



OFFICE OF RESEARCH AND EDUCATION ACCOUNTABILITY

## SENIOR LONG-TERM CARE IN TENNESSEE: TRENDS AND OPTIONS



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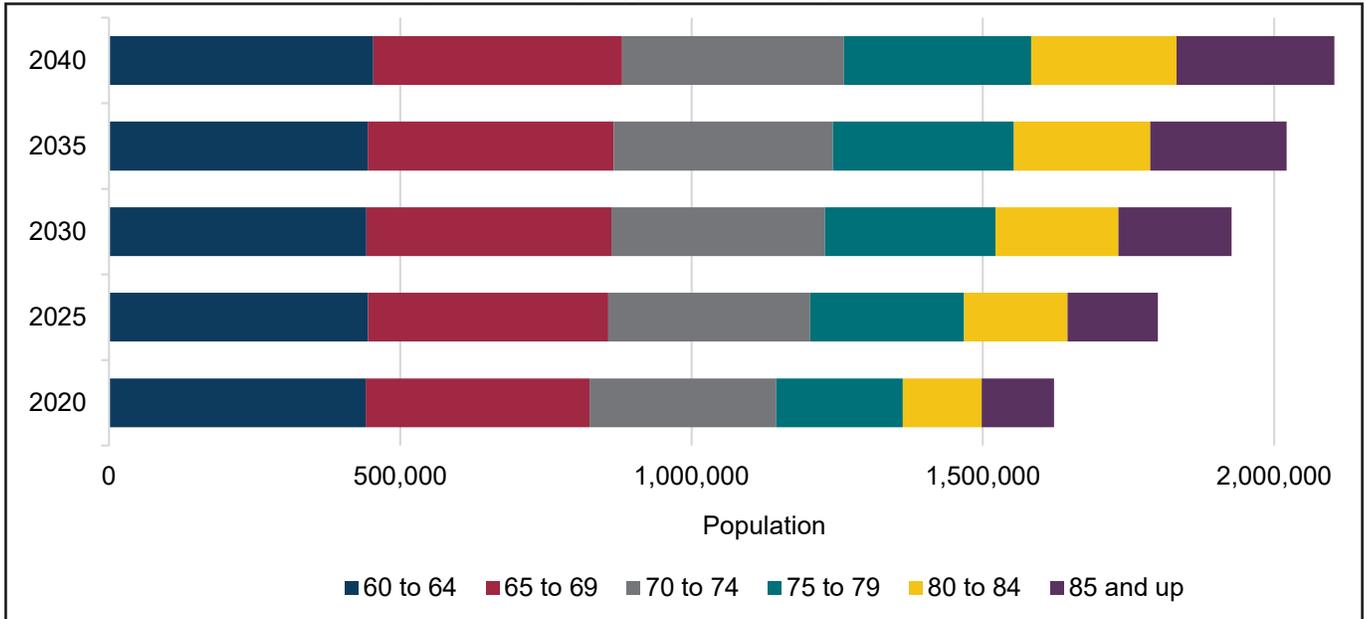
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# Introduction

The number of Tennessee seniors age 60 and over is expected to increase by 30 percent from 1.6 million in 2020 to 2.1 million in 2040.<sup>A</sup> The number of those age 80 and over in Tennessee is forecast to double during this time.<sup>1</sup> This population change will continue a trend of significant growth in the demand for and potential cost of public long-term services and support programs for low-income Tennessee seniors. Nationally and in Tennessee, policymakers continue to grapple with the costs stemming from the increase in demand for senior care and services as the pace of “baby boomer” retirements accelerates.<sup>2</sup>

**Exhibit 1: Tennessee population projections, age 60 and over, 2020 to 2040**



Source: The University of Tennessee-Knoxville, Tennessee State Data Center. “Boyd Center Tennessee Population Projections,” <http://tndata.utk.edu/sdcpopulationprojections.htm>.

The cost associated with the growth in the elderly population is compounded by other factors. Not only are there more seniors, but today’s seniors:

- are living longer;
- have fewer available family caregivers and are more likely to need paid nursing assistants or home aides to remain safely in their homes;
- have increased rates of chronic diseases and dementia that are expensive to manage; and
- have low retirement savings and/or little or no insurance to cover the cost of long-term services and supports (LTSS).

