



# **2014 State of the States: Key Survey Takeaways**

September 13, 2014

# Five Themes from the Survey

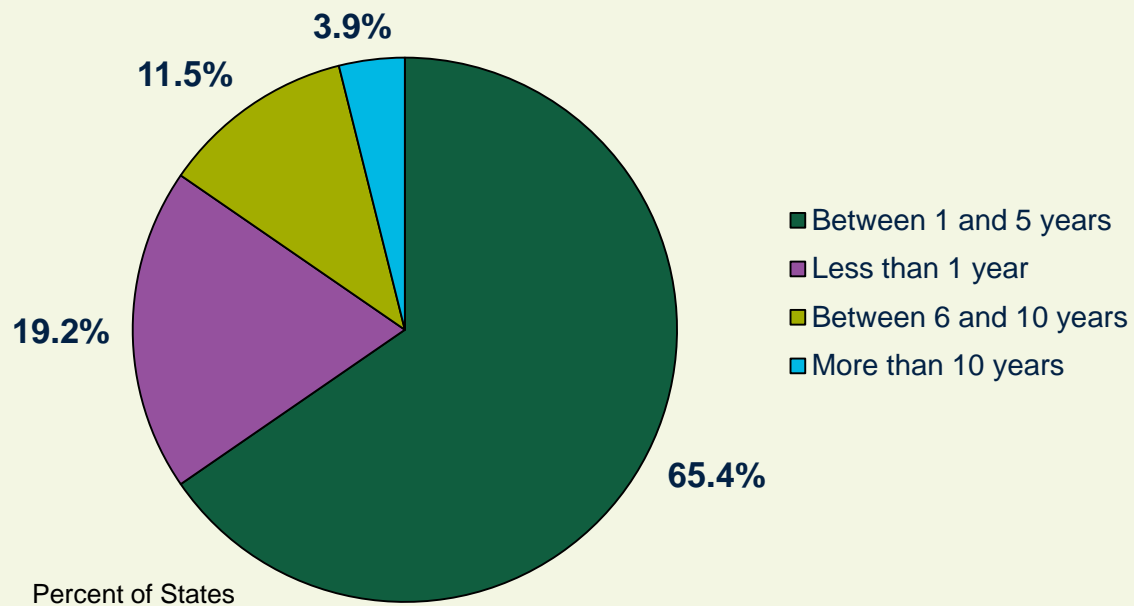
- Loss of Historical Knowledge is Nationwide
- Agency Restructuring Continues to be Common
- Managed Long-Term Services and Supports Continue to Expand
- Budgets and Growing Demand of Services are Top Concerns
- Adult Protective Services are Under Pressure

# Theme 1:

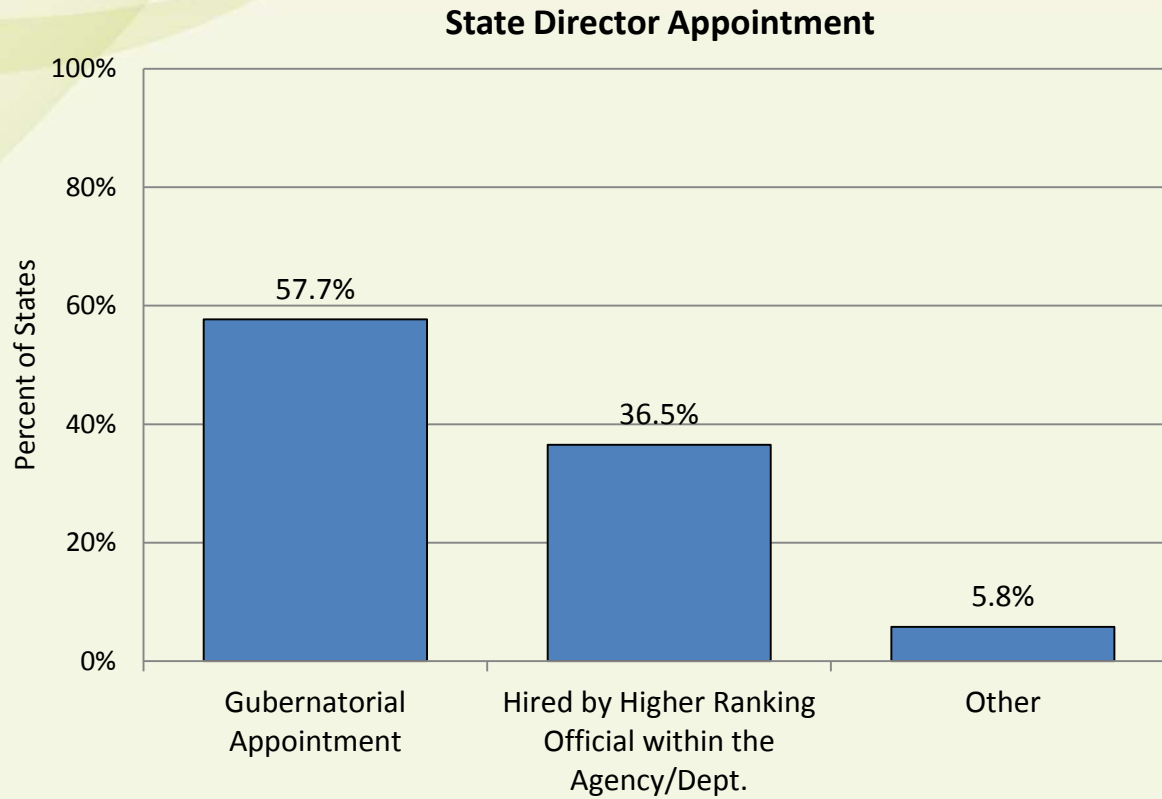
Loss of Historical Knowledge is Nationwide

Agency heads have shorter tenures

## State Director Years of Service

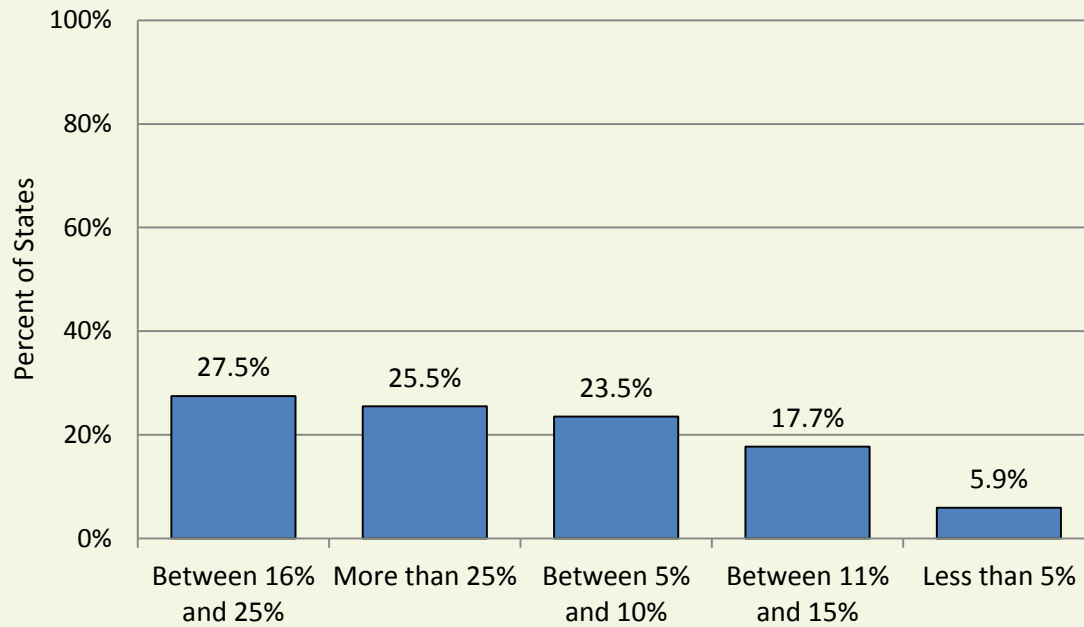


# Heading into a large gubernatorial election cycle, nearly 60 percent of commissioners are appointed by the Governors



# Fewer staff eligible to retire than in 2012

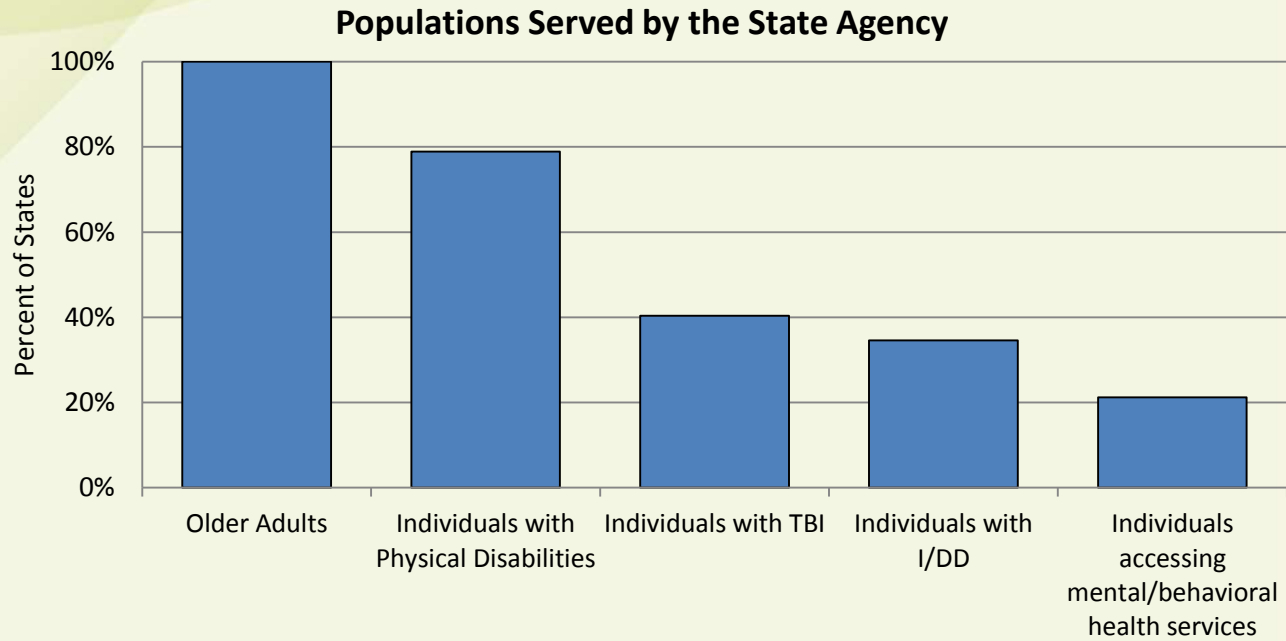
### Percentage of State Agency Staff Eligible for Retirement within the Next Five Years



