

Federal Appropriations Analysis and Update

To: State Aging and Disability Directors

From: Damon Terzaghi

Re: Federal Fiscal Year 2021 Appropriations and COVID Stimulus Bill Released

Date: December 22, 2020

Background

Yesterday, after weeks of negotiation, leadership in the Senate and House announced a bipartisan compromise that would address both the full fiscal year (FY) appropriations amounts as well as provide additional COVID relief funding. Later in the afternoon, the House released the complete bill text as well as numerous summaries of the agreement. The bill would provide funding for the full government for the remainder of FY2021, which runs through September 30, 2021. Yesterday evening, both the House and the Senate passed the legislation. President Trump is expected to sign the bill today.

Takeaways and Analysis

There are both positive and negative implications of this legislation. It provides an additional \$175 million for Older Americans Act (OAA) nutrition programs, but this is significantly less funding than was included in prior relief bills or in other bipartisan proposals for this particular legislative package. There is also no additional funding for other parts of the OAA nor for the Medicaid program. The 20th Century Cures Act Electronic Visit Verification (EVV) requirements and associated penalties for noncompliance were also not addressed in this legislation and look nearly certain to become effective on January 1, 2021.

Similarly, on the positive side, it provides an extension the Money Follows the Person (MFP) through the end of FY2023 and also shortens the length of time an individual must be in an institution to qualify for the services. However, it also increases the reporting requirements for grantees.

The FY2021 appropriations in this legislation are modestly favorable to aging and disability services. None of the programs ADvancing States routinely tracks in our attached appropriations chart received reductions from enacted FY2020 levels and several programs also received increases. Selected increases include:

- An additional \$5 million for OAA Title III congregate meals and a \$10 million increase for home-delivered meals;
- A \$2 million increase for HCBS supportive services;

- \$3 million more for the National Family Caregiver Support Program, as well as \$400,000 in new funding for the RAISE Family Caregivers Act’s Advisory Council;
- Funds \$2 million in grants to states to address state guardianship laws and procedures; and
- Provides a \$60 million increase to Section 202 Supportive Housing for the Elderly and a \$20 million increase to Section 811 Housing for Persons with Disabilities.

Our full funding table is attached to this e-mail.

A summary list of important COVID relief provisions follows, with more in-depth information on some of the more crucial policies afterwards:

- \$175 million for OAA nutrition program;
- Extension of OAA nutrition program flexibilities regarding transfers and nutritional requirements;
- \$100 million for Elder Justice activities, of which \$50 million is allocated to Adult Protective Services;
- Extends deadline to spend State/Local CARES Act relief funds until December 31, 2021;
- An extension of outreach and education funding through the end of FY2023. This funding was originally provided by the Medicare Improvements for Patients and Providers Act (MIPPA) for Aging and Disability programs. The extension provided annual funding levels of:
 - \$15 million for SHIPs;
 - \$15 million for AAAs;
 - \$5 million for ADRCs; and
 - \$15 million for the National Center for Benefits Outreach and Enrollment.
- 3-year extension of MFP at \$475 million annually;
- Policy changes to MFP, including shortening the institutional stay requirement for an individual’s eligibility from 90 to 60 days and expanded grantee reporting requirements and eliminating the exclusion of Medicare short term rehabilitation stay days from counting towards MFP eligibility;
- Extends the Affordable Care Act’s HCBS spousal impoverishment protections until September 30, 2023;
- Allows Medicaid Fraud Control Units to investigate allegations of abuse and neglect in any setting;
- Strengthens requirements regarding Medicaid’s nonemergency medical transportation benefit, including requiring coverage in benchmark benefits plans;
- Allows the Department of the Interior to enter into agreements with or provide grants to private nonprofit SCSEP grantees in order to use SCSEP participants for the DOI; and

- Allows funds appropriated to the Forestry Service to qualify as the required nonfederal share of SCSEP funding and designates any SCSEP participant that is working on a Forestry Service project as a Federal employee.

COVID Relief Provisions

Money Follows the Person

The bill provides a 3-year extension of MFP until the end of FY2023 (ie: September 30, 2023) and funds it at \$475 million annually. The legislation enacts policy changes to MFP, including shortening the institutional stay requirement for an individual's eligibility from 90 to 60 days and expanded grantee reporting requirements and eliminating the exclusion of Medicare short term rehabilitation stay days from counting towards MFP eligibility. Allowing these rehabilitation days to count towards MFP eligibility could provide states with significantly more opportunity to catch individuals earlier in the process and, potentially, prevent the erosion of existing community-based supports and residences before the individual can transition back to their existing home.

