Memorandum

To: **State Aging and Disability Directors**

From: **ADvancing States**

Re: **Debt Ceiling Bill**

Date: **June 6, 2023**

Background

Following months of negotiations, on Sunday, May 28, 2023, Congress released the text of a compromise bill to raise the nation's debt ceiling. The debt ceiling authorizes the United States Government to borrow money to meet its existing legal obligations such as Social Security and Medicare benefits, pay for military members, interest on the national debt, among others. The debt limit must be raised by Congress periodically and currently must be raised by June 5 to avoid a default on the nation's debt.

The compromise debt ceiling bill, called the Fiscal Responsibility Act of 2023, passed the U.S. House of Representatives on May 31 on a 314-117 vote. The bill was passed by the U.S. Senate last night and is on its way to President Biden to be signed into law.

The full bill text is available at this link: https://www.congress.gov/118/bills/hr3746/BILLS-118hr3746ih.xml

Overall, the bill, would rescind certain funding appropriated throughout COVID-19 pandemic; limit discretionary spending; raise the debt limit for two years; change work provisions for SNAP and make adjustments to the TANF program; and include various incentives for Congress to pass a full budget rather than a continuing resolution (CR). This memorandum focuses on provisions of the bill most likely to impact aging, disability, and Medicaid LTSS programs.

Key Takeaways

- The bill would rescind (or "clawback") approximately $28 billion in unspent COVID-19 related unobligated funding but does **not** include any rescissions of unobligated American Rescue Plan Act (ARPA) funds for Older Americans Act (OAA) or Medicaid HCBS programs.
- The bill does **not** add work requirements for Medicaid.
- The bill would limit *discretionary* spending (i.e., OAA, other social service programs) over the next two fiscal years but would not mandate spending limits for *mandatory* spending (i.e., Medicare, Medicaid).

- The caps on base discretionary funding for FY 2024 would total $1.590 trillion ($886 billion for defense and $704 billion for nondefense.
    - The caps on base discretionary funding in FY 2025 would equal $1.606 trillion ($895 billion for defense and $711 billion for nondefense).
- The bill would suspend the debt ceiling for two years until January 1, 2025.
- The bill adds new administrative requirements for federal agency rulemaking that would impact direct spending.

Provisions of Debt Ceiling Bill

<u>**Limiting Federal Spending**</u>

Discretionary Spending Limits

- The bill would set different caps for defense and non-defense discretionary programs, similar to what was done under the Budget Control Act of 2011. Also, in line with the Budget Control Act, discretionary funding that exceeds the statutory limit for the fiscal year would be subject to *sequestration*. Sequestration refers to automatic spending cuts that happen by the withdrawal of funding for certain government programs.
- The bill would set the following limits for discretionary spending for federal fiscal years 2024 and 2025:
    - **Non-defense discretionary**: FY 2024: $703.7 billion, approximately nine percent less than FY2023 enacted levels. The bill would allow for 1 percent growth from FY2024-2025, which amounts to $710.7 billion for FY2025.
    - **Defense discretionary**: FY2024 $886.3 billion, and $895.2 billion in FY2025.
- The bill would also set topline spending goals for Congress for FY 2026-2029, which <u>would not</u> be enforced by mandatory sequestration as the FY2024-25 goals are.
- The spending limits can also be adjusted for certain spending categories including health care fraud and abuse, disaster funding under the Stafford Act, continuing disability reviews and redeterminations, and reemployment services and eligibility assessments.

Spending Limits During CRs

- The bill would incentivize Congress to pass 12 appropriations bills rather than a continuing resolution (CR) as has become the norm. Specifically, the bill would reduce discretionary spending limits for FY2024 by one percent less than the FY2023 base funding if a CR is in effect on or after January 1, 2024. Similar requirements would apply for FY2025 if a CR is in effect on or after January 1, 2025.

  - The reductions in spending authority would be reversed if Congress successfully passes all 12 appropriations bills in the new year.

VA Toxic Exposure Fund

- The bill provides $20.3 billion starting in FY2024 and $24.5 billion in FY2024 to fund veterans' health care benefits relating to exposure to environmental hazards.

Budget Enforcement

- These measures would direct the chairs of the House and Senate Budget committees to submit allocations to the Congressional Record—2024 for the House, and 2024 and 2025 for the Senate—unless a separate budget resolution was adopted.
- The bill would also limit advance appropriations, except for $28.8 billion in FY2025, and additional exceptions for certain Department of Veterans Affairs and Indian Health accounts.

Rescission of Unobligated Funds

- The Fiscal Responsibility Act of 2023 contains provisions that would rescind (or withdraw) prior funding appropriated throughout the course of the COVID-19 pandemic. Many of these rescissions would not directly impact aging & disability programs; others would. Rescissions would impact specific sections of the following public laws:
  - Public Law 116-123, Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020
  - Public Law 116-127, Families First Coronavirus Response Act ("Families First Act")
  - Public Law 116-136, Coronavirus Aid, Relief, and Economic Security Act ("CARES Act")
  - Public Law 116-139, Paycheck Protection Program and Health Care Enhancement Act
  - Public Law 116-260, Consolidated Appropriations Act, 2021
  - Public Law 117-2, American Rescue Plan Act of 2021
  - Public Law 117-169, Inflation Reduction Act

Rescissions

- Based on initial analyses by ADvancing States staff: the bill would not rescind Older Americans Act (OAA) funding, including those funds allocated by the American Rescue Plan Act (ARPA). Similarly, section 9817 Medicaid HCBS provisions of ARPA also do not appear to be impacted.