# Theme 2:

Agency Restructuring Continues to be Common

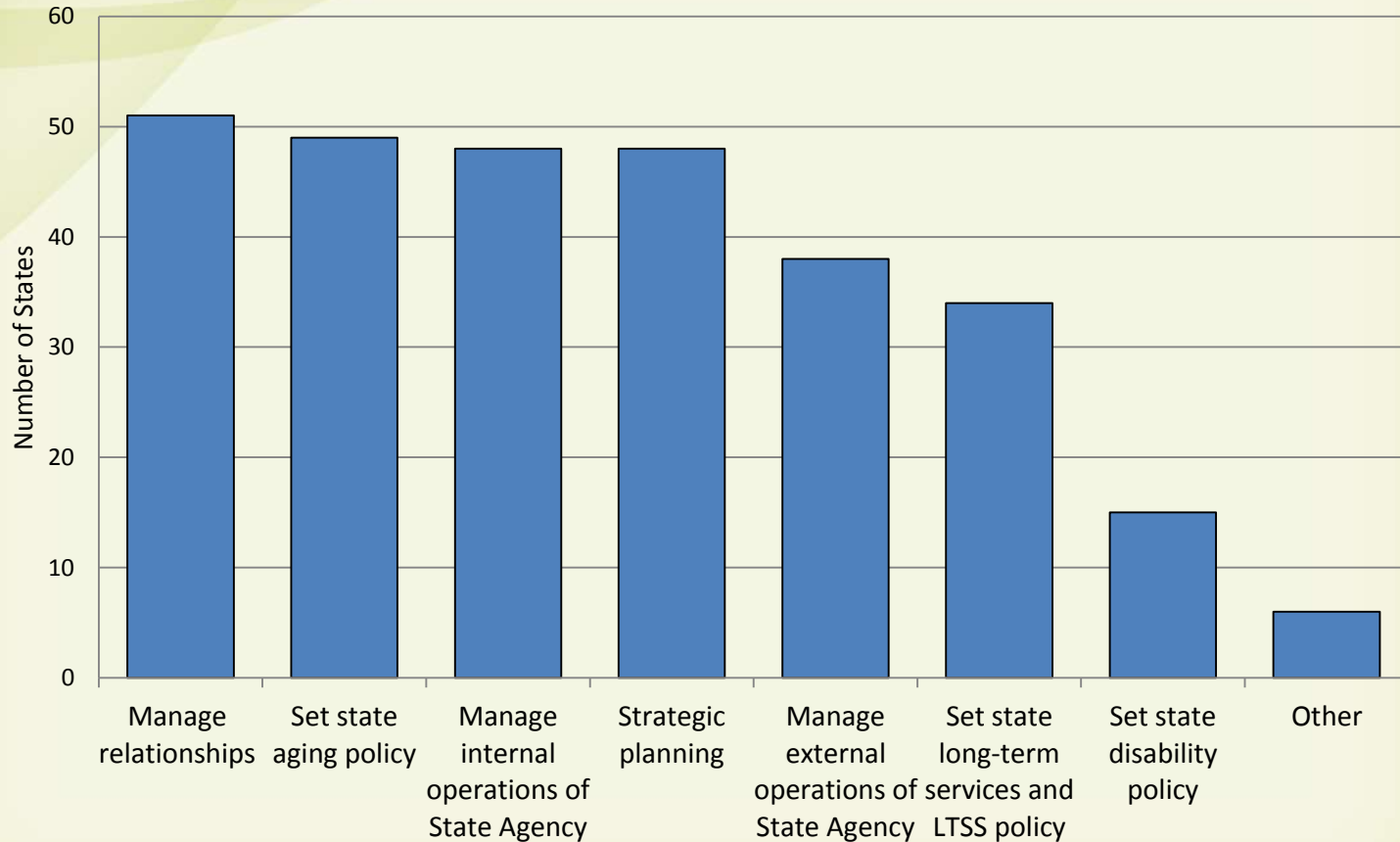
# Populations Served by State Agencies on Aging and Disabilities Continue to Expand





# Managing relationships eyed as key job responsibility

State Agency Director Job Responsibilities

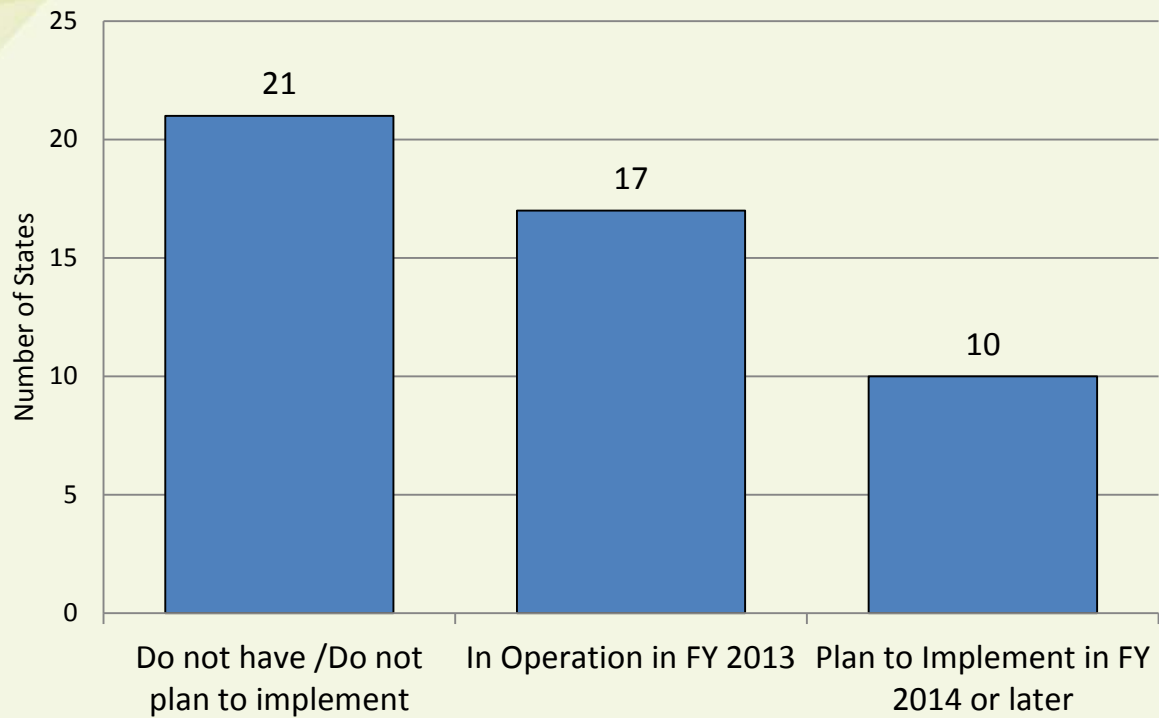


# Theme 3:

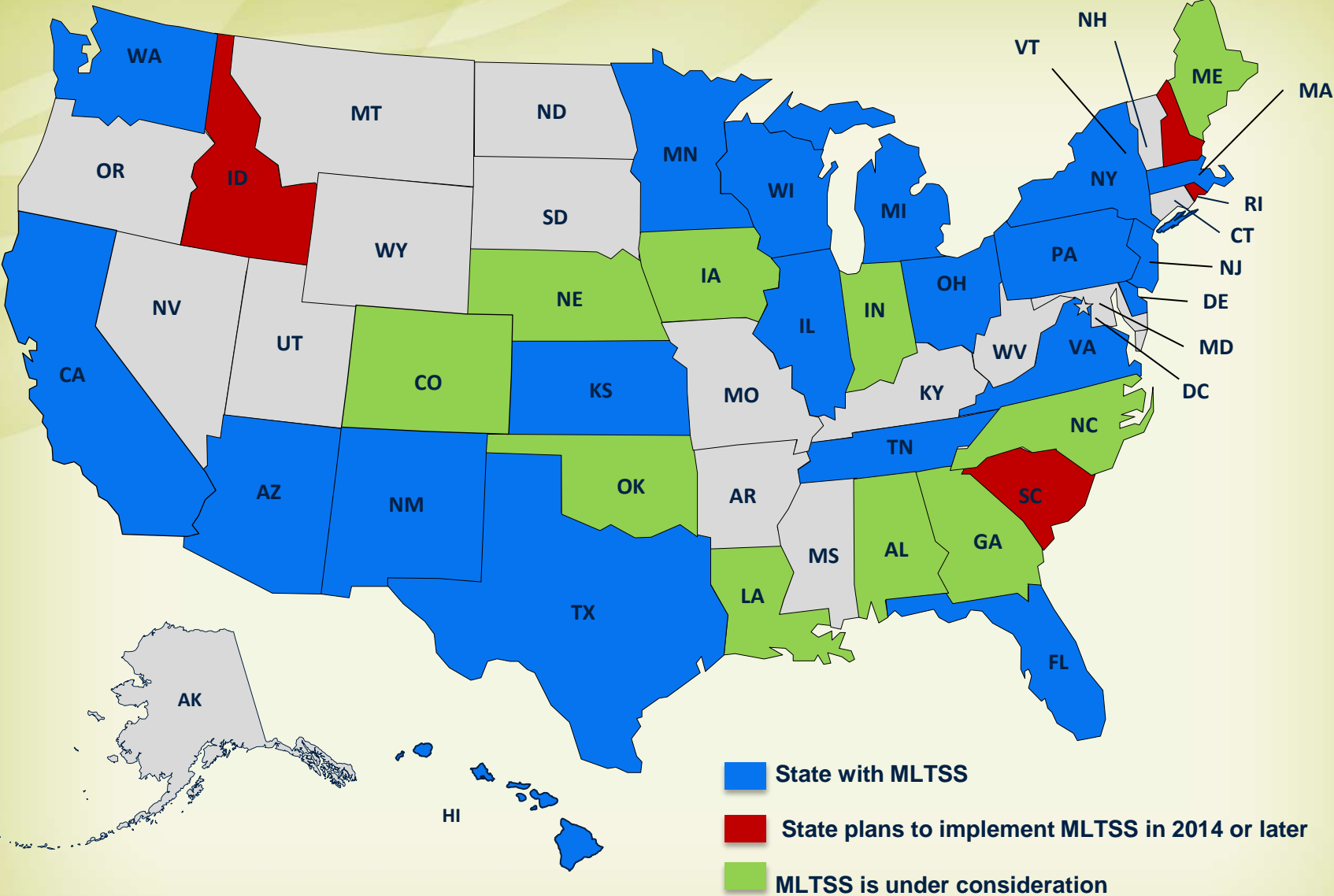
Managed Long-Term Services and Supports  
Continue to Expand

# Medicaid Managed LTSS continues to expand

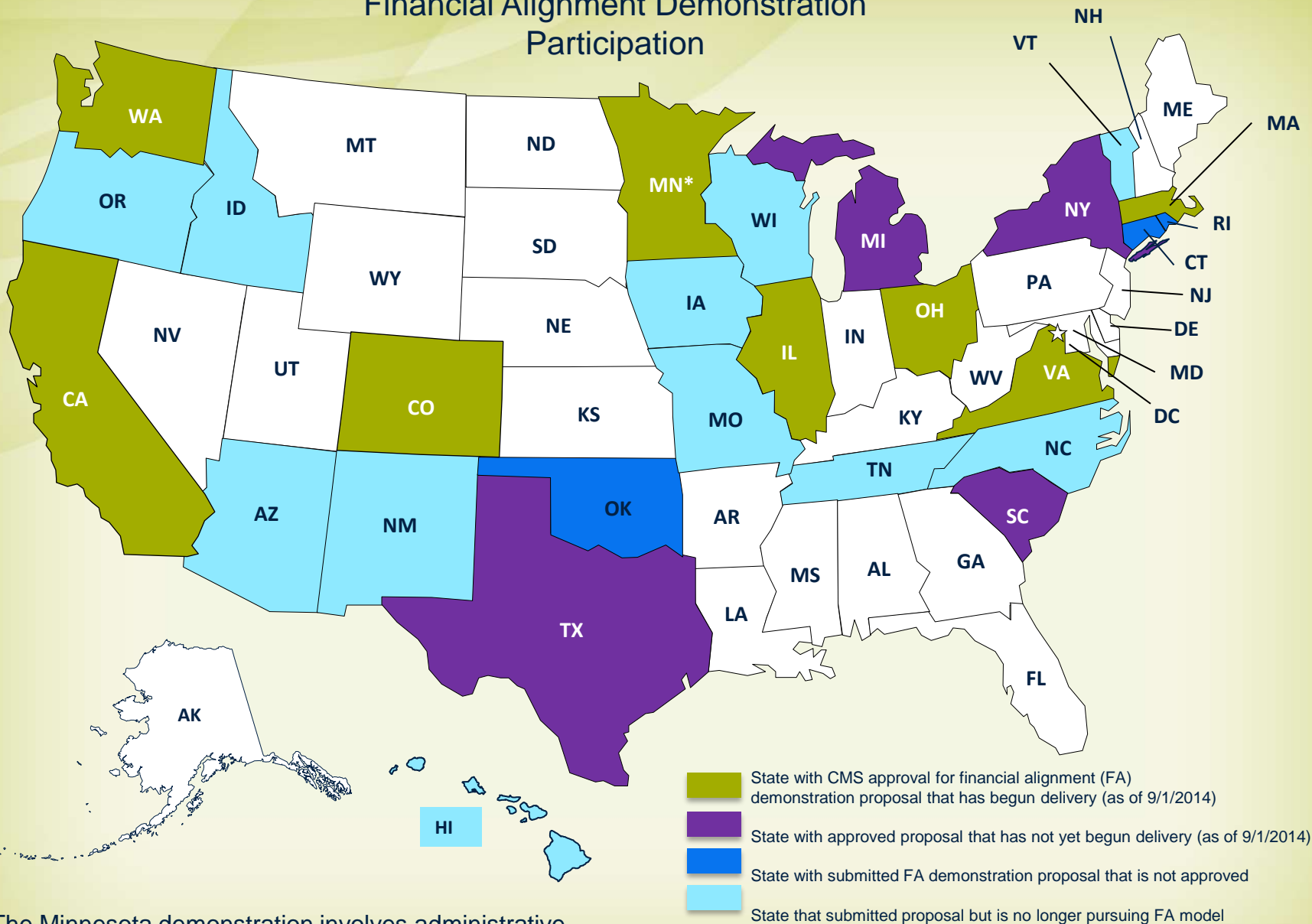
### Status of Medicaid Managed LTSS in States



