



# NATIONAL ASSOCIATION OF STATE HEAD INJURY ADMINISTRATORS

## Fiscal Year 2023 Appropriations Summary

December 2022

On Friday, Dec. 23, 2022, President Biden signed H.R. 7776, the “James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023,” which authorizes fiscal year 2023 appropriations for Department of Defense programs and military construction, Department of Energy national security programs, and Intelligence programs; specifies a military basic pay increase and other authorities relating to the U.S. Armed Forces; authorizes appropriations for the Department of State, Department of Homeland Security, Maritime Administration, U.S. Coast Guard, and the Intelligence Community; and other matters P.L. 117-263). Provisions include:

- 1) *Traumatic Brain Injury (TBI)* – Provisions were added to standardize how the Navy and the Air Force diagnose TBI and posttraumatic stress disorder (PTSD) so that their processes are consistent with other military branches. Senator Joni Ernst (R-IA) pushed for this provision in keeping with the 2017 GAO report that found, due to the military services having inconsistent policies evaluating TBIs and PTSD, some servicemembers who are separated for misconduct may not receive the proper evaluation and be given an “other than honorable” discharge, making them potentially ineligible for certain veterans’ health benefits.

The bill also established the Warfighter Brain Health Initiative (WBH), a joint effort between the operational and medical communities, to standardize and align blast and TBI and programs across the Department of Defense to better address the brain health needs of Service members, their families, line leaders, commanders, and their communities at large.

- 2) The *21<sup>st</sup> Century Assistive Technology Act* -- Of particular interest to disability advocates is the reauthorization of the Assistive Technology (AT) Act, which was included in the NDAA. Originally enacted in 1998, the *Assistive Technology (AT) Act* has increased the availability of technology that enables people with disabilities to live, work, and participate in their communities more independently. The *AT Act* had not been reauthorized since 2004, although the *Workforce Innovation and Opportunity Act (WIOA) of 2014* transferred the administration of the program from the U.S. Department of Education to the U.S. Department of Health and Human Services’ (HHS) Administration for Community Living (ACL).

### **Congress Passes Year-long Appropriations Bill**

President Biden signed into law H.R. 4373, the *Further Additional Continuing Appropriations and Extensions Act, 2023*, which provides fiscal year (FY) 2023 appropriations to federal agencies through December 30, 2022, as the previous CR was set to expire at midnight on Dec. 23. This is the third continuing resolution funding federal government beginning of the new fiscal year Oct. 1. Congress passed the omnibus spending bill, the *Consolidated Appropriations Act, 2023*, which consists of all 12 fiscal year 2023 appropriations bills, including departments of Education, Health and Human Services, Labor and Justice. The President is expected to sign the nearly \$1.7 trillion appropriations bill to fund federal government through September 30, 2023.

Among the many provisions relating to healthcare, the omnibus appropriations bill will prevent the Statutory Pay-As-You-Go (PAYGO) Medicare 4% sequester for two years; extend for two years critical rural Medicare programs, telehealth flexibilities and the Acute Hospital Care at Home program; allow States to begin processing Medicaid redeterminations April 1, 2023, while phasing down the COVID-19 public health emergency (PHE) related enhanced Federal Medical Assistance Percentage (FMAP); require State Medicaid programs to provide 12 months of continuous coverage for children; extends Money Follows the Person Demonstration Program; and

extends Spousal Impoverishment Protections with regard to home and community-based services (HCBS). Read further for more information.

## Appropriation Highlights

### U.S. Department of Education

The bill increased funding for the U.S. Department of Education by \$3.2 billion with both the Title I program and Individuals with Education Act (IDEA) program receiving increases. (Title I of the Elementary and Secondary Education Act, as amended by *Every Student Succeeds Act* (ESEA), provides financial assistance to local educational agencies for children from low-income families to help ensure that all children meet challenging State academic standards.) The bill provides an increase of \$2.4 billion for a total of \$45 billion for K-12 Education, including Individuals with Disabilities Education Act programs. Within this amount, the bill provides:

- + \$850 million for a total of \$18.4 billion for Title I Grants to Local Educational Agencies.
- + \$934 million for Special Education for a total of \$15.5 billion, which includes:
  - + \$850 million for IDEA Part B (ages 3-22) Grants to States for a total of \$14.2 billion; and
  - + \$44 million for Grants for Infants and Families, a total of \$540 million;
- + \$230.586 million for Vocational Rehabilitation State grants for a total of \$3,949,707 billion; and
- + \$1 million for P&A Individual Rights (PAIR) program for a total of \$20,150 million.