(See Appendix A for Tennessee population projections by age range for 2020 through 2070.)

TennCare CHOICES is the state’s long-term services and supports Medicaid safety net program. Age-based eligibility to the CHOICES program begins at age 65 and, depending on their needs, eligible recipients receive services in nursing facilities, in their homes, or in community settings.

<sup>A</sup> The growing senior population affects many aspects of state government. This report focuses on the long-term services and supports (LTSS) programs for low-income and medically frail persons age 60 and over. The report does not address issues for persons with physical disabilities under age 60 who may also be served by the programs discussed. Definitions of seniors differ among the long-term services and supports programs Tennessee offers. TennCare CHOICES defines seniors as those 65 and older. The Options and Older Americans Act programs administered by the Tennessee Commission on Aging and Disability through the Area Agencies on Aging and Disability define seniors as those 60 and older. The University of Tennessee Knoxville, Tennessee State Data Center, <https://tnsdc.utk.edu/estimates-and-projections/boyd-center-population-projections/>, Boyd Center Tennessee Population Projections: 2020-2070.

Assuming CHOICES continues to serve about 2.4 percent of the 65 and older population in 2040, OREA estimates enrollment would increase by 11,214 seniors, or 40 percent. Enrollment growth of this size would mean an estimated increase of \$410 million in program costs (\$139 million in state dollars and \$271 million in federal dollars,<sup>3</sup> based on the current 34/66 split between the state and the federal government for TennCare funding).<sup>4</sup> This estimate is based on current program costs of \$36,585 per senior; if program costs change in coming years, the total cost will increase as well.<sup>5</sup>

Long-term services and supports are medical and/or personal care and supportive services needed by individuals who have lost some capacity to perform activities that are essential to daily living. These activities include bathing, dressing, eating, and toileting as well as completing housework, preparing meals, taking medications, shopping, and managing money.

## Purpose and scope

This report is an update of an OREA report published in 2017. The purpose of this report is to provide information on the status of Tennessee's primary long-term services and supports programs and options for policymakers' consideration.

The report focuses on the three primary publicly funded programs that provide the majority of long-term services and supports to Tennessee's low-income elderly: TennCare CHOICES (Medicaid), Options for Community Living, and Older Americans Act (OAA) programs. Together, these programs provide a continuum of services ranging from information and referral, meals, and other services under OAA to varying levels of home and community-based services under OAA, Options, and CHOICES, to nursing home care under CHOICES.

In addition, this updated report provides information on topics of recent interest that affect the state's capacity to provide long-term services and supports to the elderly population:

- an increase in the number of unlicensed facilities that are housing elderly individuals who may not qualify for state services, or may not be aware of services for which they may qualify;
- a shortage of direct support professionals who provide services to the elderly in all three of the state programs examined, partly exacerbated by the COVID-19 pandemic and the resulting changes to the labor force;
- continuing concern for family and other unpaid caregivers for whom circumstances have worsened during the pandemic; and
- additional federal funds for supporting states' long-term services and supports programs through the Families First Coronavirus Response Act (FFCRA) and the American Rescue Plan (ARP).

The report is intended to provide objective analysis for state legislators to consider related to the state-funded long-term care programs. This report does not focus on private care funded through insurance, other post-employment benefits, Medicare, or personal funds. Additionally, it does not make recommendations or address what the state should spend on services and supports for the elderly population.

This report does not provide an exhaustive account of every service and provider for the aging population; numerous state agencies, nonprofits, and private industries provide a variety of resources and services.

To complete this study, OREA interviewed and collected data from state and local sources as well as community stakeholders. Policy options are included and begin on page 24.

# Tennessee's publicly funded long-term services and supports for seniors

In 2008, the Tennessee General Assembly passed the Long-Term Care Community CHOICES Act. The goal of the act was to rebalance and reorganize the state's long-term care system by expanding the use of lower-cost home and community-based services (HCBS) and providing more choice beyond nursing facility care in the type of long-term care services and providers.<sup>6</sup> The 2008 act states that:

The long-term care system shall offer a continuum of long-term care services that includes an expanded array of home and community-based options, including community-based residential alternatives to institutional care for persons who can no longer live alone, and that also includes nursing facility services as an integral part of the long-term care continuum for persons with the highest levels of need.<sup>7</sup>

Tennessee has three primary publicly funded long-term services and support programs to support low-income elderly Tennesseans in their daily living, ranging from nursing home care to services in people's homes and community settings:

- CHOICES (a Medicaid-financed program with a state match);
- Options for Community Living; and
- Older Americans Act (OAA) programs.