# Status of State Managed LTSS (MLTSS) Programs



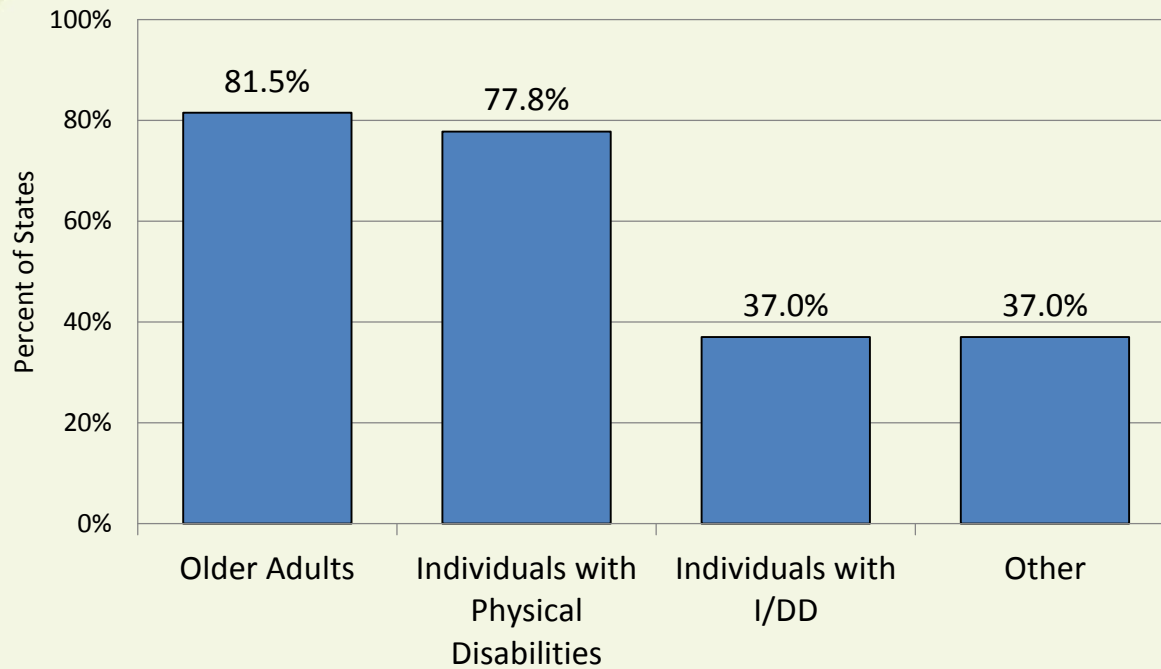
# Financial Alignment Demonstration Participation



\*The Minnesota demonstration involves administrative alignment but does not include payment or service delivery innovations

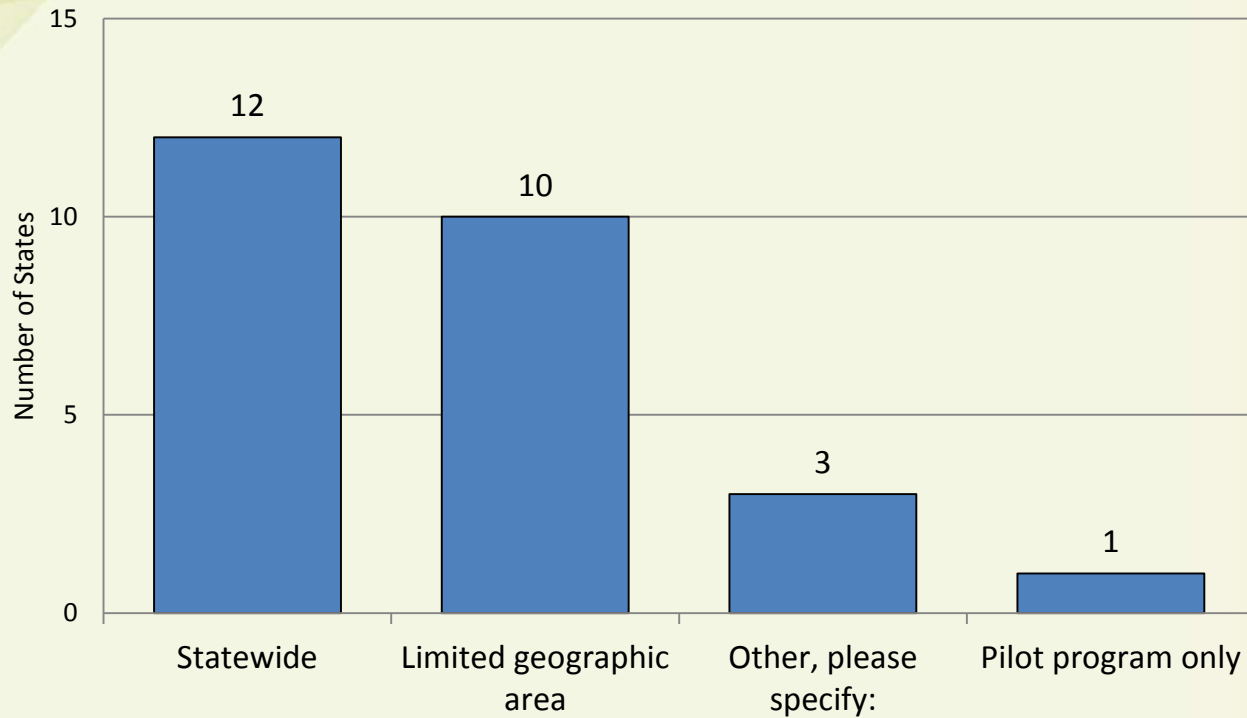
# Most states include seniors and individuals with physical disabilities in their Medicaid Managed Plans

**Groups Currently Eligible /that will Be Eligible for Medicaid MLTSS Programs**



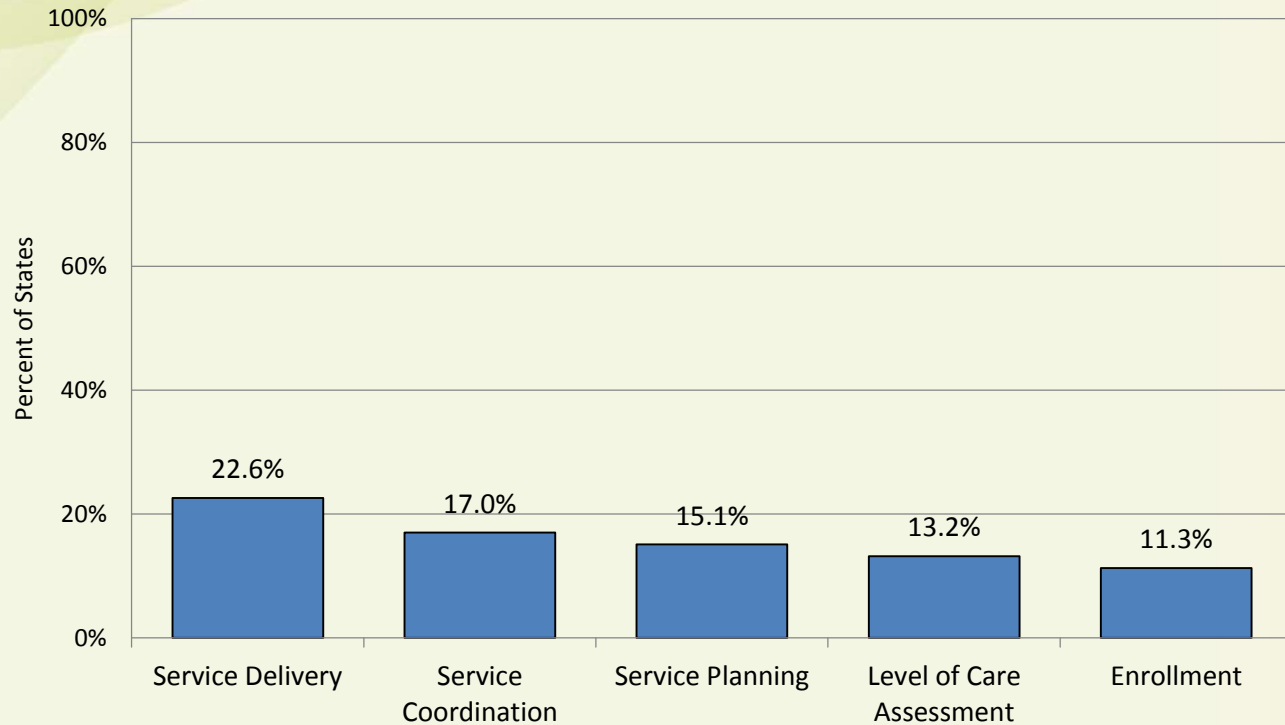
## States are choosing a variety of ways to implement the program geographically