### U.S. Department of Health and Human Services

The bill provided a total of \$120.7 billion for HHS, an increase of \$9.9 billion above the fiscal year 2022 enacted level. Of this amount, the bill includes:

#### Administration for Community Living (ACL)

The bill funds ACL at \$2.5 billion, an increase of \$220 million above the fiscal year 2022 enacted level. This amount includes:

- **+ \$1.3 million for the Traumatic Brain Injury program, for a total of \$13.118 million.**
- + \$2 million for the Lifespan Respite Care Program for a total of \$10 million.
- + 11 million for the National Family Caregiver Support Program, a total of \$205 million.
- + \$2.5 million for the National Institute on Disability and Rehabilitation Research (NIDILRR) for a total of \$119 million.
- + \$2 million for ACL to implement Direct Care Workforce Demonstration project to identify and reduce barriers to entry for a diverse and high-quality direct care workforce, and to explore new strategies for the recruitment, retention, and advancement opportunities needed to attract or retain direct care workers.
- + \$400,000. for the Family Caregiving Advisory Council to monitor the National Family Caregiver Strategy.
- + \$11.426 million for Home and Community-Based Services for a total of \$410 million.
- + \$500,000 for Disability and Resources Centers for a total of \$8.619 million.
- + \$5 million for Research, Demonstration, and Evaluation Center for the Aging Network, established by the 2020 reauthorization of the Older Americans Act (OAA). This is first time funding.

#### Agency for the Healthcare Research and Quality (AHRQ)

- \$228.6 million for AHRQ, which includes \$10 million set aside for Long COVID research; and includes \$750,000 for AHRQ to work with stakeholders to develop a research agenda and report for dissemination on health promotion, disease prevention, and intervention strategies for people with disabilities.

#### Advanced Research Projects Agency for Health (ARPA-H)

- The bill includes \$1.5 billion, an increase of \$500 million above the fiscal year 2022 enacted level, for ARPA-H to accelerate the pace of scientific breakthroughs for diseases such as ALS, Alzheimer's disease, diabetes, and cancer. (Funding is from NIH base budget.)

#### Centers for Medicare & Medicaid Services (CMS)

The bill provides a total of \$4.1 billion for CMS administrative expenses, an increase of \$100 million above the fiscal year 2022 enacted level. There are a number of Medicaid provisions that were included.

- Five-year extension of Medicaid Money Follows the Person Program at \$450 million per year through September 30, 2027.
- Five-year extension of HCBS Spousal impoverishment protections through Sept 30, 2027.
- A new policy requiring that all States must cover children under age 19 enrolled in Medicaid and Children's Health Insurance Program (CHIP) for twelve months, regardless of changes in circumstances. The bill includes a new policy requiring that all States must cover children for 12 months in Medicaid and CHIP regardless of changes in circumstances. There are 17 States that do neither: Arizona, Connecticut, DC, Georgia, Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia and Wisconsin. Six States only cover children in CHIP continuously for 12 months (Arkansas, Delaware, Nevada, Tennessee, Texas, Utah).

#### Centers for Disease Control and Prevention (CDC)

The bill includes \$9.2 billion for CDC, an increase of \$760 million, with a particular emphasis on fundamental public health activities, as well as public health infrastructure and capacity. More than half of the increase amount in the bill is directed to significant investments in our nation's public health infrastructure. The omnibus requires Senate confirmation of the Director of the CDC beginning on Jan. 20, 2025, establishes specific functions of the Director and requires an agency-wide strategic plan to be developed every four years that describes the CDC's priorities and objectives.

- + \$1 million to collect data on the connection between brain injuries and sexual violence, the purpose of the *Protecting Survivors from Brain Injury Act*.
- **+ \$1 million for the National Concussion Surveillance System for a total of \$8.25 million for the CDC TBI Program.** (The surveillance system received \$500,000 in FY 2022, for a total of \$1,5 million for the surveillance system.)
- + \$2 million for the injury control and research centers for a total \$11 million.
- + \$1 million for the elderly falls program for a total of \$3.05 million.
- + \$1 million for injury prevention activities for a total of \$29.95 million.

