

May 20, 2025

The Honorable Mike Johnson  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Hakeem Jeffries  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

Dear Speaker Johnson and Minority Leader Jeffries:

On behalf of the more than 4,000 members of the National Academy of Elder Law Attorneys (NAELA), who represent some of the most vulnerable Americans and their caregivers across the country, I urge you to remove language in the budget reconciliation package that would endanger the well-being of millions of older Americans and individuals with disabilities. NAELA is concerned about the devastating effect of repealing the three-month retroactive coverage period, preventing the implementation of rules to streamline and strengthen the eligibility and enrollment processes, and delaying measures to ensure adequate staffing for nursing home care.

NAELA's members are attorneys who represent older adults, people with disabilities, and their caregivers in these matters. We have firsthand knowledge of how Medicaid policies impact our clients and their quality of life. That is why we are so concerned about the harmful impact these proposals will have on the individuals we have been entrusted to serve.

### **Shortening the Retroactive Coverage Period Will Harm Lives**

Shortening the retroactive coverage period from 90 days to 30 days will have life-altering effects on the clients of our members. Each day, our members help clients navigate the complex process of applying for Medicaid. These applications are often the result of a sudden and serious medical crisis, where the client has been admitted to a hospital or nursing home. At such times, the client is often under immense stress, in a situation that is new and frightening. Clients often have little experience with hospitals or nursing homes, are concerned that they may never be able to return home, do not understand what Medicare or private health insurance will cover, and have no concept of what Medicaid is

or what the application process requires. The 90-day retroactive period helps to ensure that individuals will not be penalized for this lack of experience or knowledge. It offers the opportunity to get beyond the initial shock of the medical crisis before adding additional complexity. This is especially important as many individuals in a medical crisis lack the capacity to navigate a Medicaid application themselves, and their families are focused on caring for their loved ones—not trying to wade through a sea of red tape. It is also common for individuals in a hospital or nursing home to lack direct access to the documentation needed for a Medicaid application process, such as bank statements or birth certificates.

By reducing the current retroactive period from 90 days to 30 days, it places a burden on the individual to more immediately understand that they need the financial assistance that Medicaid can provide and to take steps to determine what the eligibility requirements are and how to meet them. Having a 30-day period, in the middle of a medical crisis, is grossly insufficient to allow the clients of our members to avoid significant and unexpected medical debt, incurred during a period of time when they were eligible for Medicaid coverage. By reducing the retroactive coverage period, individuals and their families may delay or avoid care because of concerns about applying in time to receive benefits. This could result in a loved one's further hospitalization (which could have been avoided) or even death.

In addition, the shortened retroactive period risks causing a major backlog and delays in processing eligibility determinations in state Medicaid systems. As individuals wait for approval, they may feel the need to file new applications every 30 days. State agencies would soon find themselves overrun as individuals file sequential applications to ensure they are covered. With no additional money provided in the federal budget to help states process these applications, state agencies will be overwhelmed, and individuals who should receive retroactive coverage will not get it in a timely manner.

### **Postponing Enrollment and Eligibility Rules Has Harmful Consequences**

The proposal to postpone or delay enforcement of the Medicaid enrollment and eligibility rules until January 1, 2035, will have harmful consequences. These rules are intended to make it easier for low-income Americans to receive and retain Medicaid coverage by reducing barriers to enrollment and streamlining administrative processes. Many of the provisions in these rules were specifically designed to improve timely access to Medicaid coverage and ensure important protections for individuals eligible on the basis of age or disability, two of the program's most vulnerable groups. For example, the [September 2023 final rule](#) includes provisions designed to simplify processes for eligible individuals to enroll and retain eligibility in the Medicare Savings Programs (MSPs), which provide help to low-income Medicare beneficiaries to pay their premiums and other out-of-pocket costs. Additionally, the [April 2024 final rule](#) includes provisions to align eligibility determination and renewal processes for non-modified adjusted gross income (MAGI) groups (including

aged and disabled groups) with those for MAGI groups (including the Medicaid expansion and other income-based groups), ending discrepancies that have long placed non-MAGI groups at greater risk of being denied or losing coverage due to procedural reasons or facing long delays in enrollment. Delaying these rules will undo progress toward ensuring older adults and individuals with disabilities are able to access the Medicaid services they need in a timely manner.


From a fiscal standpoint, states have already begun investing in technology to make the enrollment process easier. By telling them to delay implementing these rules, states will have to set aside the staff and other financial resources already dedicated to this effort without anything to show for it.

### **Delaying the Nursing Home Staffing Rule Means Poorer Care**

Delaying the nursing home minimum staffing rule until January 1, 2035, will also put individuals' health in danger. Without sufficient staff to care for nursing home residents, older Americans and individuals with disabilities may not receive enough meals, leading to malnutrition, dehydration, and weight loss; suffer bedsores from not being moved enough; lie in soiled clothing or bedding; or experience other forms of neglect, leading to reduced quality of life. There is already a staffing shortage at institutional care facilities even as the number of older Americans grows. Stopping this staffing rule from taking effect as planned will only increase the likelihood of neglect and medical emergencies individuals face at a time when they are at their most vulnerable.

While a number of provisions in the budget reconciliation package trouble us, those mentioned above pose the greatest concerns to our members on behalf of their clients. We strongly urge you not to include them in the final budget package and to stand up on behalf of the most vulnerable Americans you represent to ensure they receive timely access to Medicaid coverage.

Sincerely,

A handwritten signature in black ink, reading "Judith M. Flynn". The signature is written in a cursive, flowing style.

Judith M. Flynn, Esq.  
NAELA President