adults with limited resources. We focus our efforts on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ+ individuals, people with disabilities, and people with limited English proficiency. We are committed to advocacy to address the long-standing, pervasive, ongoing, systemic racism that infects our culture, government, and systems of power.

We are asking the Biden Administration and 118<sup>th</sup> Congress to prioritize the urgent health care and long-term services and supports (LTSS) needs of low-income older adults. Specifically, we are calling on the Administration and Congress to address health disparities and inequities among older adults, ensure every older adult has access to comprehensive home-based care, dental, vision, and hearing; and expand Medicaid and other programs to ensure older adults can afford to access care.

## Administrative Priorities

We look forward to working with the Department of Health & Human Services to implement the priorities listed below as well as other initiatives the Administration is undertaking that impact older adults with Medicare and Medicaid.

### *Address Health Disparities and Discrimination*

Due to systemic injustices and discrimination that compound over their lifetimes, older adults from marginalized communities face barriers in accessing the care they need and suffer poorer health as a result. As the COVID-19 pandemic has demonstrated, older adults of color, LGBTQ+ individuals, people with disabilities, people with limited English proficiency, and those with intersecting identities face the most barriers and are most reliant on Medicare, Medicaid, and other public programs to meet their needs. The following actions are aimed at ensuring every person's right to quality health care and LTSS without discrimination.

- **Improve language access**, by collecting and better utilizing language data to provide personalized language services across Social Security, Medicare and Medicaid; translating applications, critical notices and resources into additional languages and improving access to in-language materials; making it easier for people with limited English proficiency to navigate and get quality language assistance through 1-800-Medicare; and leveraging demonstration authority to provide Medicare reimbursement for interpreters.
- **Collect and report comprehensive and intersectional data** on age, disability status, race, ethnicity, language, sex, gender identity, and sexual orientation to better understand how Medicare, Medicaid, and all

health care and LTSS programs are serving individuals, most especially those who are most marginalized. Data collection and intersectional analysis of COVID-19 and long-COVID must also continue.

- **Incorporate equity targets and benchmarks** in Medicaid and Medicare health plan contracts and contracts with state Medicaid programs to reduce racial disparities in access to and quality of covered benefits. Health equity analysis and benchmarks should be incorporated in program and system processes as well as outcomes.
- **Enforce civil rights protections**, including robust implementation of the new Section 1557 nondiscrimination final rule; monitoring state and health systems' crisis standards of care to ensure individuals are not denied treatment based on age, disability, race, language or any other discriminatory basis; and ensuring that Medicare and Medicaid plans and providers are complying with the integration mandate under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.
- **Improve access to Medicare and Medicaid for older adults returning to the community after incarceration** through administrative and regulatory action.
- **Prioritize older adults in COVID-19 response & recovery**, particularly nursing facility residents and Indigenous, Pacific Islander, Black, Latino, and Asian American older adults who experienced disproportionate harm. Ensure the populations most at risk have ongoing access to vaccines, treatment and other support for both acute COVID and long-COVID, and access to home-based care and services for all their health and LTSS needs.
- **Strengthen nursing facility residents' rights and improve transparency** by enforcing informed consent requirements for medication, especially antipsychotics; improving [the Care Compare website to educate and empower consumers](#); and increasing oversight and enforcement of facility ownership.
- **Ensure adequate staffing and training at nursing facilities**, including restoring and enforcing training requirements for nurse aides and requiring the employment of a full-time infection preventionist.

## *Expand and Improve Access to Benefits*

Medicare and Medicaid cover many essential services and supports and are the only source of health and LTSS coverage for older adults with limited income and wealth. Yet, gaps in scope, availability, and affordability of this coverage mean that many older adults cannot live in their own homes if they need help with activities of daily living or get basic care like dental, vision and hearing. We urge the Administration to take the following actions and work with Congress to fill in these gaps.

- **Expand equitable access to Home and Community-Based Services (HCBS)**. Our [2023 HCBS priorities are available here](#).
- **Expand access to oral health, vision, and hearing services** to Original Medicare enrollees through appropriate coverage determinations and demonstration authority. Take steps to increase transparency and equitable access to supplemental benefits available in Medicare Advantage, including expanding access to those in Original Medicare.
- **Expand access to Medicaid and Medicare Savings Programs** by encouraging states to streamline Medicaid enrollment, conduct ex parte renewals, [raise income thresholds to reflect actual costs of living](#), and minimize or eliminate asset thresholds. Continue robust outreach and education on Medicare Savings Programs and the Part D Low-Income Subsidy and encourage more states to participate in Medicare Part A buy-in.
- **Facilitate a smooth unwinding of the COVID-19 public health emergency for people dually eligible for Medicare and Medicaid** by requiring ex parte renewals, supporting states to use reasonable

compatibility thresholds for income verifications for people eligible based on age or disability, doing targeted outreach to people who became Medicare eligible regarding the Medicare special enrollment period, and taking other steps to minimize coverage disruptions. CMS should also prioritize robust monitoring and enforcement of enrollee protections in the redetermination process, with a particular focus on low-income older adults.

- **Evaluate public health emergency flexibilities** to determine the impact on older adults and people with disabilities and whether they should be extended, made permanent, or be rescinded after the emergency ends.
- **Strengthen consumer protections and benefit coordination** for individuals dually eligible for Medicare and Medicaid, particularly those enrolled in Dual-eligible Special Needs Plans.

## Legislative Priorities

We look forward to working with the new Congress to pass legislation that addresses the health and LTSS needs of older adults with limited income and wealth, centers equity, and helps ensure that every person has the opportunity to age with dignity.

- **Center equity in legislative initiatives**, including mandates for data collection and analysis that allow for intersectional reporting by race, ethnicity, sex, primary language, sexual orientation, disability status, gender identity, age, and socioeconomic status among federally supported health programs and enhancing language access and culturally competent care.
- **Expand equitable access to HCBS** through making investments in HCBS infrastructure and workforce across states, improving prompt access to HCBS and reducing the institutional bias, and making the HCBS spousal impoverishment protections and the Money Follows the Person program permanent. [Read our full HCBS priorities here.](#)
- **Eliminate Medicaid estate recovery**, a policy that prevents families from escaping poverty and exacerbates the racial wealth gap by requiring states to recover certain Medicaid expenses from the heirs of a deceased Medicaid enrollee.
- **Strengthen Medicare** by expanding benefits to include [comprehensive coverage of dental](#), vision, and hearing and addressing the solvency of the Medicare Trust Fund.
- **Expand and align eligibility for Medicare Savings Programs and the Part D Low-Income Subsidy** so that all Medicare enrollees with limited income can get help with premiums and cost-sharing necessary to access their benefits.
- **Expand access to health care for older immigrants** by removing enrollment barriers and waiting periods for both Medicaid and Medicare. [We support the LIFT the Bar Act](#) and repealing the discriminatory public charge policy.
- **End the policy that allows nursing facilities to discriminate against people with Medicaid**, by amending federal law to eliminate “distinct part” limited certification.
- **Improve benefit coordination for people dually enrolled in Medicare and Medicaid** and ensure that any existing or new efforts to integrate coverage have strong enrollee protections and ensure full access to all covered benefits, including HCBS.
- **Eliminate the barrier to crucial follow up-care for Medicare enrollees placed on “observation status” during a hospital stay.**