In Tennessee and the U.S., Medicaid is the largest funder of long-term services and supports – in 2019, Medicaid covered 43 percent of all U.S. long-term care costs. According to the Tennessee Health Care Association, in 2021, 59.2 percent of filled nursing facility beds in the state were occupied by Medicaid/TennCare patients.

All three programs operate with a goal to keep people as independent as possible for as long as they are able.<sup>B</sup> The CHOICES program is administered by the Division of TennCare in the Department of Finance and Administration while the Options and OAA programs are administered by the Tennessee Commission on Aging and Disability (TCAD) and the Area Agencies on Aging and Disability (AAADs).

## TennCare CHOICES

Through Medicaid, states and the federal government are responsible for the long-term services and supports needed by older adults with low incomes who have spent down most of their assets.<sup>8</sup> TennCare CHOICES is Tennessee's managed long-term services and supports Medicaid safety net program. Long-term services and supports are medical and/or personal care and supportive services needed by individuals who have lost some capacity to perform activities that are essential to daily living. These activities include bathing, dressing, eating, and toileting as well as completing housework, preparing meals, taking medications, shopping, and managing money. To receive services under CHOICES, seniors must qualify both medically and financially.

There are three groups under CHOICES:

- Group 1 for seniors who require nursing home care;
- Group 2 for seniors age 65 and older who qualify to receive nursing home care but are able to receive home care services instead, as long as these services do not exceed the cost of nursing home care; and
- Group 3 for seniors age 65 and older who do not qualify for nursing home care, but are determined to be at risk of such care unless they receive some home care services.

<sup>B</sup> CHOICES, Options, and OAA programs also serve some eligible people who are not elderly but who have physical or developmental disabilities. This report focuses only on the elderly receiving services under these programs. Throughout the report, references in text or exhibits to numbers of enrollees and costs are based only on the services for the elderly and do not represent the total numbers of enrollees or costs provided under these programs.

## **Eligibility requirements for CHOICES**

To qualify for CHOICES Groups 1 or 2, a senior must meet both (1) the state's eligibility requirements for nursing home-level<sup>9</sup> care AND (2) federal financial requirements of income less than \$2,523 per month and assets less than or equal to \$2,000 (excluding the home in which the senior lives).<sup>10</sup> Those in Group 1 receive care in nursing facilities. Individuals in CHOICES Group 2 may receive care in their homes or in residential settings such as group homes and assisted living facilities.

To qualify for CHOICES Group 3, a senior (1) must be determined "at risk" of needing the level of care provided in a nursing home unless they receive home care AND (2) must be receiving SSI (Supplemental Security Income) payments from the Social Security Administration. People who qualify for SSI have low income and few assets. The maximum federal benefit for SSI in 2022 for an individual is \$841 per month.<sup>11</sup> As for those in Group 2, individuals in CHOICES Group 3 may receive care in their homes or in residential settings such as group homes or assisted living facilities.

## **Home and community-based benefits under CHOICES Groups 2 and 3**

TennCare contracts with Managed Care Organizations (MCOs) to coordinate physical and behavioral health and long-term care services for CHOICES-eligible seniors in nursing facilities or in home and community-based settings.<sup>12</sup> MCOs subcontract with providers who employ caregivers to work in homes and community settings under CHOICES. Home and community-based services for Groups 2 and 3 include limited personal or attendant care visits, home delivered meals, adult day care, in-patient respite care, and minor home modifications.<sup>13</sup> These services are to support, but not replace, care available from family and friends. See box on page 7 for a list of HCBS benefits under CHOICES.