Additionally, Adult Protective Services (APS) funding included in ARPA and the Consolidated Appropriations Act of 2021 do not appear to be affected.

- There are a number of programs that received additional appropriations throughout the pandemic that would be subject to rescissions and are germane to the aging and disability networks. In aggregate, we *expect that the overall impact of rescissions for our networks to be relatively marginal*—though without access to specific funding amounts remaining it is difficult to assess those impacts definitively. Below, we have highlighted programs that would be subject to rescission that may be of interest to state aging & disability agencies:
    - Section 2(11): Would rescind all unobligated CARES Act funds for CMS for program management that specifically were to be used for survey & certification for nursing homes.
    - Section 2(18): Would rescind all unobligated balances of funds made available by section 2501 of ARPA, which supported the public health workforce. Initial ADvancing States analyses led us to believe that that this rescission may have impacted the $150 million in funding distributed by ACL, with CDC support, for the aging & disability networks. However, after confirming with ACL, we have determined since that funding was already obligated by ACL, then those dollars – including the $50 million allocated to state aging agencies – will **not** be affected.
    - Section 2(35): Would rescind all unobligated ARPA funds for infection control support to SNFs through contracts with quality improvement organizations.
    - Section 16: Would rescind unobligated ARPA funds for the Corporation for National and Community Service (CNCS) and the National Service Trust. Specifically, this may impact the National Senior Service Corps, which was allocated $30 million in funding through ARPA.
    - Section 27: Would rescind unobligated CARES Act funds for the section 811 housing for persons with disabilities program.
        - A document released from the White House estimates that there is only $1.2 million of the $15 million allocated remaining unobligated for this program.
    - Section 29: Would rescind unobligated CARES Act funds for the section 202 housing for older adults program.
- The bill would also rescind $1.39 billion of the $80 billion provided to the IRS in the Inflation Reduction Act last August.

Administrative Pay-Go

- The bill would codify pay-go requirements for federal agency actions that would increase mandatory spending. Agency heads would be required to submit a written notice to the director of the Office of Management and Budget (OMB) that an action would increase mandatory spending and develop a proposal to reduce direct spending equal to or greater than the amount requested to increase spending by. This would only apply for actions projected to cost greater than $1 billion over 10 years or $100 million in one year.
- The OMB director may waive the requirement if deemed necessary for effective program delivery and all waivers are to be published in the Federal Register. This requirement will expire on December 31, 2024.

Temporary Assistance for Needy Families (TANF)

Changes to TANF

- Updates the base year used to determine a state's required work participation rate from 2005 to 2015. (Effective 10/1/2025)
- Prohibits states from counting in their work participation rate people who receive less than $35 per month in assistance from TANF. (Effective 10/1/2025)

TANF Pilot Program

- Requires U.S. Department of Health and Human Services (HHS) to administer a TANF Pilot Program, in which up to five states may participate.
- The pilot would operate for six years, with the first year to establish performance benchmarks for work and family outcomes and the remaining five years to measure performance.
- Benchmarks include:
  - Percentage of work-eligible individuals under the state program who are in unsubsidized employment during the 2nd quarter after exiting the program;
  - Level of earnings of such individuals in the 2nd and 4th quarters after exiting the program; and
  - Other indicators of family stability and well-being as established by the Secretary of HHS.
- A state participating in the pilot must have a system in place to reduce the assistance amount provided to a family if an individual refuse, without good cause, to engage in activities required by the state.

Supplemental Nutrition Assistance Program

Expanded Work Requirements for Supplemental Nutrition Assistance Program (SNAP)

- Applies work requirements to:
  - In fiscal year (FY) 2024, adults ages 50-52
  - In FY 2025, to adults up to age 54
- Adds new exemptions from work requirements include:
  - People experiencing homelessness
  - Veterans
  - People ages 18-24 who were in foster care when they turned 18.
- Reduces from 12% to 8% the number of monthly exceptions a state can use for people who would otherwise be subject to work requirements and prohibits states from carrying over unused exemptions for more than one year.

Raising the Debt Ceiling

Debt Limit

- Suspends the debt limit through January 1, 2025.
- On January 2, 2025, the debt limit would be raised by the amount of obligations incurred up to that point.

Conclusion

The bill is less far reaching than the Budget Control Act of 2011, which applied to Medicare and discretionary funding as well as effecting 10-years instead of two. However, the Fiscal Responsibility Act would have significant ramifications for federal spending over the next two fiscal years. The federal spending limits, if enacted, may halt the recent history of modest funding increases allocated to aging & disability programs, such as the OAA. In the past, Congress has also made legislative revisions to avoid political fallout from painful “sequestration” spending cuts following the passage of the Budget Control Act, so it remains a possibility that similar action may take place in the following months and years. ADvancing States staff are continuing to analyze the various provisions of the bill for projected impacts for state agencies and will keep states informed of any additional takeaways.