**Geographic area currently served by Medicaid MLTSS program**



# The level of local agency involvement in MLTSS is lower than in FFS

**Local Agency involvement in Medicaid MLTSS programs  
(current or planned)**



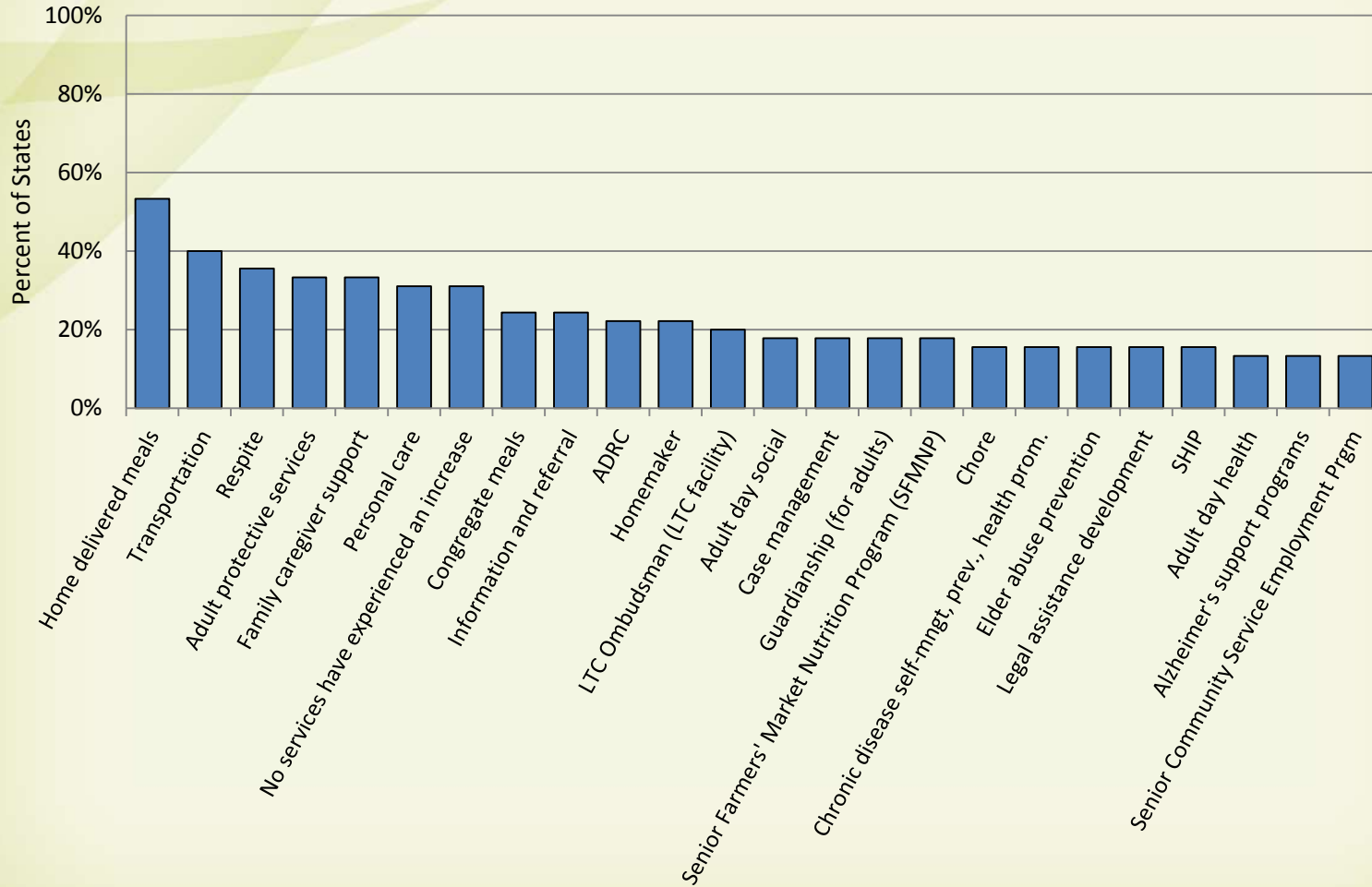


# Theme 4:

Budgets and Growing Demand of Services are  
Top Concerns

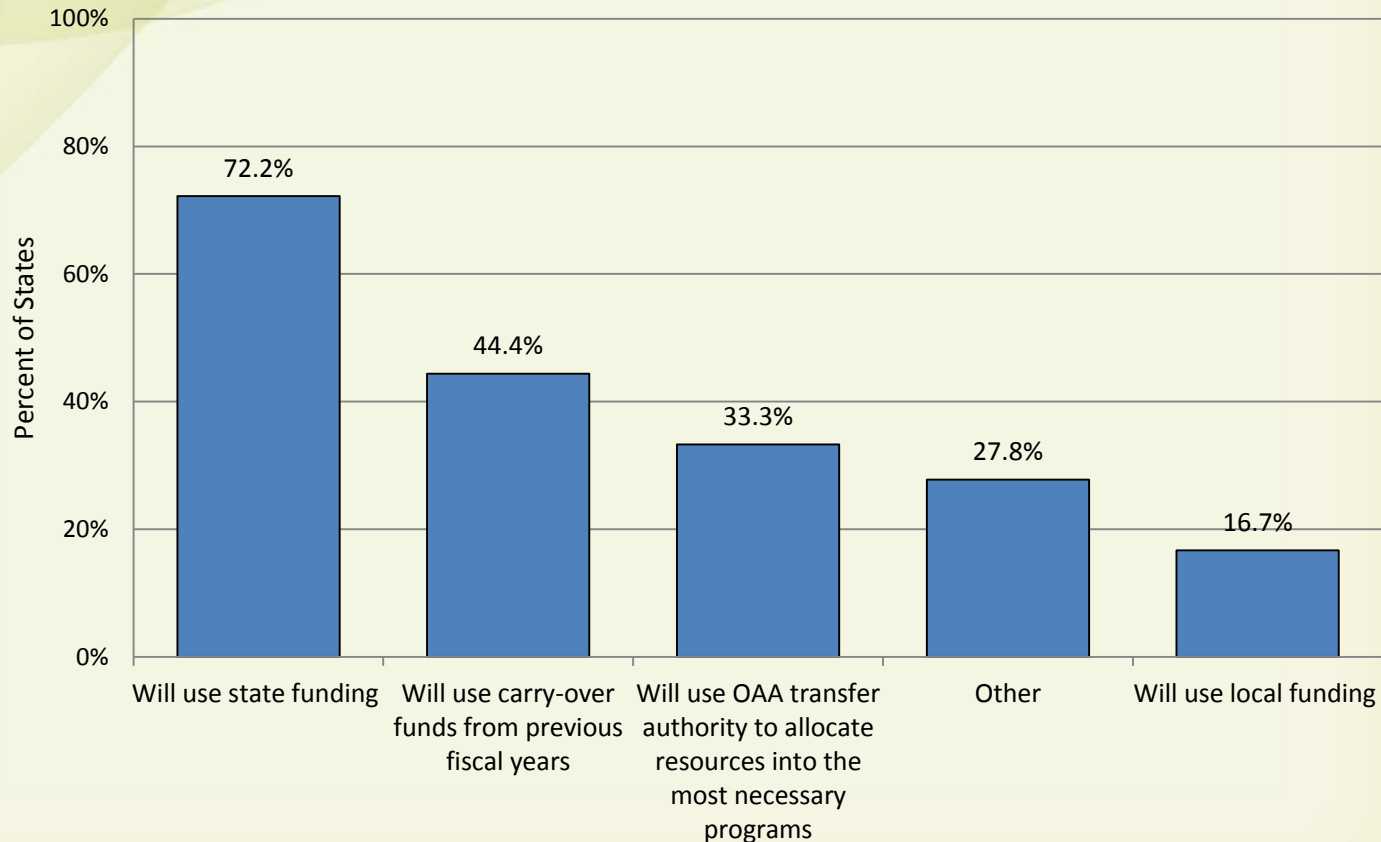
# While funding decreased, service requests increased

Increases in service requests since sequestration began on March 1, 2013



# States were able to make up the gap caused by sequestration for this year, but predictions for next year remain unclear

Funding Sources the State Agencies will Rely on to Close the Funding Gap caused by Sequestration



## States are now making programmatic changes to offset funding cuts

<b>Programmatic changes implemented by states to various OAA program areas</b>					
	IIIB	IIIC1	IIIC2	IIIE	VII
	% of States	% of States	% of States	% of States	% of States
Served fewer people	90.0%	90.0%	80.0%	80.0%	50.0%
Closed the program to new clients	50.0%	50.0%	50.0%	0.0%	0.0%
Created new waitlists	55.6%	66.7%	66.7%	66.7%	22.2%
Eliminated waiting lists	0.0%	0.0%	0.0%	0.0%	0.0%
Cut services	80.0%	100.0%	100.0%	100.0%	60.0%
Reduced the number of locations where the program is provided	33.3%	100.0%	66.7%	0.0%	0.0%
Closed the program	50.0%	50.0%	0.0%	0.0%	0.0%

# Theme 5:

Adult Protective Services are Under Pressure

# Adult Protective Services

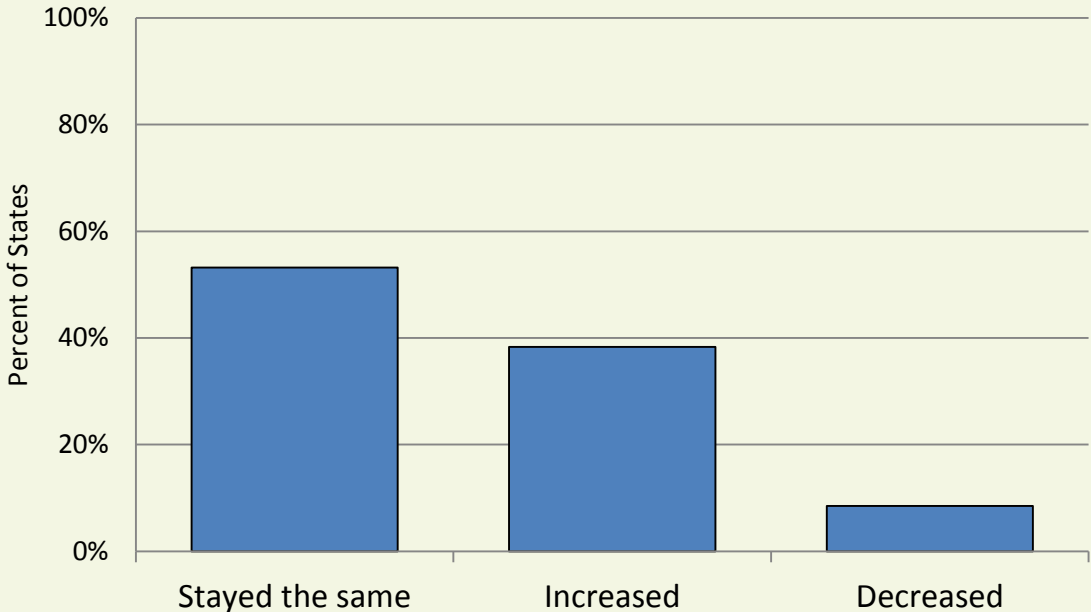
Elder Justice Act was passed as part of the Affordable Care Act....but it has never received funding.

There is no dedicated federal funding to support this critical program...

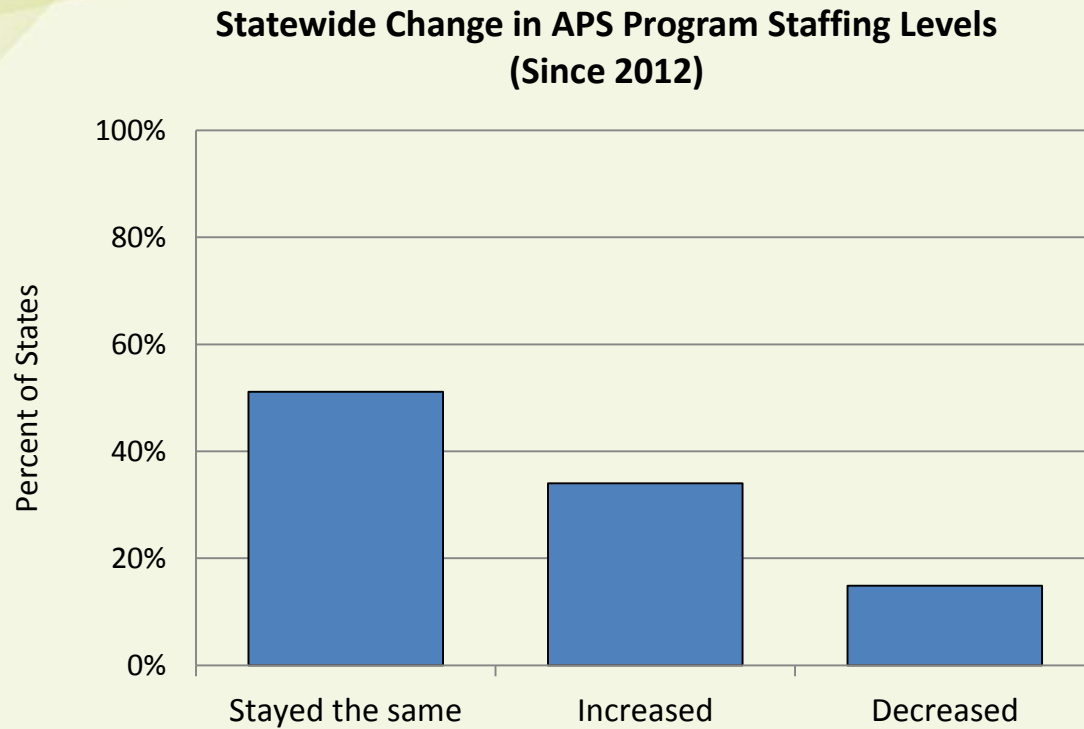
The next few slides indicate why we need all of you to call your Congressman and Senators and ask for their support