Although the types of benefits under CHOICES Groups 2 and 3 are similar, recipients in Group 2 qualify for a broader array of services because they qualify for nursing facility level of care. Under Group 2, a recipient may qualify for community-based residential alternatives (CBRA) to institutional care, including assisted care living facilities, adult care homes, and companion care. CHOICES coverage under these options does not include the cost for room and board.<sup>14</sup>

Services under CHOICES Group 3 are limited to a cap of \$15,000 annually.<sup>15</sup> The cap does not mean that a person is entitled to an amount of services up to \$15,000 per year – services are limited to only those that are medically necessary (i.e., required in order to help ensure the person's health, safety, and welfare in the home or community setting or to delay or prevent the need for nursing home placement).<sup>16</sup> TennCare rules state that CBRA services are also available to those in Group 3 in an assisted care living facility or through Community Living Supports<sup>C</sup> (excluding the cost of room and board).<sup>17</sup>

### **Estate Recovery under TennCare CHOICES**

To qualify for CHOICES, federal law dictates that seniors cannot have given away or sold assets for less than their value in the last five years. TennCare is required under federal law to seek recovery of the costs of CHOICES long-term services and supports received from the estate of participants after their death or the death of their spouse or disabled child. Tennessee law provides for "undue hardship" exceptions to estate recovery.

Source: TennCare, What is TennCare (Medicaid) Estate Recovery?, <https://www.tn.gov/tenncare/legal/estate-recovery.html>.

### **What "at risk" means for CHOICES Group 3**

Individuals are determined to be at risk of needing institutionalization if they have a physical or mental condition, disability, or impairment that requires ongoing supervision and/or assistance with activities of daily living in the home or community setting. To be approved to enroll in Group 3, an individual must be determined to be unable to live safely in the community without HCBS, thus placing them at risk of requiring nursing home care. More detailed health-related criteria for enrollment in Group 3 can be found in the TennCare rules for long-term care programs.

Source: TennCare Long-Term Care Programs 1200-13-01-.04(b)2(iii), Revised May 2021, p. 156 of PDF.

<sup>C</sup> Community Living Supports, implemented by TennCare in 2014, are semi-independent living services based on the Department of Intellectual and Developmental Disabilities (DIDD) model and under the same DIDD licensure category.

Expenditures for individuals in CHOICES Group 2 cannot exceed the cost of what their care would be if they were receiving care in a nursing facility rather than in their homes or communities. The average cost of Medicaid nursing facility reimbursement is used to determine the cap for most individuals enrolled in CHOICES Group 2.<sup>D</sup> The cap functions as a limit on the total cost of HCBS that can be provided to the individual in the home or community setting.<sup>18</sup>

### **CHOICES Home and Community-Based benefits for Groups 2 and 3**

The kind and amount of home care an individual under CHOICES receives depends on their needs. Services provided must be medically necessary. Some services have limits, meaning that TennCare will pay for only a certain amount of these services.

- Personal care visits (up to two visits per day with maximum of four hours per visit) – provides help with activities of daily living, such as bathing, dressing, and toileting.
- Attendant care (between 1,080 and 1,400 hours per year, depending on needs) – similar to personal care visits but for longer periods of time for those who need more extensive assistance with activities of daily living and safety monitoring.
- Home-delivered meals (limit of one meal per day).
- Personal Emergency Response System – emergency call button.
- Adult day care (up to 2,080 hours per year) – community-based group programs lasting more than three hours per day but less than 24 hours per day.
- In-home respite care (up to 216 hours per year) – provides caregiver relief on a short-term basis in the member's place of residence.
- In-patient respite care (up to nine days per year) – provides caregiver relief on a short-term basis in a nursing home or community-based residential alternative.
- Assistive technology (up to \$900 per year) – assistive devices, adaptive aids, controls, or appliances that increase a person's ability to perform activities of daily living.
- Minor home modifications, such as grab bars or wheelchair ramps.
- Pest control.
- Short-term nursing facility care (limit of 90 days per stay).
- Community-based residential alternatives for seniors who cannot live alone and who do not have the availability of family and others to assist them – includes assisted living care facilities and shared homes or apartments with some supervision or in a family model.

