

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 17, 2023

The Honorable Jason Ellsworth
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Matt Regier
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Ellsworth and Speaker Regier:

We share a commitment to investing in Montana's senior and long-term care continuum and ensuring that Medicaid members across the state have access to the services that best meet their needs. My administration was proud to propose historic Medicaid provider rate increases for Montana's nursing homes in my Budget for Montana Families, representing an important commitment of new resources for entities that serve one of Montana's most vulnerable populations. My proposed budget recognized the importance of stabilizing and supporting our nursing home industry.

As you know, the Legislature built off my proposed provider rate increases and elected to approve additional rate increases for senior and long-term care services in addition to creating a new funding mechanism for assisted living facilities under Senate Bill 296. While I look forward to signing into law an overdue increase in rates for all of Montana's Medicaid providers, I have significant concerns that Senate Bill 296 is misguided policy brought by a stakeholder organization that has highlighted potential short-term savings but neglected to understand the legislation's significant, long-term fiscal impact and burden on taxpayers.

Senate Bill 296 establishes a cumbersome process for setting room and board rates for assisted living facilities which would lead to a multitude of different room and board rates. It also unnecessarily directs the Department of Public Health and Human Services (DPHHS) to seek a state plan amendment to make assisted living facility services currently covered under Big Sky Waiver (BSW) a coverable service under Community First Choice (CFC). DPHHS already possesses authority to test this approach, which is an inefficient and obtuse way to solve for years of inadequate Medicaid provider rates, which the Legislature and I have now addressed. Not only is there no reliable method of estimating the cost associated with making assisted living

a CFC service, which could lead to major, unplanned financial obligations to the state, but also there is no provision enabling DPHHS to ensure that recipients have not exploited the eligibility system by transferring their assets. In addition to creating a new entitlement program, which DPHHS could not fully account for in its fiscal note, Senate Bill 296 would restrict DPHHS's ability to serve Medicaid patients choosing to live in a community setting instead of a nursing home.

While being mindful of the budget authority provided to us by the Legislature, my administration will continue to support Montana's skilled nursing and assisted living facilities as they modernize and adapt to changing demand and an ever-evolving senior and long-term care landscape. However, as more Montanans elect to age in their homes and outside of an institution, I cannot support fiscally unsound legislation that undermines and ignores that personal decision.

Therefore, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 296: "AN ACT CREATING THE SENIOR CARE FACILITY ACCESS AND STABILIZATION ACT; ESTABLISHING PROCEDURES FOR CALCULATING ROOM AND BOARD COSTS FOR ASSISTED LIVING RESIDENTS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PURSUE THE COMMUNITY FIRST CHOICE FUNDING OPTION FOR ASSISTED LIVING; ESTABLISHING REPORTING REQUIREMENTS; AND PROVIDING A DELAYED EFFECTIVE DATE."

Sincerely,



Greg Gianforte
Governor

Enclosure

cc: Legislative Services Division
Christi Jacobsen, Secretary of State