#### Health Resources and Services Administration (HRSA)

The bill appropriated \$9.7 billion, an increase of \$852 million, to HRSA to develop the workforce, improve maternal and child health outcomes and support rural health access. This includes:

- + \$87 million for the Maternal and Child Health Block Grant for a total of \$823 million.
- + \$21 million for a total of \$352 million for Rural Health Programs, including \$145 million, an increase of \$10 million, for the Rural Communities Opioid Response Program.
- + \$110 million above the fiscal year 2022 enacted level for a total of \$1.9 billion for the Health Centers program, including \$55 million, an increase of \$25 million, to support school-based health centers.

#### National Institutes of Health (NIH)

The bill provides \$47.5 billion for the National Institutes of Health (NIH), which includes a 5.6 percent increase, to advance science and speed the development new therapies, diagnostics and preventive measures. Research on Alzheimer's disease will receive a \$226 million boost, to \$3.7 billion. Other research areas include increases include health disparities, HIV/AIDs research, opioids research, and:

- + \$60 million for the Brain Research through Advancing Innovative Neurotechnologies (BRAIN) Initiative for a total of \$680 million.
- \$12.5 million to continue firearm injury and mortality prevention research.

#### Substance Abuse and Mental Health Services Administration (SAMHSA)

The provides \$7.5 billion, an increase of \$970 million, to SAMHSA to invest in several mental health programs to expand access to services.

- + \$707 million for a total of \$2.8 billion for mental health, including \$385 million for the Certified Community Behavioral Health Centers.

- + \$390 million for a total of \$502 million to support the new 988 number and Behavioral Health Crisis Services.
- + \$10 million for a total of \$20 million to create mobile behavioral health crisis response teams.
- +\$203 million for substance use services for a total of \$4.2 billion, including continued funding for opioid prevention and treatment, recovery, and tribal-focused treatment efforts. This includes \$2 billion, an increase of \$100 million above the fiscal year 2022 enacted level, for the Substance Abuse Prevention and Treatment Block Grant (SABG); \$1.575 billion for State Opioid Response Grants, an increase of \$50 million over the fiscal year 2022 enacted level.
  - +\$19 million for substance abuse prevention services for a total of \$237 million.

### **U.S. Department of Justice (DOJ)**

The bill provides \$38.7 billion overall for the Department of Justice, which is \$3.5 billion above the fiscal year 2022 enacted level. This includes:

- + \$40 million for a total of \$400 million for grant programs within the Office on Juvenile Justice and Delinquency Prevention.
- + \$506.4 million for a total of \$4.4 billion for grants to State and Local Law Enforcement, of which:
  - \$700 million for Violence Against Women Act (VAWA) prevention and prosecution programs.
  - \$95 million for grants to improve the NICS firearms background check system.
  - \$50 million for the Community Violence Intervention and Prevention Initiative.

Funding is provided for several new OVW programs authorized in the Violence Against Women Act (VAWA) Reauthorization Act of 2022, including a restorative justice program and the Abby Honold Act, which will provide trauma-informed training on investigative techniques to law enforcement agencies in order to provide better services to survivors of sexual assault, domestic violence, dating violence, and stalking. The bill also includes \$10 million for a new program to incentivize States to adopt laws that protect the rights of sexual assault survivors.

Funding is also included for de-escalation, implicit bias, and duty to intervene training (\$16 million), crisis intervention teams in order to embed mental and behavioral health services with law enforcement (\$11 million), and accreditation of law enforcement agencies (\$9 million). The bill also provides \$10 million to train law enforcement for properly responding to situations when individuals are mentally ill or mentally disabled.

### **U.S. Department of Labor (DOL)**

The bill provides a total of \$13.8 billion in discretionary appropriations for DOL, an increase of \$652 million above the fiscal year 2022 enacted level. This includes:

- +\$545 million for a total of \$10.5 billion for the Employment and Training Administration, which includes:
  - \$2.9 billion for Workforce Innovation and Opportunity Act State Grants, an increase of \$50 million above the fiscal year 2022 enacted level;
  - \$115 million for the Reintegration of Ex-Offenders, an increase of \$13 million above the fiscal year 2022 enacted level.