Notes: (1) Although the types of services available to recipients of both Group 2 and 3 are similar, services provided to those under Group 2 are more extensive because Group 2 recipients qualify for nursing facility level of care. Services under Group 3, for those at risk of institutional care, are limited by a \$15,000 per year cap. (2) Some of these services, such as daily meals and personal care, are not provided through CHOICES when the recipient is living in assisted living facilities, adult care homes, and residential homes for the aged, or are receiving services in an adult day care. (3) The costs of room and board in residential facilities are not reimbursable by TennCare. (4) For more specific information on the benefits for CHOICES Groups 2 and 3, see Rules of Tennessee Department of Finance and Administration, Bureau of TennCare, Chapter 1200-13-01-.05(8)(l). For a general list of covered services in CHOICES, see <https://www.tn.gov/tenncare/long-term-services-supports/choices/what-home-care-services-are-covered-in-choices.html>.

<sup>D</sup>A higher cap is used for those who would qualify to receive enhanced respiratory care in a skilled nursing facility, based on the higher cost of their care.

## Enrollment and expenditures for CHOICES over time

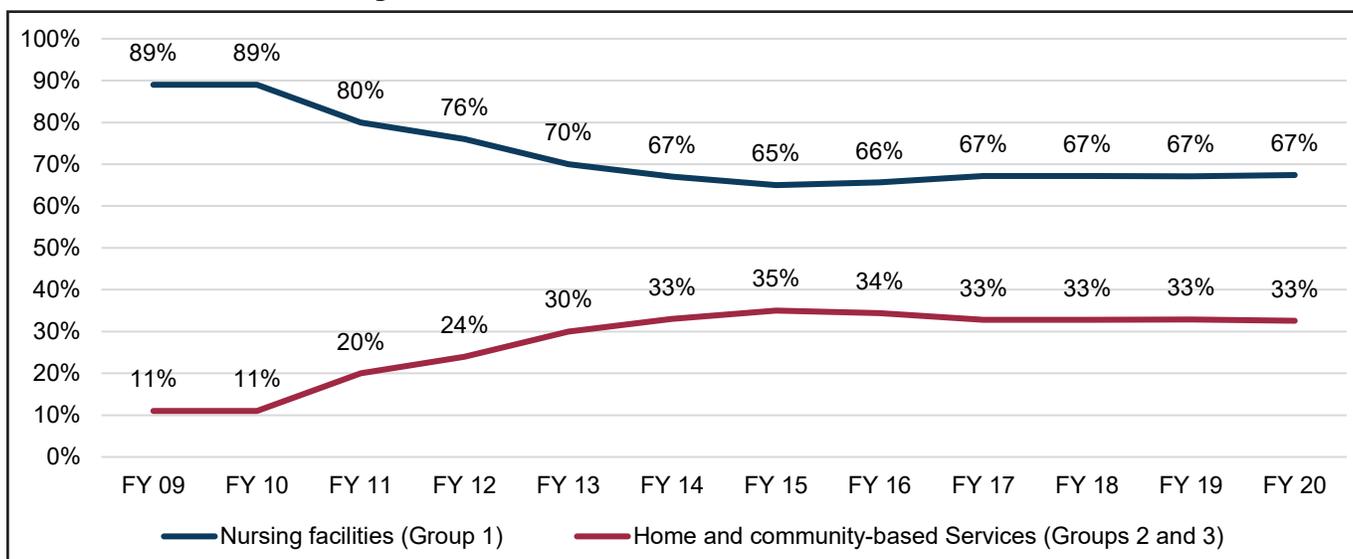
CHOICES served 28,306 seniors<sup>19</sup> over the course of FY 2019-20, about 2.5 percent of the state's senior population.<sup>20</sup> Total average expenditures per CHOICES senior varied by level of care:

- \$45,606 for seniors in nursing home care (Group 1),
- \$20,092 for seniors choosing home and community-based services (Group 2), and
- \$7,496 for seniors at risk of needing nursing home care who are served in their homes or communities (Group 3).<sup>21</sup> (See Exhibit 2.)

(These figures were derived by dividing total expenditures by total number of recipients and do not reflect annualized costs.)

