

## **Session: Call to Action/Legislative Update**

National Conference on Special Needs Planning and Special Needs Trusts

Pooled Trust Intensive

Wednesday, October 16, 2024

Presented by: Kerry Tedford-Coles (moderator), David Goldfarb and Roxanne Chang.

Overview: Staying current with legislative, regulatory and policy updates is challenging; not doing so can be costly. This session will review important legislative, regulatory, and policy updates trustees need to know, and provide an overview of proposed changes and areas where advocacy is needed.

### **1. Key Changes Since Last Conference**

- **Social Security Administration**

- **ISM Calculations**

Final Rule Effective 9/30/2024

<https://www.federalregister.gov/documents/2024/03/27/2024-06464/omitting-food-from-in-kind-support-and-maintenance-calculations>

- **Definition of a Public Assistance (PA) Household Expanded**

Final Rule Effective 9/30/2024

<https://www.federalregister.gov/documents/2024/04/19/2024-08364/expand-the-definition-of-a-public-assistance-household>

- **Overpayments**

<https://blog.ssa.gov/social-security-announces-four-key-updates-to-address-improper-payments/>

- **Medicaid**

- **Ensuring Access to Medicaid Services**

Final Rule Effective 7/9/2024

<https://www.federalregister.gov/documents/2024/05/10/2024-08363/medicaid-program-ensuring-access-to-medicaid-services>

- **Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes**

Final Rule Effective 6/3/2024

<https://www.federalregister.gov/documents/2024/04/02/2024-06566/medicaid-program-streamlining-the-medicaid-childrens-health-insurance-program-and-basic-health>

- **Guidelines for Achieving Compliance with Medicaid and CHIP Eligibility Renewal Timeliness Requirements Following the Medicaid and CHIP Unwinding Period**

<https://www.medicaid.gov/federal-policy/guidance/downloads/cib08292024.pdf>

- **Other:**

- **HOTMA:** HUD Notice Implementation of HOTMA regulations extended to 7/1/2025:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2024-09hsgn.pdf>

- **Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting**

Final Rule Effective 6/21/2024

<https://www.federalregister.gov/documents/2024/05/10/2024-08273/medicare-and-medicaid-programs-minimum-staffing-standards-for-long-term-care-facilities-and-medicaid>

- **Discrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance**

Final Rule Effective 7/8/2024

<https://www.federalregister.gov/documents/2024/05/09/2024-09237/nondiscrimination-on-the-basis-of-disability-in-programs-or-activities-receiving-federal-financial>

- **Adult Protective Services Functions and Grants Programs**

Final Rule Effective Date: 5/8/2028

<https://www.federalregister.gov/documents/2024/05/08/2024-07654/adult-protective-services-functions-and-grants-programs>

- **SCOTUS Decisions re: Administrative Procedures Act (APA)**

- *Loper Bright Enterprises v. Raimondo* (June 28, 2024)

[https://www.supremecourt.gov/opinions/23pdf/22-451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf)

- *Corner Post, Inc. v. Board of Governors of the Federal Reserve System* (July 1, 2024)

[https://www.supremecourt.gov/opinions/23pdf/22-1008\\_1b82.pdf](https://www.supremecourt.gov/opinions/23pdf/22-1008_1b82.pdf)

## 2. **Proposed Legislation**

- **Better Care Better Jobs Act (S. 100/H.R. 547)**

- One-pager:

[https://www.aging.senate.gov/imo/media/doc/better\\_care\\_better\\_jobs\\_one\\_pager.pdf](https://www.aging.senate.gov/imo/media/doc/better_care_better_jobs_one_pager.pdf)

- Text: <https://www.congress.gov/bill/118th-congress/senate-bill/100/text?s=1&r=2&q=%7B%22search%22%3A%5B%22Better+Care+Better+Jobs+Act%22%5D%7D>

- **HCBS Access Act (S. 762/H.R. 1493)**

- Press release:

<https://debbiedingell.house.gov/news/documentsingle.aspx?DocumentID=3959#:~:text=The%20HCBS%20Access%20Act%20is,home%20care%20and%20institutional%20care.>

- Text: <https://www.congress.gov/bill/118th-congress/house-bill/1493/text?s=2&r=1&q=%7B%22search%22%3A%5B%22HCBS+Access+Act%22%5D%7D>

- **HCBS Relief Act (S.3118)**
  - One-pager: [https://www.casey.senate.gov/imo/media/doc/the\\_home\\_and\\_community-based\\_services\\_hcbs\\_relief\\_act\\_of\\_2023.pdf](https://www.casey.senate.gov/imo/media/doc/the_home_and_community-based_services_hcbs_relief_act_of_2023.pdf)
  - Text: <https://www.congress.gov/bill/118th-congress/senate-bill/3118>
- **SSI Savings Penalty Elimination Act (S.2767)**
  - Press release: <https://www.brown.senate.gov/newsroom/press/release/brown-cassidy-announce-first-bipartisan-bicameral-bill-in-decades-to-update-supplemental-security-income-program>
  - Text: <https://www.congress.gov/bill/118th-congress/senate-bill/2767/titles>
- **Work Without Worry Act (S.2196)**
  - Press release: <https://www.finance.senate.gov/chairmans-news/wyden-and-cassidy-introduce-legislation-to-allow-americans-with-disabilities-to-work-without-worry#:~:text=The%20Work%20Without%20Worry%20Act%20promotes%20financial%20security%20by%20ensuring,that%20began%20before%20age%2022.>
  - Text: <https://www.congress.gov/bill/118th-congress/senate-bill/2196?q=%7B%22search%22%3A%5B%22Work+Without+Worry%22%5D%7D&s=3&r=1>
- **Eliminating the Marriage Penalty in SSI (EMPSA) Act (H.R. 7055)**
  - Press Release: <https://valadao.house.gov/news/documentsingle.aspx?DocumentID=1026>
  - Text: <https://www.congress.gov/bill/118th-congress/house-bill/7055?s=1&r=2>
- **Ensuring Access to Medicaid Buy-In Programs Act of 2024 (H.R. 8107)**
  - Press Release: <https://ciscomani.house.gov/media/press-releases/ciscomani-gluesenkamp-perez-introduce-new-effort-ensure-medicaid-benefits>
  - Text: <https://www.congress.gov/bill/118th-congress/house-bill/8107>

- **To amend title XIX of the Social Security Act to add a Medicaid State plan requirement with respect to the determination of residency of certain individuals serving in the Armed Forces. (H.R. 8108)**
  - Text: <https://www.congress.gov/bill/118th-congress/house-bill/8108>
- **ABLE Awareness Act (S.4910)**
  - Press Release: [https://www.aging.senate.gov/imo/media/doc/able\\_awareness\\_act1.pdf](https://www.aging.senate.gov/imo/media/doc/able_awareness_act1.pdf)
  - Text: <https://www.congress.gov/bill/118th-congress/senate-bill/4910/titles>
- **ENABLE Act (S.4539/H.R.9614)**
  - Press Release: <https://www.casey.senate.gov/news/releases/casey-schmitt-introduce-bipartisan-bill-to-protect-savings-accounts-for-people-with-disabilities>
  - Text: <https://www.congress.gov/bill/118th-congress/senate-bill/4539>
- **Compassionate Care Act (S.4949)**
  - Press Release: <https://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-and-barragan-introduce-bicameral-legislation-to-improve-end-of-life-care>
  - Text: <https://www.congress.gov/bill/118th-congress/senate-bill/4949>

### 3. **Looking Ahead/Advocacy Opportunities**

- DAC/SSI "Childhood Disability Benefit Fairness Act"

Special Needs Alliance One-Pager

<https://www.specialneedsalliance.org/wp-content/uploads/2022/03/Childhood-Disability-Fairness-Act.pdf>

- ABLE account and Representative Payees – POMS GN 00603.041 Implementation Issues?