### **U.S. Department of Veterans Affairs (VA)**

The bill appropriated \$134.7 billion, an increase of \$22.5 billion above FY 2022 to the Department of Veterans Affairs (VA). \$118.7 billion was appropriated for VA medical care including:

- \$13.9 billion for mental health;
- \$5.2 billion to sustain and increase telehealth capacity, including in rural, highly rural, and underserved communities;
- \$12.1 billion for veterans' long-term care;
- \$2.7 billion for veteran homelessness prevention;
- \$1.9 billion for the Caregivers Program;
- \$840.5 million for women's health; and
- \$337 million for rural health.

Other legislative provisions pertaining to VA included in the bill:

- *Building Solutions for Veterans Experiencing Homelessness Act of 2021* to permanently cut red tape on capital grants provided by VA for organizations assisting veterans experiencing homelessness. It will ensure organizations have many of the necessary flexibilities to continue supporting veterans and avoid derailing their progress toward effectively ending veterans' homelessness.
- *Rural Veterans Travel Enhancement Act of 2021* to establish a pilot program to provide travel reimbursements for low-income veterans in advance of medical appointments and require the U.S. Government Accountability Office to conduct assessments on how to best support veterans traveling long distances to access essential care.
- *Department of Veterans Affairs Information Technology Reform Act of 2021* to increase transparency, accountability, and improve performance of information technology systems and projects at VA.

## Other Provisions

**ABLE Age Adjustment Act** -- The *Consolidated Appropriations Act, 2023* included the provisions of the *ABLE Age Adjustment Act*, which extends access to people whose disability occurred between 26 and 46 years of age. The *Achieving a Better Life Experience (ABLE) Act of 2014* allowed States to create tax-advantaged savings programs for people with disabilities, including people living with a brain injury, whose disability occurred prior to age 26 to help pay for qualified disability expenses without jeopardizing certain federal benefits, such Supplemental Security Income (SSI) or Medicaid. The *ABLE Age Adjustment Act* provisions expand the age of onset from age 26 to 46 to be eligible to open an ABLE savings account.

**Telehealth** -- The legislation includes provisions to extend and expand telehealth flexibilities through Dec. 31, 2024. Under current law, many of these flexibilities were set to expire 151 days after the end of the COVID-19 public health emergency (PHE). These include:

- Expanding originating site to include any site at which the patient is located, including the patient's home;
- Expanding eligible practitioners to furnish telehealth services to include occupational therapist, physical therapist, speech-language pathologist and audiologist;
- Extending the ability for federally qualified health centers (FQHCs) and rural health clinics (RHCs) to furnish telehealth services;
- Delaying the six-month in-person requirement for mental health services furnished through telehealth, including the in-person requirements for FQHCs and RHCs;
- Extending coverage and payment for audio-only telehealth services; and
- Extending the ability to use telehealth services to meet the face-to-face recertification requirement for hospice care.

In addition, the Department of Health and Human Services (HHS) Secretary will be required to submit a report to Congress on utilization of services (interim report in October 2024; final report in April 2026). Additionally, the omnibus bill will extend safe harbor exceptions for telehealth services in high-deductible health plans.

**Medicaid Redeterminations** -- Under the *Families First Coronavirus Response Act*, enacted in 2020, each State was eligible for a 6.2 percentage point increase in its Federal Medical Assistance Percentage (FMAP) if it met several conditions. Among these was the institution of a continuous enrollment policy for Medicaid beneficiaries. Under maintenance of enrollment (MOE) agreements, States could not remove individuals from Medicaid rolls until the end of the COVID-19 public health emergency (PHE). The omnibus spending bill lets States start Medicaid redeterminations (eligibility checks) at the beginning of April, even if the PHE is still in effect. Currently, the PHE is set to end on Jan. 11, 2023, but is expected to be extended until mid-April 2023.

**Medicare Physician Payment Reductions** -- The omnibus spending bill reduced the anticipated physician fee schedule cut from 4.5% to 2% for 2023 and approximately 3% for 2024.

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