APS budget levels have stayed the same or level funded in 60% of the states since 2012

**Statewide Change in APS Program Budget Levels  
(Since 2012)**



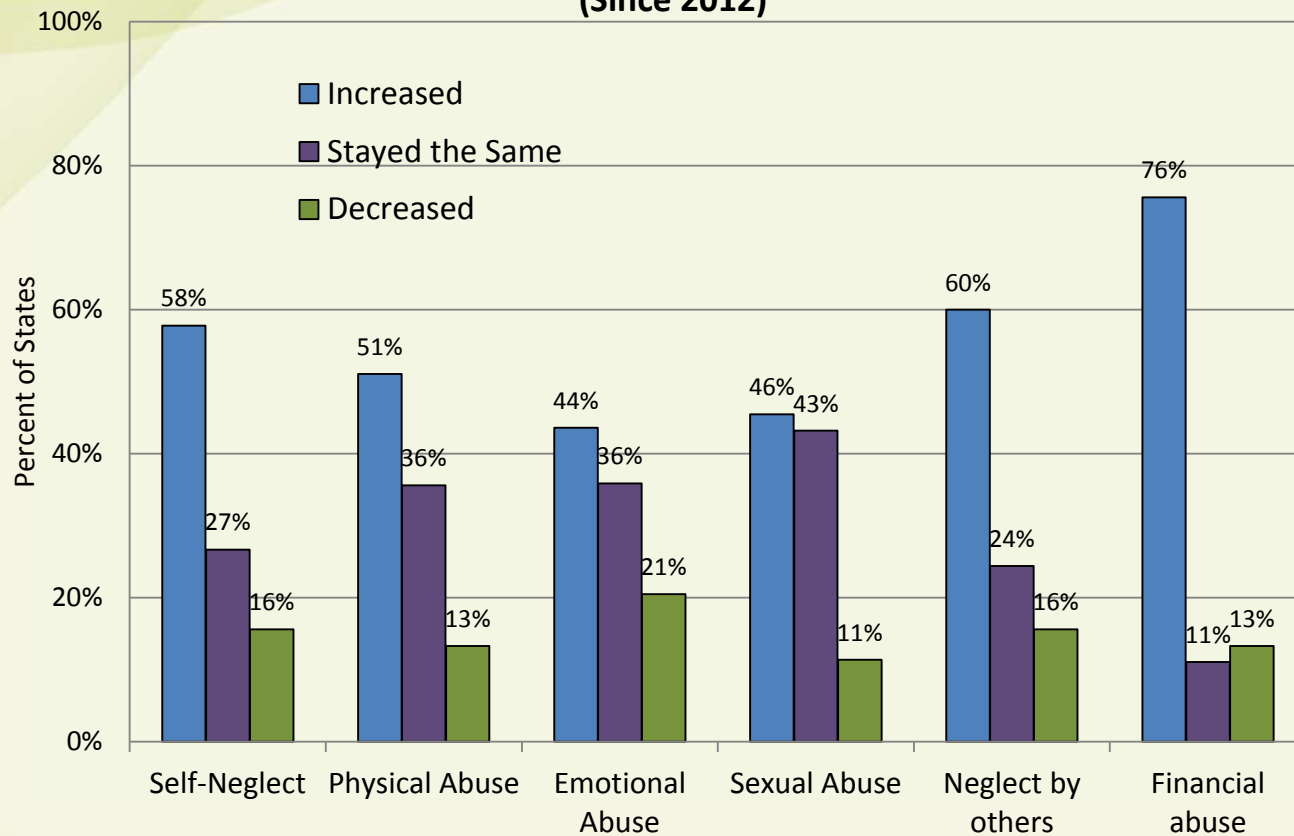
APS Staffing levels have stayed the same or decreased in nearly 60 percent of the states





While at the same time, states are reporting increases in nearly every category of abuse

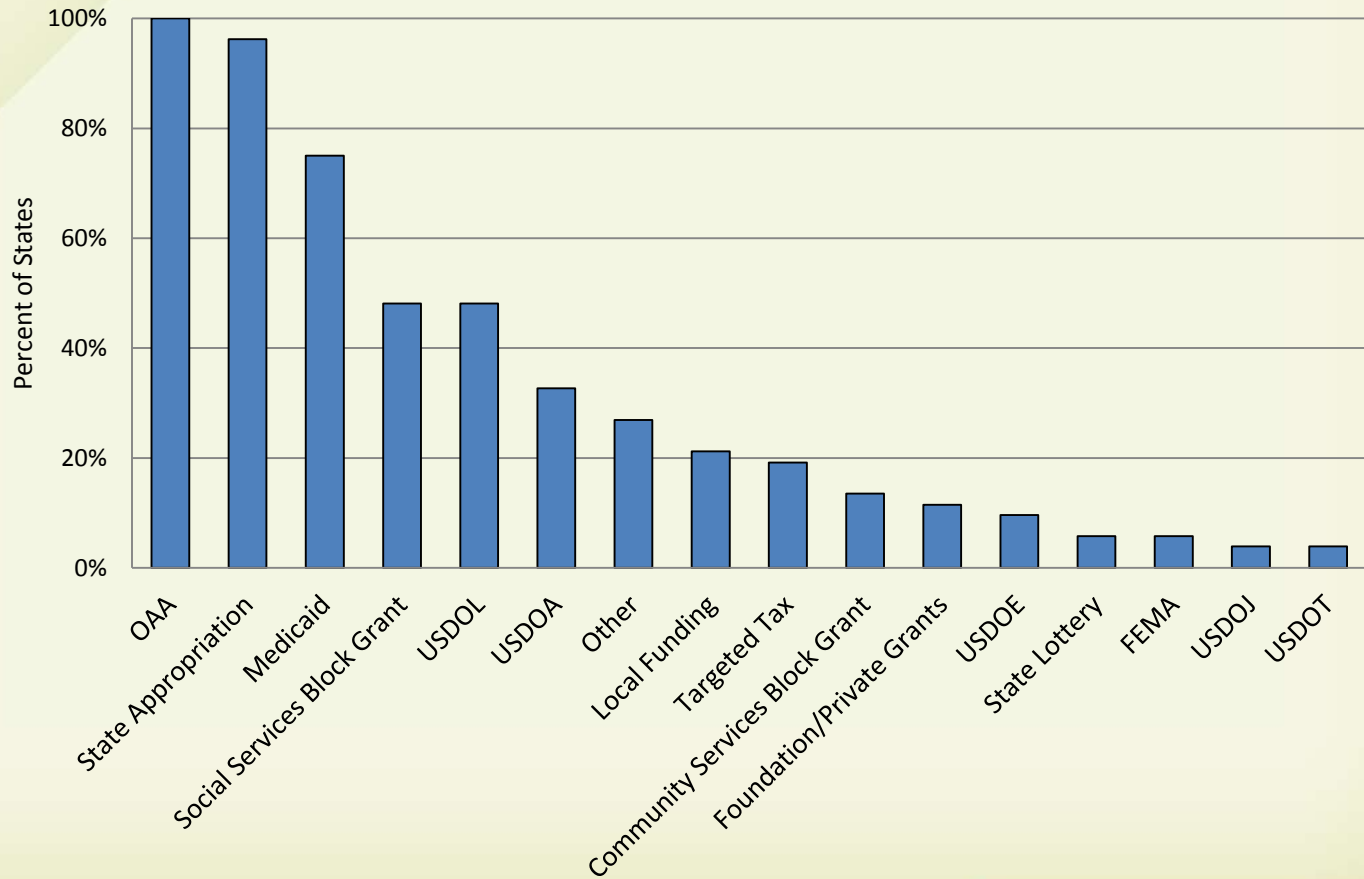
Statewide Change in Number of APS Reports by Category (Since 2012)



# Update on State LTSS Programs

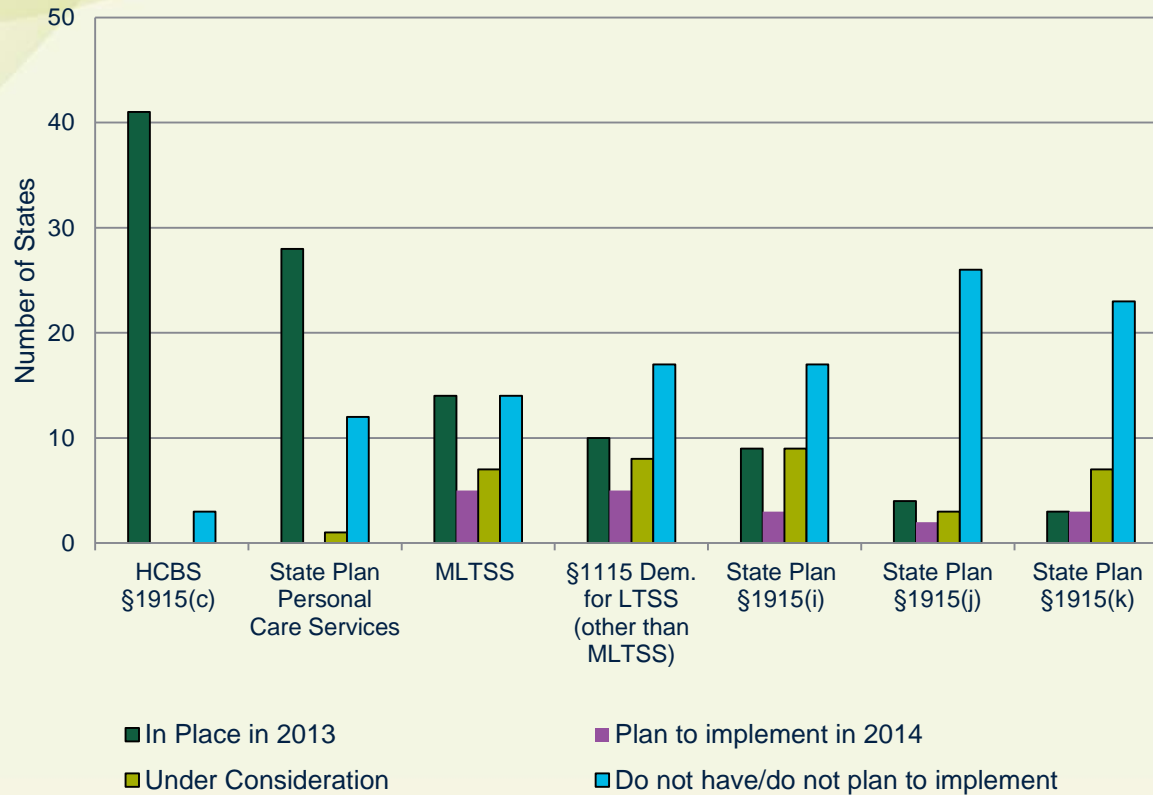
# States Are Relying on a Variety of Funding Sources to Pay for LTSS

