

# House Energy and Commerce Committee Examines Medicaid Legislation, 80-20 Moratorium

Source: NAHC, May 3, 2024

On Tuesday, April 30<sup>th</sup>, the Health subcommittee of the House Energy and Commerce Committee held a hearing on *Legislative Proposals to Increase Medicaid Access and Improve Program Integrity*. The hearing's sole witness was Daniel Tsai, the director of Medicaid within the Centers for Medicare and Medicaid Services (CMS), who provided perspective on the Administration's priorities regarding Medicaid coverage, eligibility, and access to services.

Importantly, the hearing included legislation that would prohibit CMS from enacting the 80-20 passthrough provision within the Medicaid Access rule among the 19 bills examined during the session. During the session, lawmakers showed the stark partisan divide over the Access rule, with Republicans consistently advocating to repeal 80-20 and Democrats lining up to support the policy.

Opening statements from Committee Chair Rodgers (R-WA) and Guthrie (R-KY) criticized the proposal and expressed concerns about the unintended consequences of the provision. In contrast, Committee ranking member Pallone (D-NJ) and subcommittee ranking member Eshoo (D-CA) supported the passthrough requirement, praising the Administration for implementing the policy.

Many of the questions posed by lawmakers to Mr. Tsai dealt directly with the 80-20 requirement, including inquiries on the basis for the provision, what CMS expected the outcomes to be, and requests for more information about the data and analysis used to establish and justify the threshold. Reps. Dunn (R-FL) and Harshbarger (R-TN) specifically probed for information regarding CMS' understanding and calculations regarding how they define the HCBS provide operating margin and CMS' concerns about provider expenditures that prompted the regulation.

Notably, while Director Tsai repeatedly stressed that they utilized data and analysis to inform their decisions, no specific information was provided regarding the data sources, analyses, and outcomes.

Bills discussed during the hearing also included a number of other important pieces of legislation that would improve Medicaid, including proposals that would:

- Make Money Follows the Person and Spousal Impoverishment Protections permanent;
- Remove the Age 65 limit on the Ticket to Work Medicaid Buy-in for workers with disabilities;
- Remove the requirement that an individual need an institutional level of care in order to qualify for home and community-based services under a Medicaid waiver; and
- Remove the requirement for states to collect assets from the estate of older adults who received Medicaid services.

Information about the Hearing including text of the legislation and a recording of the proceedings is available online

at: <https://energycommerce.house.gov/events/health-subcommittee-hearing-legislative-proposals-to-increase-medicaid-access-and-improve-program-integrity>.