For the first few years after CHOICES began in 2009, Tennessee experienced sizeable enrollment growth for home and community-based services, but the enrollment has slowed in the last few years, as shown in Exhibit 2. In 2009, approximately 11 percent of seniors enrolled in TennCare CHOICES received home and community-based services, which increased to 35 percent in 2016, a growth that was comparable at the time to the rest of the nation. TennCare officials expected that the percentage would continue to increase, but, from 2014 to 2020, enrollment trends have remained relatively steady with 33 percent of eligible seniors enrolled in home and community-based services and 67 percent enrolled in nursing facilities for most of those years.<sup>22</sup> (See Exhibit 2.)

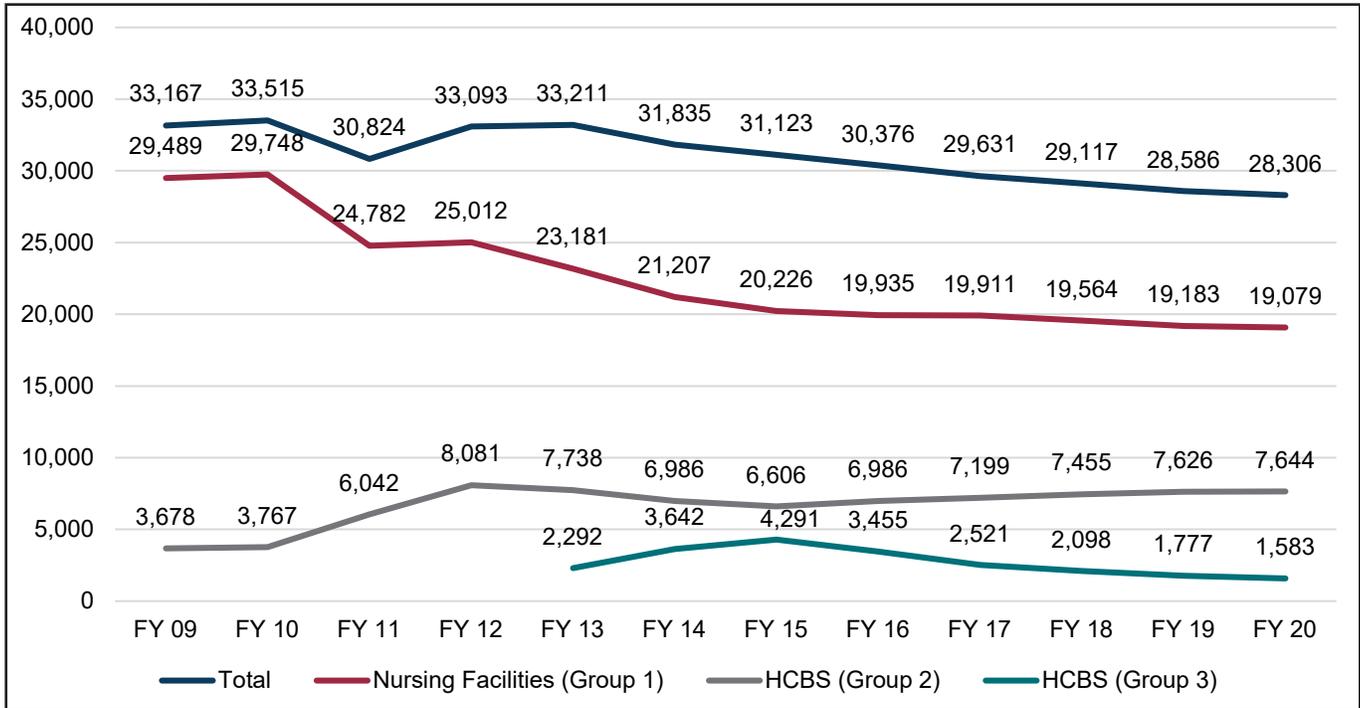
### Exhibit 2: In TennCare CHOICES, the percent of seniors in nursing facilities compared to home and community-based services has remained nearly the same for the last six years



Note: The exhibit combines CHOICES Groups 2 and 3, which provide home and community-based services but have different eligibility criteria.  
Source: Data provided by TennCare.

In CHOICES Group 2, enrollment increased by about 16 percent between 2015 and 2020, while Group 3 decreased during that same period by about 63 percent. The decrease in Group 3 enrollment resulted after a change made to income eligibility resulting from a required budget reduction in 2015. See page 21 for more information. (See Exhibit 3.)

