

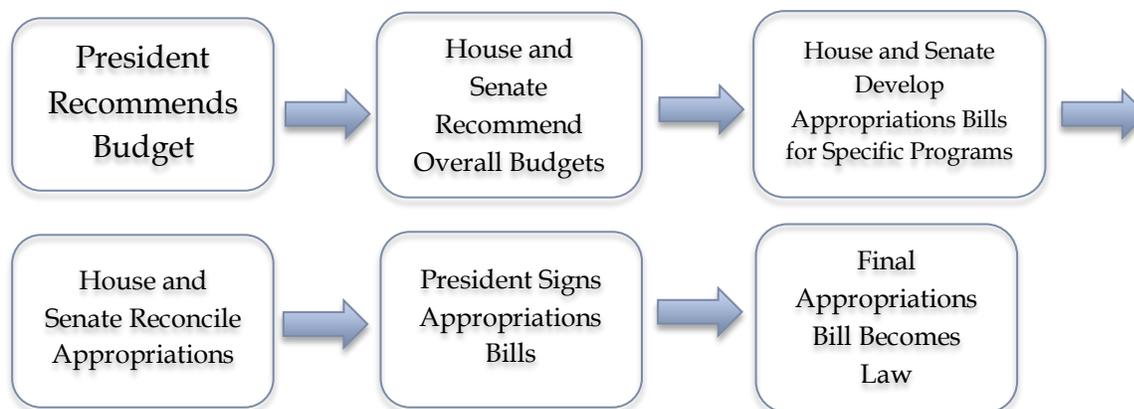
To: State Aging and Disability Directors
From: Damon Terzaghi and Adam Mosey
Re: President's Budget Proposal
Date: February 13, 2018

Yesterday, President Trump released his proposed budget for the upcoming fiscal year. These recommendations cover Federal Fiscal Year 2019 (FY19) which runs from October 1, 2018 through September 30, 2019. In general, the budget proposal continues to highlight the Administration's priorities of increased investment in military and border protections coupled with reduced federal expenditures on health and human services programs. While the budget will likely receive a lot of media attention and create significant headlines, it is important to remember that budget proposals are nonbinding recommendations and have not historically been enacted into law. Instead they are a method for making statements of the administration's goals.

NASUAD will be hosting an all-state call on Thursday, February 15th, at 3pm eastern time to review the budget and answer any questions you may have. Dial in information is:

Phone number: (888) 346-3659
 Passcode: 480317#

The President's budget is one step in a longer process of establishing overall government spending as well as setting the individual allocations for specific programs. There are several steps during the process of setting spending levels on Federal programs, depicted below:



While there are a number of individual actions that occur within each of these broader steps, this is a generalized way of understanding the process. Of note is that the President's budget takes a significant amount of time for development, so the bipartisan budget deal reached last week was not reflected in the bulk of the documents. Instead, the President released an addendum outlining how the additional funds would be used.

Notably, the addendum proposes to restore some recommended cuts to housing for older adults and people with disabilities as well as to increase funding for opioid related issues. The addendum also proposes to shift money around in the Federal budget in order to move some programs from "mandatory" to "discretionary" funding. Although there would be no change in the actual funding levels, those programs would be subject to the annual appropriations process as well as any limits on overall discretionary spending. The practical result is that overall expenditures would likely be reduced if the recommendations were enacted.

Some questions have arisen regarding the relationship between the budget release and last week's passage of a continuing resolution and bipartisan Congressional budget deal. While they are both part of the overall congressional budget and appropriations process, they are largely unrelated to each other except for the addendum discussed above. Last week's actions resulted in several key outcomes:

- An extension of government funding at the current funding levels (i.e. those established for FY2017) through March 23rd, known as a "Continuing Resolution" (CR);
- An agreement on overall spending levels for FY2018 and FY2019; and
- Inclusion of several other legislative items unrelated to appropriations including several provisions important to aging and disability programs including:
 - Permanently extending Medicare-Medicaid Special Needs Plans;
 - Extending supplemental funds for SHIP programs; and
 - Extending the CHIP program.

In contrast, yesterday's release is only the President's recommendations for FY2019 which will be considered by Congress. The final appropriation levels for specific programs will be set by Congress itself and are unlikely to include many of the program reductions and eliminations contained within the proposal. Notably, although the President's budget recommends against increasing spending on many health and human services programs, we believe that the final appropriations bill will ultimately

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adhere to the figures negotiated in concert between Republicans and Democrats in Congress. This is because final appropriations bills must clear the Senate with at 60-votes; therefore, a bipartisan package will be required as Republicans hold 51 seats in the Senate and will need at least nine Democrats to vote in favor of a package.

Key Items and Proposals in the President's Budget

Items in the budget generally fall into two major categories: recommended funding levels and proposed policy changes that would require legislation. In this budget, the Administration reiterates and expands upon many proposals and recommendations included in the FY2018 proposed budget, which was released in May 2017. There are a number of items relevant for aging and disability programs which we highlight by category.

Older Americans Act and ACL

The President's budget largely proposes level-funding or slight increases in many OAA programs, such as the Nutrition Services Programs, HCBS Supportive Services, and Family Caregiver Support Services. Similar to last year, the Administration proposes eliminating the Senior Community Service Employment Program (SCSEP).

