

# BETTER CARE BETTER JOBS ACT (S. 2210)

## A Historic Investment in the Care Economy

**Led by Chairman Casey, Chairman Wyden and Leader Schumer  
with Chair Murray and Senators Duckworth, Hassan and Brown**

President Biden's American Jobs Plan includes a historic investment in Medicaid home and community-based services (HCBS). These critical services enable seniors and people with disabilities to remain in their homes, stay active in their communities, and lead independent lives. The President's proposal will expand access to good-quality care, lead to better pay and benefits for workers, enhance quality of life for families, and help create middle-class jobs. This investment creates enhanced funding to strengthen long-term care today and for the future, building on the \$12.7 billion short-term HCBS funding that passed as part of the American Rescue Plan.

The COVID-19 pandemic has highlighted the urgent need to ensure all Americans have the option to receive quality, long-term care in the setting that best meets their needs and preferences. The vast [majority of Americans](#) would prefer to receive services and supports at home. Today, [over 3.5 million](#) older adults and people with disabilities receive Medicaid HCBS. Though all states provide coverage for some HCBS services, eligibility and benefit standards vary, leading to significant variation and gaps in coverage. Some states cap the number of individuals who may receive services, which has left almost [820,000 Americans](#) on wait lists.

The President's proposed investment also prioritizes wage and benefit increases for the workers who provide these services. Nationwide, home care workers—a majority of whom are women and people of color—earn a median wage of [\\$12 per hour](#). Roughly [18 percent](#) of these workers live in poverty and many receive [few or no benefits](#). This low compensation, paired with the difficulty of the work, results in exceptionally high turnover rates among direct care workers, often estimated [between 40 and 60 percent](#).

The **Better Care Better Jobs Act** carries forward President Biden's bold vision. Specifically, the bill would:

- **Enhance Medicaid funding for HCBS:** States would be eligible for a permanent 10 percentage point increase in the federal Medicaid match for delivering HCBS as well as enhanced funding for administrative activities associated with improvement efforts. To receive these dollars, states must:
  - **Strengthen and expand access to HCBS** by expanding financial eligibility criteria for HCBS to federal limits; requiring coverage for personal care services; expanding supports for family caregivers; adopting programs that help people navigate enrollment and eligibility; expanding access to behavioral health care; improving coordination with housing, transportation, and employment supports; and developing or improving programs to allow working people with disabilities to access HCBS.

- **Strengthen and expand the HCBS workforce** by addressing HCBS payment rates to promote recruitment and retention of direct care workers; regularly updating HCBS payment rates with public input; passing rate increases through to direct care workers to increase wages; and updating and developing training opportunities for this workforce as well as family caregivers.
  - **Show improvement over time** by demonstrating improved availability of services; reduced disparities in accessing and using HCBS; evidence of competitive wages and benefits for workers; and increases in HCBS spending.
  - **Comply with a strong maintenance of effort** for HCBS eligibility and benefit standards to ensure that additional federal dollars go towards growing and improving HCBS programs.
- **Encourage innovative models that benefit direct care workers and care recipients:** Provide additional incentives to help states build HCBS workforce programs that register direct care workers; help connect them to seniors and people with disabilities seeking care; facilitate coordination between the state and direct care workers; support care safety and quality; and help workers organize, among other functions.
  - **Support quality and accountability:** Provide funding to the Centers for Medicare & Medicaid Services to carry out the bill's programs; conduct oversight and monitoring; and offer technical assistance to states participating in the funding opportunities described above. Additionally, participating states would be required to establish state HCBS ombudsman programs to support care quality. The bill would also require all state Medicaid programs to adopt HCBS quality measures.
  - **Facilitate state planning:** Provide funding for states to develop HCBS infrastructure improvement plans with public input, to outline how they would expand access to HCBS, strengthen the workforce, and meet requirements tied to increased federal Medicaid funding. States would be required to develop these plans in order to receive enhanced federal Medicaid funding for HCBS.
  - **Permanent spousal impoverishment protections:** Permanently authorize protections against impoverishment for individuals whose spouses are receiving Medicaid HCBS.
  - **Make Permanent Money Follows the Person:** Make the Money Follows the Person Rebalancing Demonstration permanent.

**Cosponsors:** Baldwin, Bennet, Blumenthal, Booker, Cantwell, Cardin, Durbin, Feinstein, Gillibrand, Hirono, Heinrich, Kaine, King, Klobuchar, Leahy, Luján, Markey, Merkley, Menendez, Murphy, Padilla, Peters, Reed, Rosen, Sanders, Schatz, Shaheen, Smith, Stabenow, Van Hollen, Warnock, Warren and Whitehouse

**Supporting Organizatons:** Allies for Independence, Association of Assistive Technology Act Programs (ATAP), Easterseals, Gerontological Society of America, Indivisible, Inglis, Justice in Aging, Latinos for Secure Retirement, Little Lobbyists, National Council on Independent Living (NCIL), National Academy of Elder Law Attorneys, National Council on Aging (NCOA), National Domestic Workers Alliance (NDWA), Rehabilitation and Community Providers Association, SEIU, Social Security Works, The Arc, Via of the Lehigh Valley and United Cerebral Palsy

# Section-by-Section:

## Section 1. Short Title and Table of Contents

**Section 2. Definitions.** Includes definitions for terms relevant to the bill, such as direct care workers and home- and community-based services (HCBS).