The legislation also expands grantee application and reporting requirements. Applicants must now include a rebalancing workplan that details a workplan with funding information for each rebalancing initiative, as well as evaluation and sustainability plans for each initiative. States must also provide quarterly reports on the use of grant funds for each approved workplan activity, as well as on the funds spent for each targeted population.

The legislation also extends technical assistance and evaluation activities for MFP. Additionally, it directs MACPAC to publish a report outlining the types of residences that both qualify for MFP and meet the HCBS settings regulation requirements. The report should recommend any necessary changes to align the MFP residence requirements with the HCBS final rule.

OAA Nutrition Services

The bill provides \$175 of additional funding for OAA nutrition programs, with \$168 million provided to the Title III programs and \$7 million provided to Title VI Native American programs. This is a welcome influx of new resources given that the COVID relief funds provided in the Families First Coronavirus Relief Act (FFCRA) and CARES Act is dwindling in many states.

The usual state matching requirements do not apply for services provided with this funding but do continue to apply if the state elects to use any of this funding for administrative purposes. Lastly, the legislation extends the temporary waivers that allow states unlimited transfer authority between congregate and home-delivered meals; that designate any individual sheltering in place due to COVID

as meeting the definition of homebound; and that allow ACL to waive the dietary guidelines requirements for OAA meals.

Other COVID Relief Provisions

The centerpiece of the legislation includes \$600 payments to individuals making under \$75,000 annually and to each spouse of a couple making less than \$150,000 jointly. Parents also receive \$600 for each qualifying child in their household.

Some other important provisions include:

- Extends the deadline for state and local governments to spend CARES Act Coronavirus Relief Fund grants from December 30, 2020 to December 31, 2021.
- Appropriates \$284.5 billion and makes changes to the Paycheck Protection Program (PPP), including:
 - Allowing additional types of businesses to qualify;
 - An expansion of expenses that employers can use to qualify for the program;
 - An option for certain organizations to apply for a second round of PPP payments; and
 - An extension of the covered period for PPP loans through March 31, 2021.
- A 15% increase in Supplemental Nutritional Assistance Program (SNAP) benefit amounts;
- Extends pandemic unemployment insurance (UI) through March 31, 2021 and increases the maximum length of UI eligibility to 50 weeks;
- Extends the Federal UI supplement through March 14, 2021 at \$300 a week, down from the previous \$600 weekly supplement;
- Provides states and localities with \$25 billion for emergency rental assistance for eligible households. Eligible households must:
 - Have income below 80% of the area median income (AMI), as calculated by the US Department of Housing and Urban Development;
 - Have one or more household members at risk of homelessness or housing instability; and
 - Have one or more household members that are receiving unemployment insurance or have a financial hardship due, directly or indirectly, due to the pandemic.

Households below 50% AMI or with someone who has been unemployed for more than 90 days are prioritized for service.
- Extends a moratorium on evictions until January 31, 2021;
- Creation of a new program that provides a \$50 monthly credit for broadband internet (\$75 on tribal lands) for individuals that meet one of the following criteria:
 - Household income below 133% FPL;

- Household member experienced a significant loss in income due to layoff or furlough;
- Is participating in a broadband provider’s existing low-income or COVID-19 relief program; or
- Are receiving, or has a dependent or household member receiving, any one of:
 - Medicaid;
 - SNAP;
 - Supplemental Security Income;
 - Federal Public Housing Assistance;
 - Veterans and Survivors Pension Benefit;
 - Free or reduced price lunches; or
 - Federal Pell Grant.
- Provides \$1 billion for a new grant program that is intended to increase broadband internet access on tribal land, and \$300 million for a separate new program to increase broadband access in other areas, especially rural ones;
- Bans the “surprise medical billing” process where individuals are unknowingly served by out-of-network providers in an in-network hospital and then charged out of pocket for the services and establishes an arbitration process to resolve payment disputes between providers and insurance companies.

Conclusion

This bill is the result of months of negotiations between both parties in each of the Congressional chambers as well as the Administration. It marks the end to the current Congressional session and the last piece of legislation that will pass in 2020. As always, please feel free to contact anyone on the Advancing States team with questions or concerns.