## State Agency Funding Sources for FY 2013



# Many changes are occurring in LTSS Medicaid

## Status of Medicaid Waiver Options in States



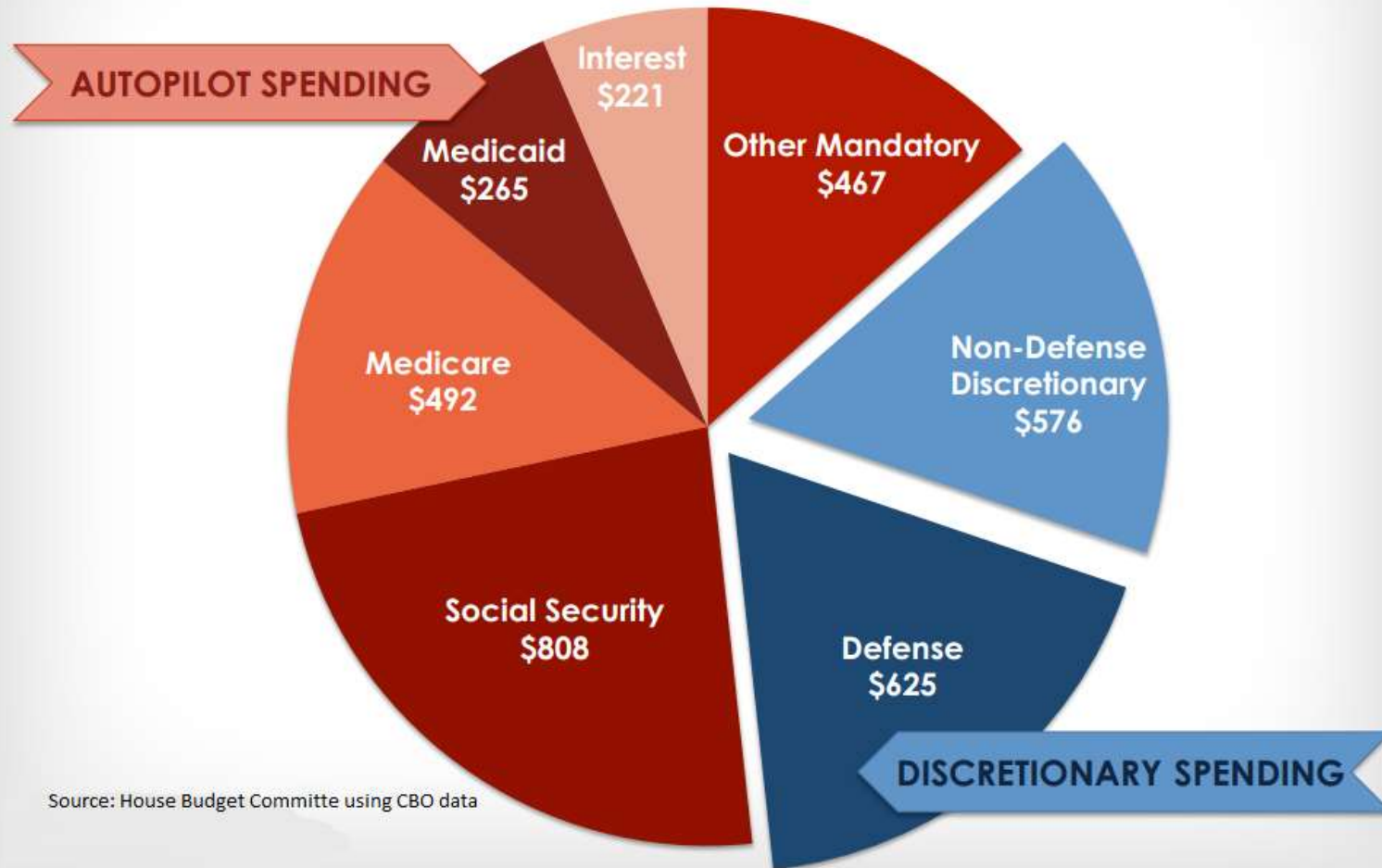






# Federal Policies of Interest

# TOTAL SPENDING IN FY2013 = \$3.45 TRILLION



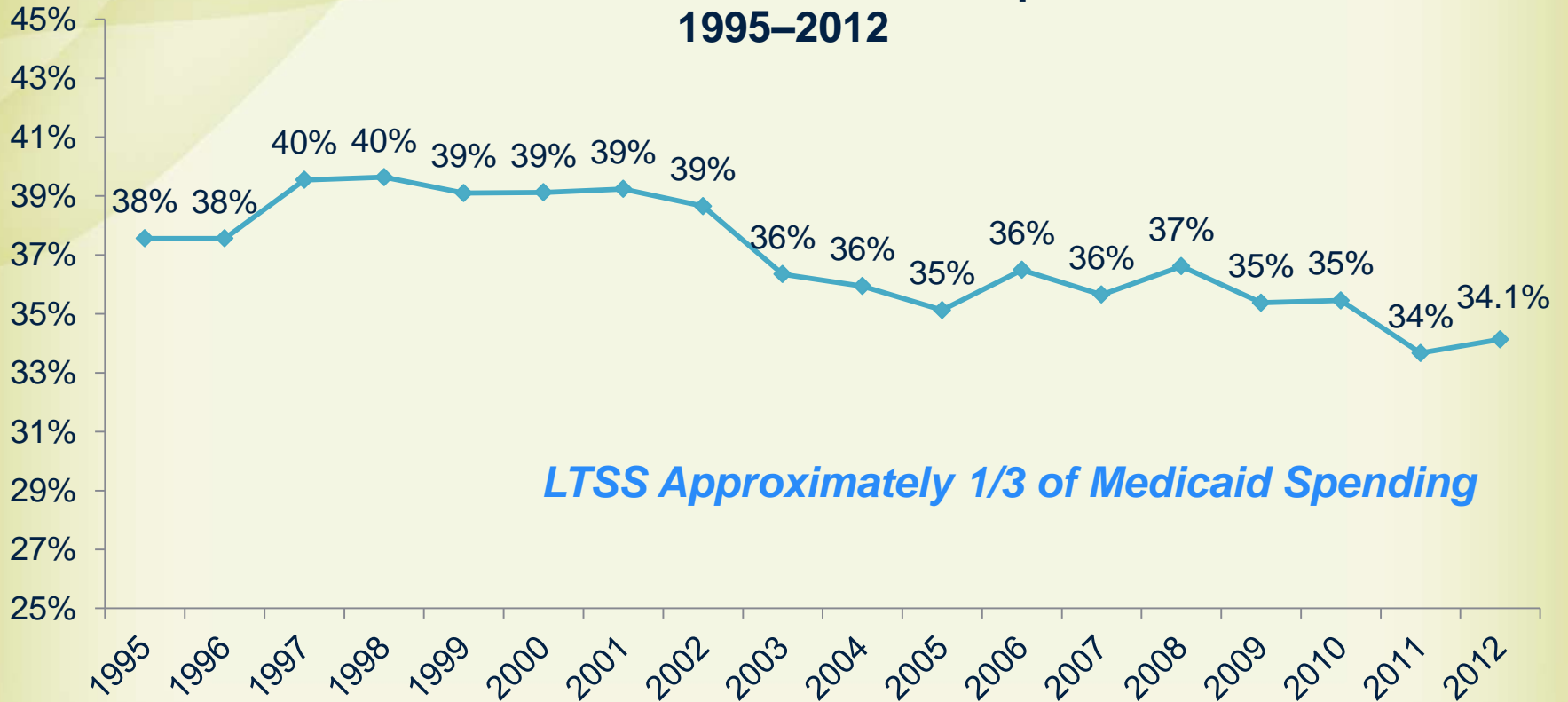
Source: House Budget Committee using CBO data