## Title I – Expanding Access to Medicaid Home- and Community-Based Services

**Section 101. HCBS Infrastructure Improvement Planning Grants.** Provides \$100 million for states to develop plans to expand access to Medicaid HCBS and strengthen the HCBS workforce. As a part of these plans, states would be required to report on the state’s existing HCBS landscape and describe how they will address gaps and disparities in access and utilization. Such plans would be developed with input from stakeholders through a public notice and comment process. During the planning period, states would continue to receive the level of enhanced federal funding for HCBS provided through the American Rescue Plan. States receiving planning grants must comply with a maintenance of effort that restricts them from reducing eligibility or benefit standards for HCBS.

**Section 102. HCBS Infrastructure Improvement Program.** Provides states with a 10 percentage point increase in the Medicaid Federal Medical Assistance Percentage (FMAP) for HCBS and an enhanced federal match of 80 percent for administrative activities associated with improving HCBS programs. To receive this enhanced match, states would be required to:

### Strengthen and expand access to HCBS:

- Address access barriers and disparities in access or HCBS utilization;
- Expand financial eligibility criteria for HCBS to the federal limit;
- Cover personal care services;
- Facilitate access through the adoption of “no wrong door” enrollment systems, use of presumptive eligibility, and improvement of outreach and education efforts;
- Expand supports for family caregivers, including respite care;
- Develop or improve programs to allow working people with disabilities to access HCBS; and
- Expand access to behavioral health services and coordination with employment, housing, and transportation supports.

### Strengthen and expand the HCBS workforce:

- Address insufficient payment rates for HCBS to promote access and improve workforce recruitment and retention;
- Update HCBS payment rates every two years through a transparent process with input from stakeholders;
- Ensure increases in HCBS rates are passed through to workers to improve compensation for direct care workers;
- Ensure rates are incorporated into managed care arrangements; and
- Update, develop, and adopt qualification standards and training opportunities for direct care workers and family caregivers.

Comply with a maintenance of effort requirement that prohibit them from reducing HCBS benefits or restricting eligibility. Beginning in FY 2029, states would have the flexibility to modify such standards if they comply with certain guardrails and receive federal approval.

States may receive an additional 2 percentage point FMAP increase for HCBS for one year if they establish certain models for the delivery of self-directed care. States could establish these programs either directly or by contracting with non-profit entities. Such programs would:

- Register qualified direct care workers and connect beneficiaries with providers;
- Recruit independent providers and train them and beneficiaries on self-directed care;
- Ensure safety and quality of care, such as by conducting background checks;
- Facilitate communication and coordination between the state and HCBS direct care workers, including for matters of public health;
- Support beneficiary hiring of independent providers of HCBS;
- Where applicable, support beneficiaries who wish to hire a caregiver who is a family member or a person with whom they have an existing relationship to provide care; and
- Ensure that program policies and procedures allow for cooperation with labor organizations where applicable in states and that programs remain neutral with regard to organizing.

To receive enhanced federal Medicaid funding for HCBS under this legislation, states must meet certain accountability and quality requirements. Specifically, they must:

- Adopt quality measures for HCBS;
- Designate a state ombudsman program for HCBS;
- Report outcomes to the federal government; and
- After seven years of receiving enhanced funding, demonstrate: increased availability of HCBS, reduced disparities in the utilization and availability of HCBS, evidence that a majority of direct care workers receive competitive wages and benefits, and at least 50 percent of long-term care spending on HCBS.

**Section 103. Reports; Technical Assistance; Other Administrative Requirements.** Requires the Secretary of the Department of Health and Human Services (HHS) to report on the implementation and outcomes of state HCBS infrastructure improvement programs to expand services and support the workforce. HHS will also provide technical assistance to states implementing these programs. The Secretary of HHS will also work with the Administrator of the Centers for Medicare & Medicaid Services (CMS) and the Secretary of Labor to issue recommendations to strengthen the HCBS workforce, including with respect to how CMS and state Medicaid programs can enforce and support the provision of competitive wages and benefits.

**Section 104. Quality Measurement and Improvement.** Requires HHS to develop and publish a recommended core set and supplemental set of HCBS quality measures for use by state Medicaid programs. In developing these measures, HHS would be required to collaborate with the Administrator of CMS, the Administrator of the Administration for Community Living, the Director of the Agency for Healthcare Research and Quality, and the Administrator of the Substance Abuse and Mental Health Services Administration in developing these measures, and would be required to receive input from stakeholders.

These measures would be updated annually. All state Medicaid programs would be required to adopt these measures, or alternative sets approved by HHS, regardless of whether they apply for the enhanced funding for HCBS. States would receive an 80 percent enhanced federal Medicaid match for administrative costs associated with these quality measures.

## **Title II – Other Provisions**

**Section 201. MACPAC Study and Report on Appendix K Emergency Home and Community-Based Services (HCBS) 1915(C) Waivers.** Requires MACPAC to conduct a study on flexibilities leveraged during the pandemic and innovative service delivery models to enhance HCBS access.

**Section 202. Making Permanent the State Option to Extend Protection Under Medicaid for Recipients of Home and Community-Based Services Against Spousal Impoverishment.** Makes Medicaid HCBS spousal impoverishment protections permanent.

**Section 203. Making Permanent Money Follows the Person.** Makes the Money Follows the Person Rebalancing Demonstration permanent.