

Senate Finance Subcommittee on Health Care
United States Senate
Dirksen Senate Office Building
SD-219
Washington, DC 20510

Sent electronically via: Statementsfortherecord@finance.senate.gov

Re: Aging in Place: The Vital Role of Home Health in Access to Care

Dear Chairman Cardin and Ranking Member Daines:

The National Academy of Elder Law Attorneys (NAELA) submits this statement for the record for the hearing, "Aging in Place: The Vital Role of Home Health in Access to Care."

NAELA is a nonprofit professional association of over 4,000 elder and special needs law attorneys that conditions membership on a commitment to the *Aspirational Standards for the Practice of Elder and Special Needs Law Attorneys*,¹ recognizing the need for holistic, person-centered legal services to meet the needs of older adults, people with disabilities, and their caregivers. Supporting the dignity and independence of these vulnerable populations is at the center of what we do, and we write in agreement with the spirit of this hearing that most Americans seek to age in place and public policy should support that aim.

The hearing held September 19, 2023, reflected a united, bipartisan commitment by committee members and witnesses to recognize the desire of most Americans to age in their homes and communities², and reflected thoughtful consideration of the myriad complicating issues and factors to be resolved in achieving this goal through public policy. NAELA shares that commitment, and our members, representing tens of thousands of Americans in all 50 states, the District of Columbia, and territories, are eager to engage and support thoughtful policymaking on federal and state levels to ensure all Americans can age where they choose, where they are safest, and where they can receive the support they need to sustain maximum independence and autonomy.

We would like to draw your attention to several critical policy areas that require congressional action. These areas need thoughtful consideration and action to ensure that older Americans have the necessary support and resources to age in place:

1. Medicaid HCBS Policy and Funding Reforms: We urge the committee to explore opportunities for strengthening Medicaid policies that improve access to home and community-based services

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https://www.naela.org/Web/Web/About_Tab/History_and_Standards/History_and_Standards_Sub_landing/Aspirational_Standards.aspx

² Binette, Joanne, and Fanni Farago. 2021 Home and Community Preference Survey: A National Survey of Adults Age 18-Plus. Washington, DC: AARP Research, November 2021. <https://doi.org/10.26419/res.00479.001>

(HCBS) for Medicaid eligible beneficiaries. Expanding Medicaid coverage and accessibility for HCBS can enable seniors and individuals with disabilities to receive essential care at home, preserving their independence and quality of life. Congress should also examine and standardize planning rules to ensure beneficiaries who qualify for HCBS can access benefits.

In addition, Congress should mitigate Medicaid's institutional bias through a number of specific actions. For example, for HCBS provided pursuant to a state waiver under Section 1915(c) of the Social Security Act, coverage is prospective-only from the date on which the state Medicaid program (or its agent) approves an HCBS service plan because federal financial participation (FFP) may not be claimed for Section 1915(c) waiver services that are furnished prior to the development of the service plan or for waiver services that are not included in an individual's service plan. Given that most states' HCBS programs are authorized under Section 1915(c), Congress could reduce the institutional bias in Medicaid by allowing states to receive FFP for services provided prior to the development of the service plan in certain circumstances, such as for populations that are highly likely to be eligible for an HCBS service plan. We also echo the suggestion made by witness David C. Grabowski, PhD, to extend the increase in the federal match rate for Medicaid HCBS as Congress has done in the past under the American Rescue Plan Act and the Affordable Care Act's Balancing Incentive Program.³

2. Medicare Coverage: It is essential to enhance Medicare coverage for home health services, including skilled nursing care and physical therapy. Ensuring seniors have access to these services at home can contribute significantly to their ability to age in place. We wish to reiterate the testimony from Judith Stein, JD, President of the Center for Medicare Advocacy, who points out that the Medicare home health benefit could greatly improve quality care for beneficiaries and should be better understood and enforced.⁴

3. Telehealth Expansion: Telehealth has proven invaluable, especially in rural areas with limited access to healthcare facilities. We encourage the committee to support policies that expand telehealth access and reimbursement for seniors, allowing them to receive medical care remotely.

4. Caregiver Support: The Recognize, Assist, Include, Support, and Engage (RAISE) Family Caregivers Act of 2018 a vital piece of legislation, but more can be done to support family caregivers as was made clear in the National Strategy to Support Family Caregivers. One clear legislative action would be to make Medicaid spousal impoverishment protections permanent. Supporting and expanding caregiver support policies can ease the burden on families caring for aging loved ones.

5. Older Americans Act & Adult Protective Services (APS) Funding: The Older Americans Act-authorized programs provide a crucial lifeline for addressing social isolation, safety, and essential support to seniors, especially those in rural communities. Yet states and local service providers cannot meet the demand, particularly as more Americans are living longer with chronic conditions and wish to avoid institutionalization. Ensuring adequate, stable funding for social service programs - including meal delivery, legal services, and transportation services, as well as critical services for seniors at risk of fraud, neglect, or abuse - is crucial for building the infrastructure needed to allow Americans to age in place. To protect seniors from abuse and neglect, support linkages to legal services and medical-legal partnerships, and support post-acute and long-term

³ https://www.finance.senate.gov/imo/media/doc/09192023_grabowski.pdf

⁴ https://www.finance.senate.gov/imo/media/doc/09192023_stein_testimony.pdf

care worker recruitment and retention, Congress should pass the Elder Justice Reauthorization and Modernization Act.

These policy areas have a profound impact on the lives of older Americans. Your leadership and advocacy can empower seniors to age in place, maintain their dignity, and receive the care they require in the safety and comfort of their homes and communities.

If you have questions, contact Mike Knaapen (mknaapen@naela.org), Director of Public Policy and Alliance Development at NAELA.

Sincerely,

Bridget O'Brien Swartz
President