## Average Annual Growth in National Medicaid LTSS Expenditures, FFY 1995-2012

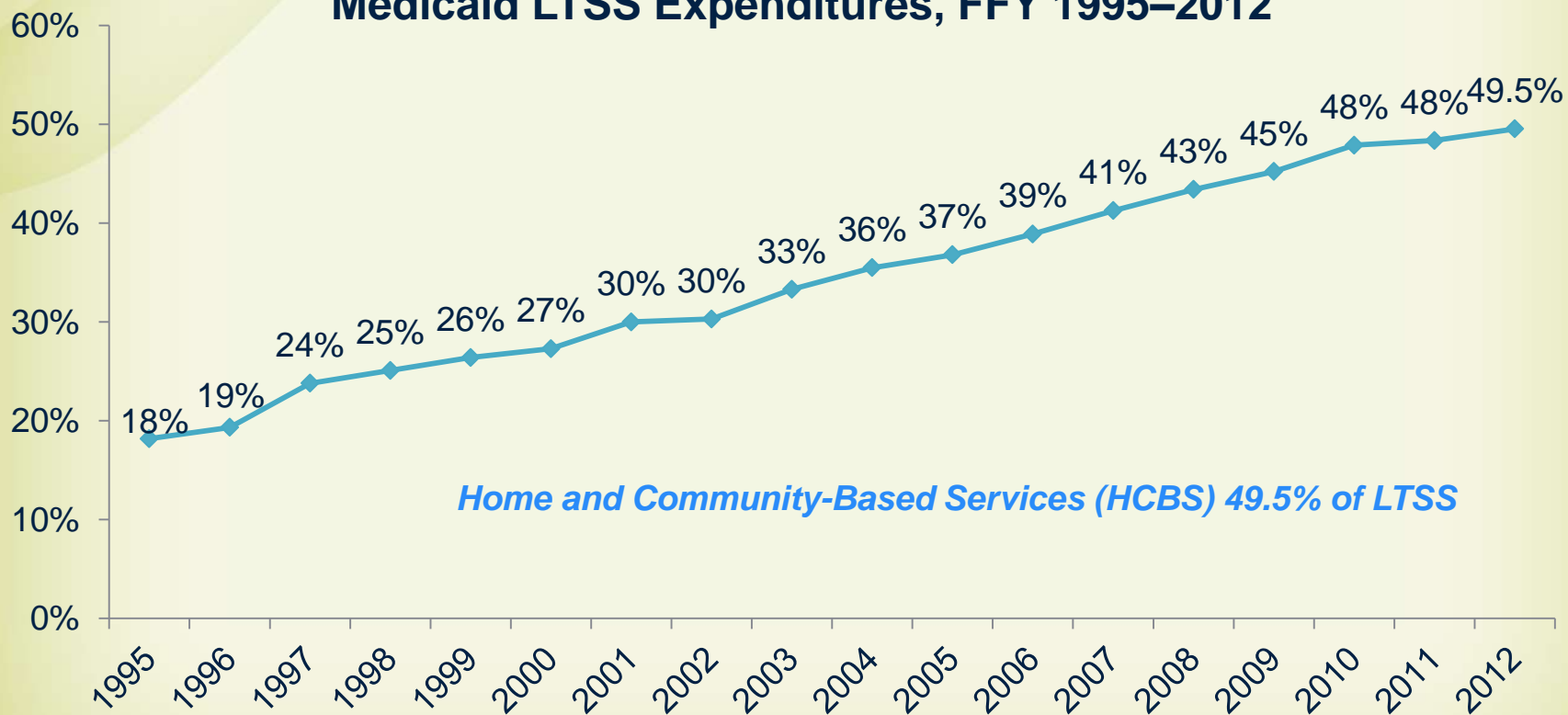


## LTSS as a Percent of Total Medicaid Expenditures, FFY 1995–2012



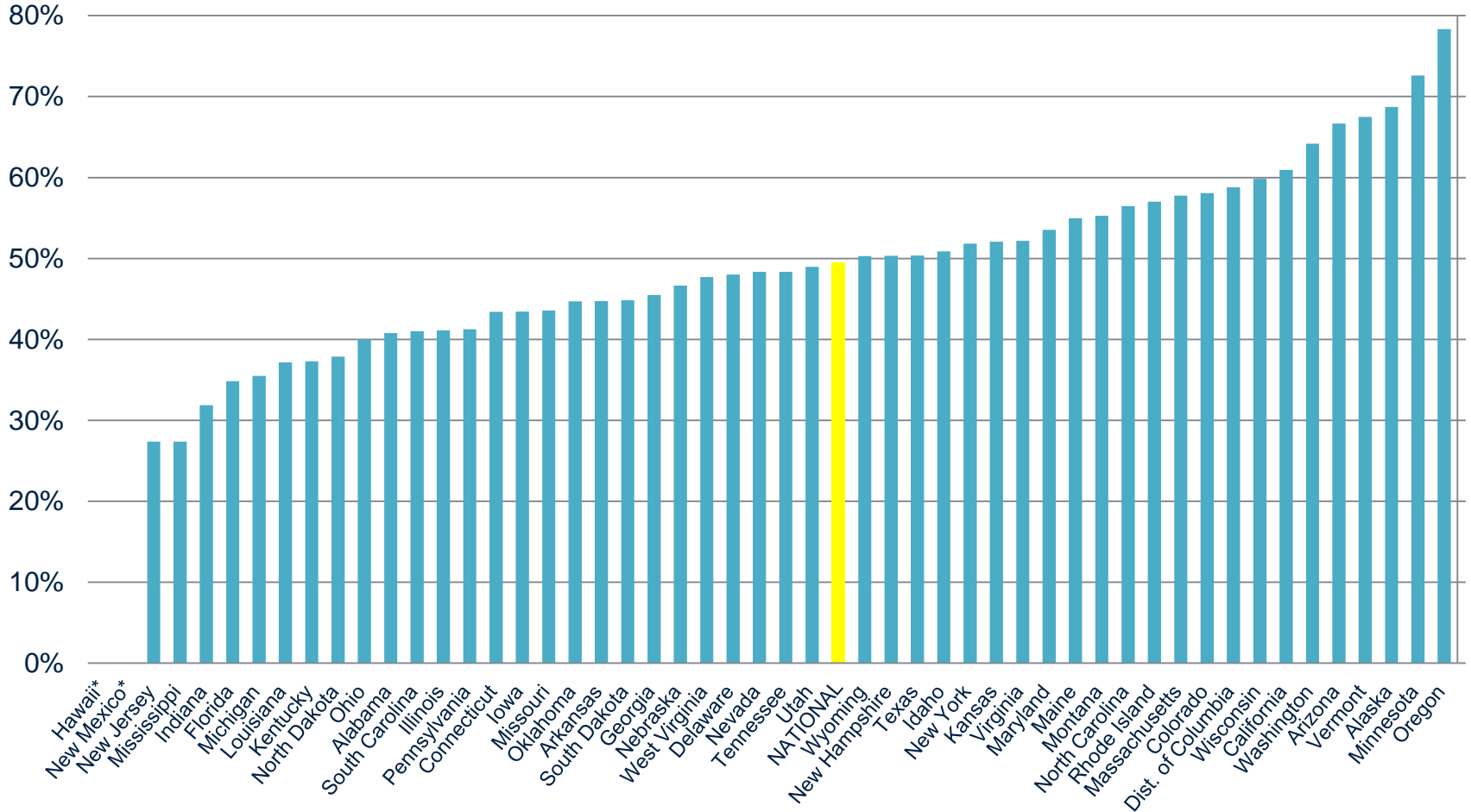
*LTSS Approximately 1/3 of Medicaid Spending*

## Medicaid HCBS Expenditures as a Percent of Total Medicaid LTSS Expenditures, FFY 1995–2012

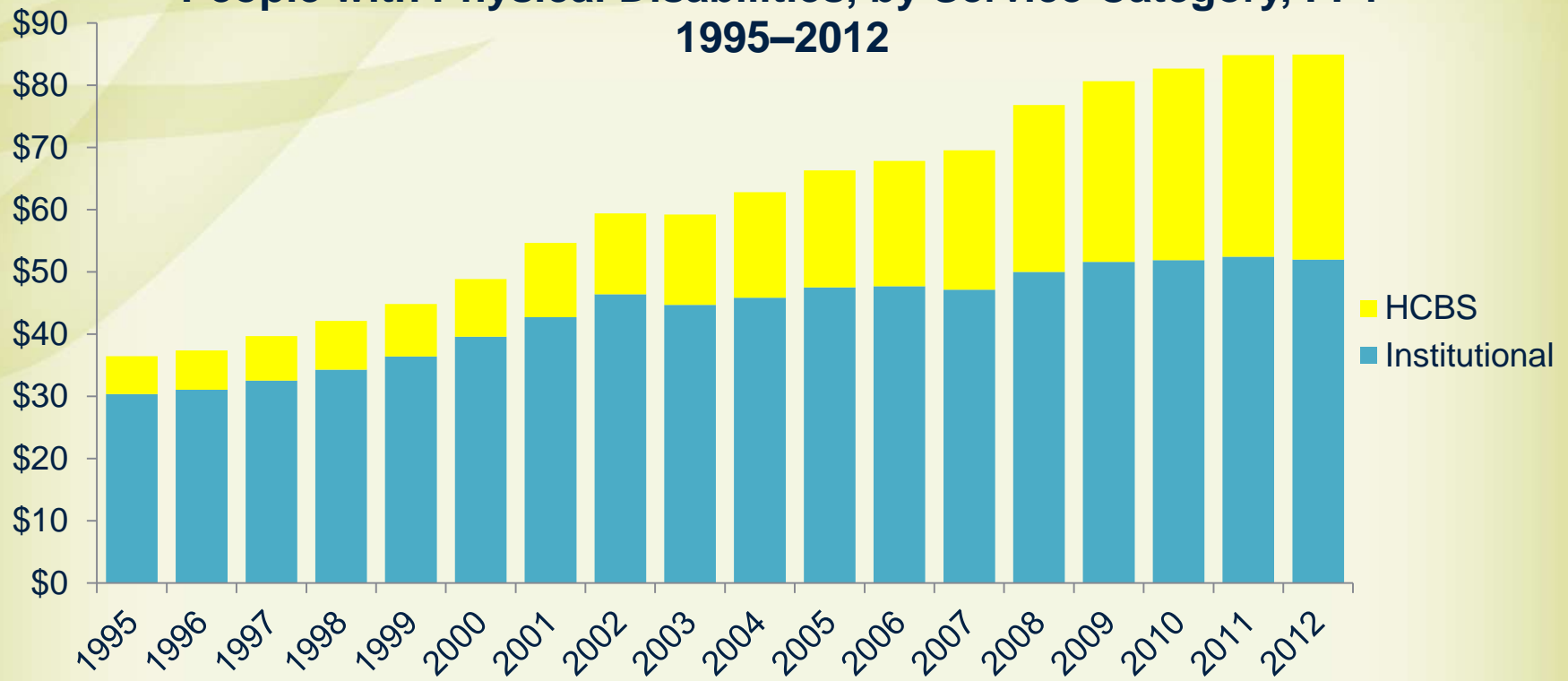


*Home and Community-Based Services (HCBS) 49.5% of LTSS*

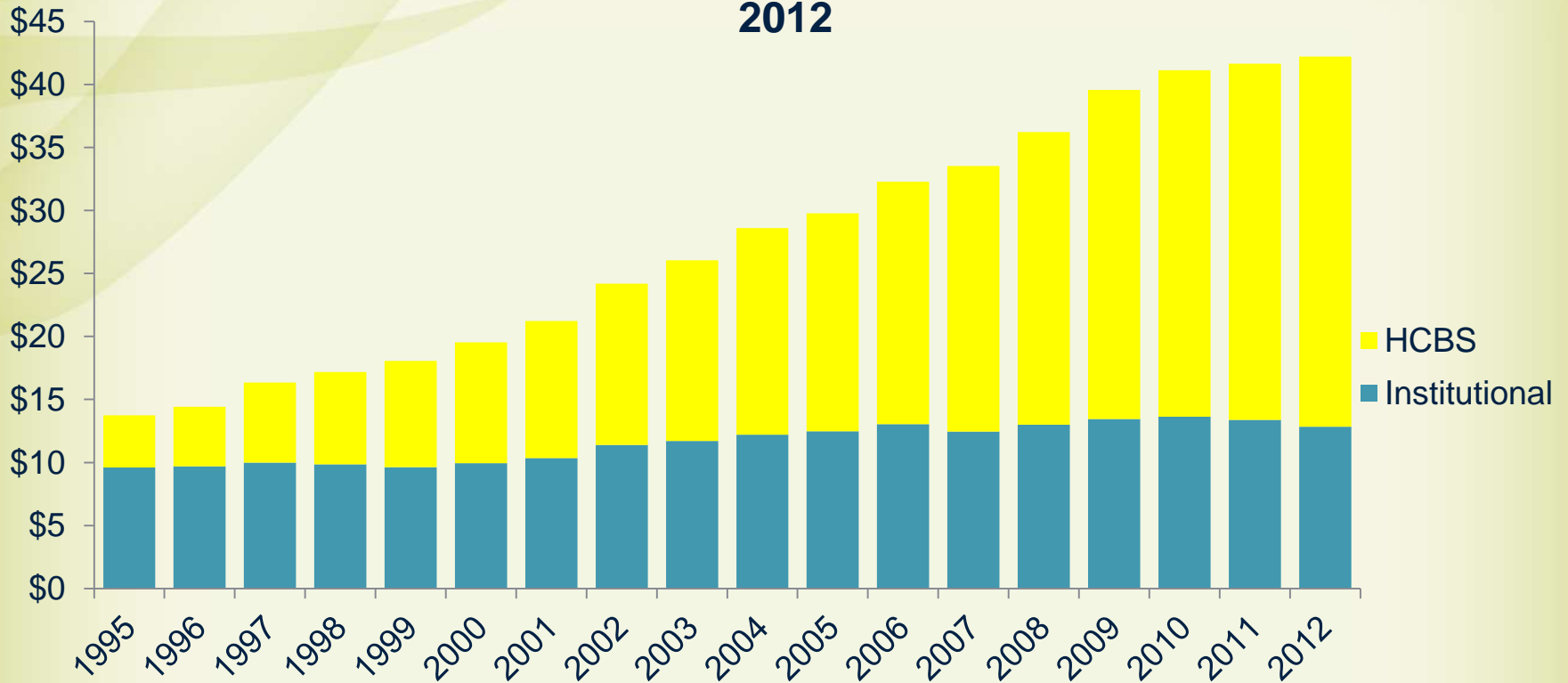
# Medicaid HCBS Expenditures as a Percent of Total Medicaid LTSS Expenditures, by State, FFY 2012