Additionally, the Administration appears to propose restructuring funding for the State Health Insurance Assistance Programs (SHIPs). Under the President's budget proposal, funding that was previously approved by Congress in the recent continuing resolution and designated as "mandatory," would be moved to discretionary funding streams. There are two components of funding that this proposal impacts. The first is the base SHIP program, which was appropriated \$47 million in FY2017 and has continued to be funded at this level by the CRs in FY2018. The second component is additional funding that was originally allocated through the MIPPA legislation in 2008 and has been extended ever since, with last week's continuing resolution extending the funding through FY2018 and FY2019. The funding amounts are:

- \$13 million for SHIPs;
- \$7.5 million for Area Agencies on Aging;
- \$5 million for Aging and Disability Resource Centers; and
- \$12 million for the National Center for Benefits Outreach and Enrollment.

The budget would eliminate the base appropriations for SHIP and would then move the MIPPA funds into discretionary spending. This results in \$38 million of funding for the programs, which is a \$47 million reduction.

Lastly, the budget proposes to consolidate all Alzheimer's disease activities across ACL into a single grant program, funded at \$19 million.

Medicaid and Related Health Care Programs

The budget proposes a significant restructuring of the overall Medicaid program. The administration recommends that Congress pass the Graham-Cassidy proposal, which was debated in the summer of 2017, in order to repeal the Affordable Care Act's coverage expansion and replace it with a block grant provided to states. The legislation, as well as the budget proposal, would also transform Medicaid from an open-ended entitlement to a program where funding was limited based on the number of enrollees in several categories.¹

Notably, the budget also includes a reference to forthcoming guidance that will assign personal care providers with unique identifiers that would be listed on Medicaid claims. This proposal is in response to the Health and Human Services (HHS) Office of Inspector General recommendations regarding strategies to reduce fraud and abuse in home and community-based personal care programs. Based on the language used to describe this proposal, it appears that HHS will be issuing guidance and does not require a legislative change. The budget includes several other recommendations related to personal care, such as a process to automatically deny unusual payments as well as to extend state authority to investigate and prosecute instances of abuse or neglect.

The budget also proposes a new Medicaid demonstration to test strategies to lower prescription drug costs. Under this demonstration, five states would be allowed to participate and to determine their own drug formularies instead of using the current Medicaid drug rebate rules which require states to cover all products for manufacturers who sign a rebate agreement with the Centers for Medicare and Medicaid Services. The

¹ For more information and details on this legislation, visit: <http://www.nasuad.org/policy/federal-advocacy/advocacy-alerts/nasuad-analysis-graham-cassidy-aca-repeal-proposal>
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demonstration would include an appeals process for beneficiaries that require access to a drug not on the formulary. Separately, the budget proposes to eliminate cost-sharing for generic drugs for low-income Medicare beneficiaries in order to promote utilization of lower cost alternatives.

In order to address opioid-related issues, the Budget proposes a legislative change that would require state Medicaid programs to cover all medication assisted treatment options that are approved by the Food and Drug Administration. The budget also notes that CMS intends to work in partnership with stakeholders, states, and experts to issue guidance on the required Drug Utilization Review programs in order to reduce opioid-related issues. Lastly, the budget includes a proposal to test and expand a bundled payment demonstration for community-based medication assisted treatment, which would include Medicare reimbursement for methadone treatment.

The proposal includes some reductions to provider payments, which would include ensuring that the Affordable Care Act cuts to Medicaid Disproportionate Share Hospital (DSH) payments go into effect. These cuts have been repeatedly delayed by Congress and have not been enacted. The budget proposal also includes a provision that would limit Medicaid reimbursement to government-owned providers, including supplemental payments, to no more than the cost of providing services. The proposal would also expand the Medicare durable medical equipment (DME) competitive bidding program nationwide and would reimburse providers at the amount of their submitted bid instead of the "single payment amount." This would also impact Medicaid due to the requirement that Medicaid pay for DME at no more than the Medicare rate.

Lastly, the budget includes several other cost-containment items, such as limiting certain home equity exclusions and changing the way that lottery winnings are counted for Medicaid eligibility determinations. Of note, the lottery proposal was enacted into law as part of last week's budget deal.

Other Health and Human Services Programs

The budget proposes a number of reductions and eliminations, including eliminating the Low Income Heating Assistance Program, the Social Services Block Grant, the Community Services Block Grant, and the Community Development Block Grant. It also proposes eliminating the Agency for Healthcare Research and Quality, as well as

reducing the budget for the Office of the National Coordinator for Health Information Technology by approximately 33%. Also of note, the Office of Disability Employment Policy at the Department of Labor would be cut by approximately 30%.

Under a new proposal, households receiving \$90 or more per month in Supplemental Nutritional Assistance Program (SNAP) benefits would receive a package of food as a portion of their benefit and the remainder of their benefits would come through as funds to purchase food at grocery stores.

The budget contains an ambitious proposal to reform medical malpractice liability laws by capping non-economic damages at \$250,000 (increasing by inflation) as well as placing a three-year statute of limitations on claims. The proposal would also include other changes around evidence, attorney fee arrangements, and safe harbors for practitioners.

Lastly, the bill proposes changes to Social Security Disability programs, including increasing continuing disability reviews for children and adults, implementing new work incentives and income disregards for transition-age youth (ie: those who are 18 and transitioning from high school to adulthood and employment), and limiting retroactive Social Security Disability Insurance (SSDI) eligibility to 6 months prior to application. The budget also discusses creation of demonstration authority that encourages work, which may include mandatory participation for applicants and beneficiaries.

Conclusion

All told, these provisions and proposals would constitute significant policy changes and reduction of spending to a wide range of health and human services programs.

Although many of these initiatives may not ultimately be enacted into law, the budget also makes reference to forthcoming guidance and other policy changes that may have the impact of incremental, less drastic, changes to these programs.

NASUAD will continue to provide updates as Congress evaluates these proposed funding levels, as well as many of the policies included in this document. We will also continue to educate Congress on the value of aging, disability, and long-term services and supports programs at the state and national level.