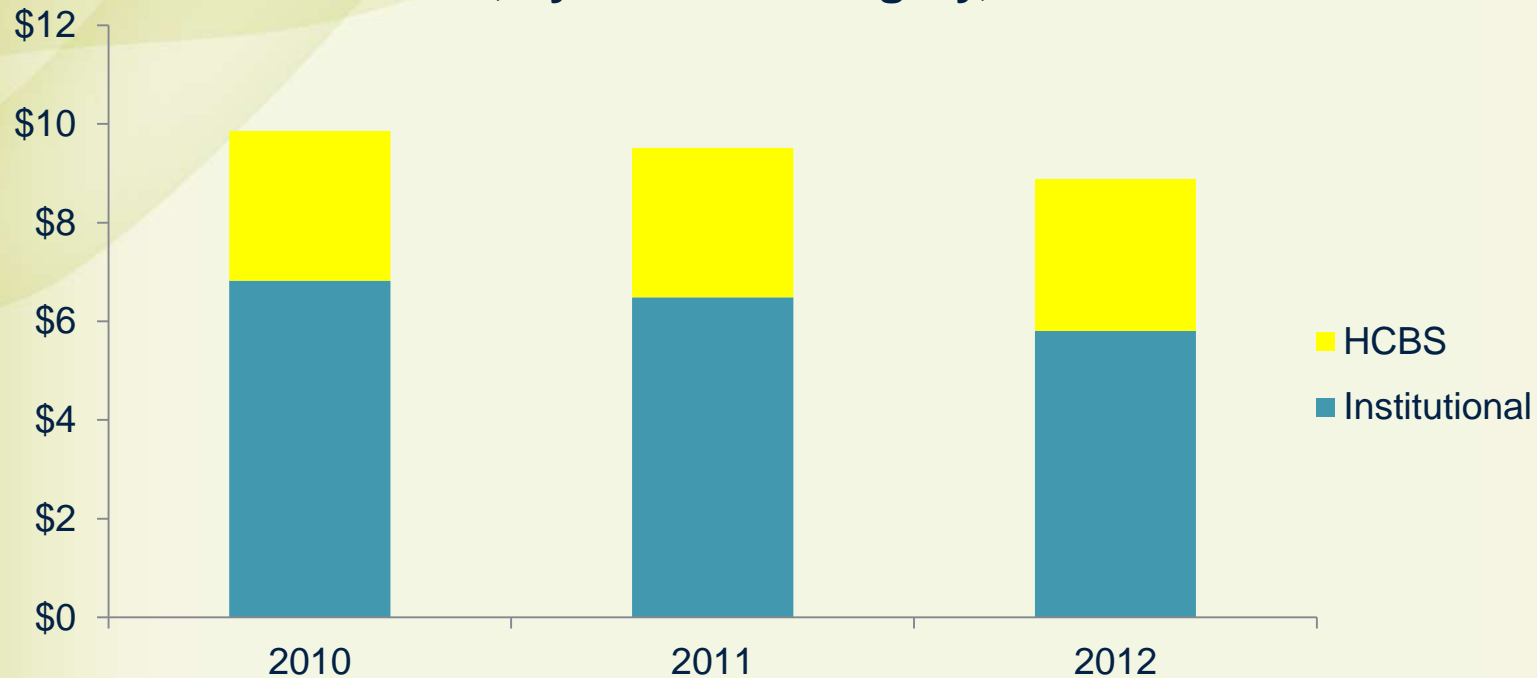
## Medicaid LTSS Expenditures Targeted to Older People and People with Physical Disabilities, by Service Category, FFY 1995–2012



## Medicaid LTSS Expenditures Targeted to People with Developmental Disabilities, by Service Category, FFY 1995–2012



## Medicaid LTSS Expenditures Targeted to People with Serious Mental Illness or Serious Emotional Disturbance, by Service Category, FFY 2010–2012



# Source

*Medicaid Expenditures for Long Term Services and Supports in 2012*

Prepared for CMS by Truven Health Analytics, April 2014

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Long-Term-Services-and-Supports.html>







**OLDER  
AMERICANS ACT  
REAUTHORIZATION:  
The Time to Act is  
Now**

# NASUAD's OAA Reauthorization Priorities

## Build the capacity of state agencies to meet the needs of seniors, their families, and caregivers

- Update the OAA to reflect the needs of current and future seniors by increasing the statutorily authorized funding levels for all titles of the OAA
- Increase the allowable percentage of administrative funding for states from five to ten percent, or from \$500,000 to \$700,000, whichever is greater
- Embed evidence-based health promotion and disease prevention programs as a core service of the Act

## Increase state flexibility in administering OAA programs

- Merge Title III C-1 and C2 funding into one category
- Expand the range of Title III services for which cost-sharing is permitted, continuing to exclude low-income individuals from payments
- Clarify that LTCO may serve all residents of nursing facilities, regardless of age
- Add “parent caregivers” to NFCSP eligibility

## Incorporate person-centered language, objectives, and goals into the OAA

- Update OAA language, objectives, and goals to reflect the Network's role in meeting the needs of populations unanticipated by the Act
- Update language to account for the unique family structures and collective experiences of underserved, vulnerable communities of all racial and ethnic groups, as well as LGBTQ older adults
- Include provisions that promote cultural linguistic competence for all racial and ethnic groups, as well as LGBTQ older adults
- Highlight the need for the provision and funding of special meals stemming from a religious requirement, ethnic consideration, or health conditions.

# What's in S. 1562?

- Reauthorizes the OAA through 2018
- Authorization levels are spared from cuts
- Updates definitions of “adult protective services,” “abuse,” “exploitation and financial exploitation,” and “elder justice”
- Allows ombudsmen to serve all residents of LTC facilities, regardless of age
- Updates the definition of “Aging and Disability Resource Center,” including an emphasis on independent living and home and community based services
- Clarifies current law that older adults caring for adult children with disabilities and older adults raising children under 18 are eligible to participate in the Family Caregiver Support Program
- Emphasis on Evidence-based Programs, preventing fraud and abuse, and health and economic welfare

# Status of Reauthorization

- Senate HELP Committee unanimously endorsed S. 1562 on October 30 2013, next procedural step would be full Senate consideration. But....
  - During the markup, Sen. Burr (R-N.C.) introduced an amendment to S. 1562 that would have eliminated the FY06 Hold Harmless provision in the Title III Funding Formula.
  - Funding Formula debates are notoriously controversial, as some states necessarily gain funds, while others see funding decreases.
- Negotiations reached an impasse at the end of March, leaving the funding formula issue unresolved.
- Meanwhile, two bills have emerged from the House (HR 3850, HR 4122). Movement in the lower chamber could reignite Senate negotiations, but next steps are unclear.
- There is growing consensus that the current Congress is the best opportunity for reauthorization that we will see in the next several years.
- Advocates are currently strategizing on how to build momentum and support for a bipartisan, bicameral reauthorization through 2014.

***This is a very small window of opportunity, so STAY TUNED for advocacy opportunities in the coming weeks and months!!!***



# **FY15 Funding:** ***Federal Budget and Appropriations***

# How Did We Get Here? FY14 Funding

In December 2013, Congress approved and the President signed a two-year budget deal, the Bipartisan Budget Act (BBA, PL 113-67). The compromise measure partially rolled back the sequester for FYs 2014 and 2015, setting slightly increased topline spending levels for both years.

Passage of the BBA cleared the way for appropriators in both chambers to begin developing FY14 spending bills that adhered to its new, higher funding level. In allocating these dollars, Congressional appropriators had the same discretion they always do in deciding what programs to fund and by how much.

In January 2014, Appropriations Chairs Sen. Barbara A. Mikulski (D-Md.) and Rep. Harold Rogers (R-Ky.) released their trillion-dollar omnibus, which included all 12 annual appropriations bills and set funding levels for the remainder of FY14.

Under the deal, the majority of OAA programs received level funding, relative to FY13 post-sequester amounts. Several OAA programs saw small increases in FY14, but the bulk of the restored funding went to the Act's nutrition programs.

Additionally, the measure transferred mandatory dollars from the Affordable Care Act's Prevention and Public Health Fund to support activities at ACL, including Chronic Disease Self-Management (\$8 million); Elder Falls Prevention (\$5 million); and the Alzheimer's Disease Initiative (\$14.7). Further, the omnibus transferred the SHIPs from CMS to ACL.

# Status of FY15 Appropriations: Labor-HHS

On June 10, the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies (Labor-HHS) approved its FY15 appropriations bill.

Though a summary of the bill has been released, the bill text has not. Accordingly, beyond those programs highlighted in the summary, the Subcommittee's recommendations are not yet known. According to the summary document:

- The draft bill rejects several cuts proposed by the Administration in its FY15 budget request, opting instead to maintain FY14 funding levels for initiatives such as Low Income Home Energy Assistance (LIHEAP), and Community Services Block Grant (CSBG).
- The measure also includes \$10 million to implement the Elder Justice Initiative at ACL

Next steps for the bill include consideration by the full Appropriations Committee, but no date has been set.

In the House, it is uncertain whether a Labor-HHS markup will occur in the coming months. Of the 12 annual appropriations bills, it is the only draft measure that House appropriators have yet to release.

Election year politics are taking their toll on the FY15 Labor-HHS bill, and the appropriations process in general. Some form of a lame duck omnibus measure is likely to wrap up FY15 funding, and staff work on the individual bills is expected to continue in the coming months.

# Current Status of Appropriations

- On September 9<sup>th</sup>, the House Appropriations Committee introduced a Continuing Resolution (CR) proposal
  - The CR would fund government operations through December 11, 2014
  - The CR would enact several minor policy changes, but none that affect Aging or Disability policy
  - OAA programs would likely be level-funded from FY2014
  - Entitlements such as Social Security, Medicaid and Medicare would likely be unaffected
- The House and the Senate are expected to pass a CR before current funding authorization expires on September 30
- House and Senate Appropriations leadership has indicated intent to continue negotiations regarding appropriations legislation, which could involve an omnibus package that consolidates each discrete appropriations bill into a large piece of legislation



# Our Top Asks in FY15: Appropriators are currently working on the bills... **NOW** is the time to weigh in!

- Restore All AoA programs to pre-sequester FY10 levels
- Adopt ACL's Elder Justice Initiative, and fully fund it at \$25 million in FY15. This funding is critical to begin to address the growing problems of elder abuse, neglect, and exploitation.
- Increase FY15 discretionary ADRC funding from \$6 million to \$16 million, in order to "bridge" expiring and future mandatory funding streams without compromising the program.
- Continue to allocate PPHF dollars to support Falls Prevention, CDSMP, and the Alzheimer's Disease Initiative.
- Reject the proposed restructuring of the Senior Corps programs, as well as the proposed cuts to SCSEP, CSBG, and LIHEAP.

# Workforce Improvement and Opportunities Act Reauthorization

The Rehabilitation Act is contained in WIOA. Specifically, improvements to Independent Living in this bill include:

- Independent Living Programs will move to the Administration for Community Living (ACL)
- A fifth core service will be added: transition
- SILC activities will be improved and include resource development
- SPIL sign-off will now include CIL Directors
- States will choose their 'designated state entity' (formerly known as the DSU).

# HCBS Regulation

On January 16, 2014, CMS released a Final Rule that implements significant changes to Medicaid HCBS (CMS-2249-F)

The changes include a variety of changes, but most notable are new requirements for:

- Person centered planning;
- Conflict free case management; and
- HCBS Settings.

# HCBS Regulations

Clear definitions and objective assessments of settings remains a challenge, particularly for services to older adults

States must submit a statewide transition plan within 120 days of their first waiver amendment or renewal, which includes a robust public engagement requirement

Many States are currently developing the transition plans

As of 9/11/14, no transition plans had been approved

# DOL FLSA

On September 17, 2013, DOL released a regulation modifying minimum wage and overtime standards for home care workers, **effective January 1, 2015.**

The regulations extend minimum wage and overtime protections to all direct care workers “employed” by home care agencies and other third parties (e.g: states, MCOs, counties, agencies, etc).

The employer is determined by an economic realities test and is not necessarily the employer of record.

Multiple entities could be considered the employer for one worker. All employers are subject to ensuring compliance.

# DOL FLSA

States and third parties are likely be considered “employers” in consumer-directed programs and are then required to:

Track hours across multiple beneficiaries to determine if overtime is required;

Reimburse the worker for travel between sites of services for different beneficiaries.

The regulation is likely to create challenges with tracking compliance and maintaining funding for self-directed programs, programs with shared-living arrangements, and family caregivers.

# New HHS Guidance: Person-Centered Planning and Self-Direction

- The HHS agencies most directly affected by this guidance include:
  - Administration for Community Living;
  - Centers for Medicare & Medicaid Services;
  - Health Resources and Services Administration;
  - Indian Health Service;
  - Substance Abuse and Mental Health Services Administration; and
  - The Administration for Children and Families.
- Although the guidance does not establish new regulatory requirements, ACL expects other HHS entities to incorporate the principles into their individual programs and policies:
  - CMS' final HCBS regulation, released in January 2014, includes person centered planning standards aligned with this guidance.
- ACL is in the process of developing a training program on person-centered counseling for people working in state No-Wrong-Door systems, and is also developing a set of credentialing standards for person-centered planning.
- ACL intends to lead Section 2402(a) activities within HHS, and will establish an interagency team comprised of agencies affected by 2402(a).
- For more information: <http://www.acl.gov/Programs/CDAP/OIP/docs/2402-a-Guidance.pdf>