**Exhibit 3: In TennCare CHOICES, the number of seniors served in nursing facilities and HCBS Group 2 remained steady for the last few years while HCBS Group 3 declined**

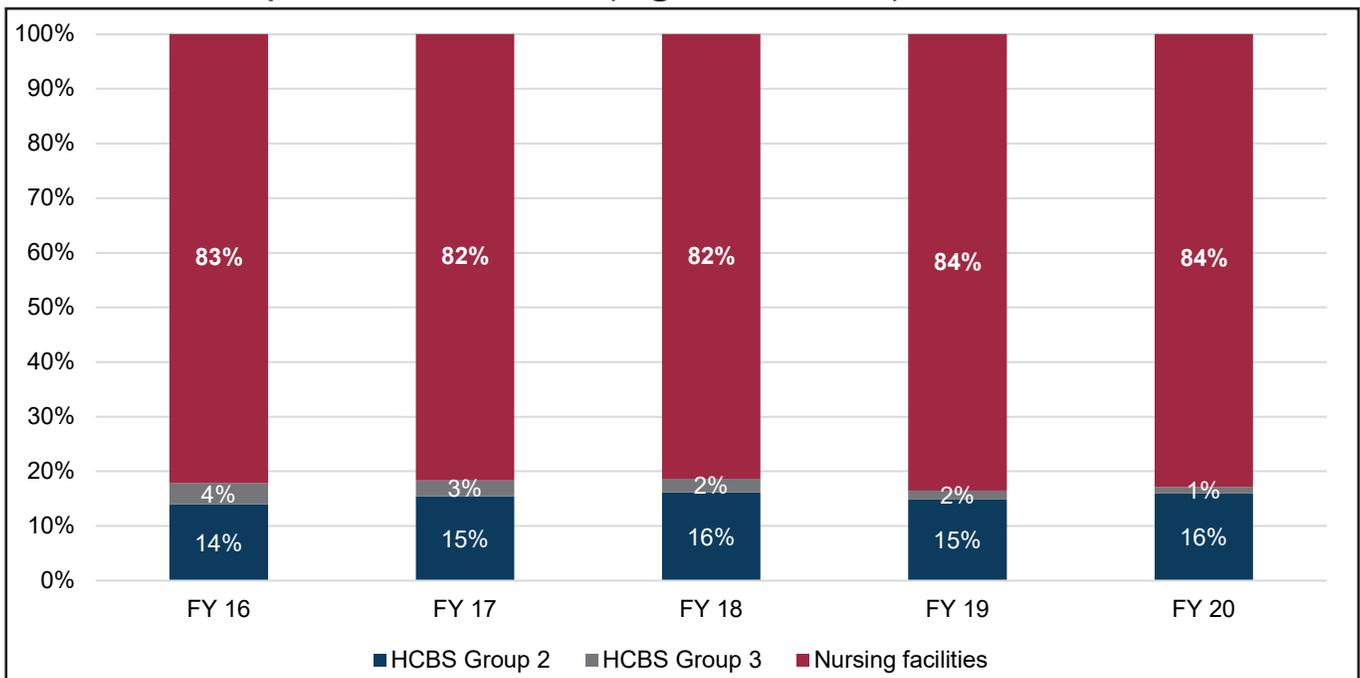


Notes: (1) HCBS refers to home and community-based services. (2) Number of seniors age 65+ served during the fiscal year. The CHOICES program also serves qualified individuals who are below age 65. Those individuals are not included in this chart. (3) CHOICES Group 3 began in FY2013. Eligibility changes were made to Group 3 enrollment in FY2015.

Source: OREA analysis of Information provided by TennCare.

In FY 2019-20, TennCare CHOICES expenditures for seniors age 65 and over totaled approximately \$1.04 billion, about \$709.1 million in federal funding (68.5 percent) and \$326.5 million in state funding (31.5 percent).<sup>23</sup> About 84 percent of expenditures were for nursing home care and 16 percent were for home and community-based services (Groups 2 and 3), with those levels remaining similar over the last five years.<sup>24</sup> (See Exhibit 4.)

**Exhibit 4: Percent of expenditures for nursing facilities and home and community-based services | TennCare CHOICES, age 65 and over, FY 2016 – FY 2020**

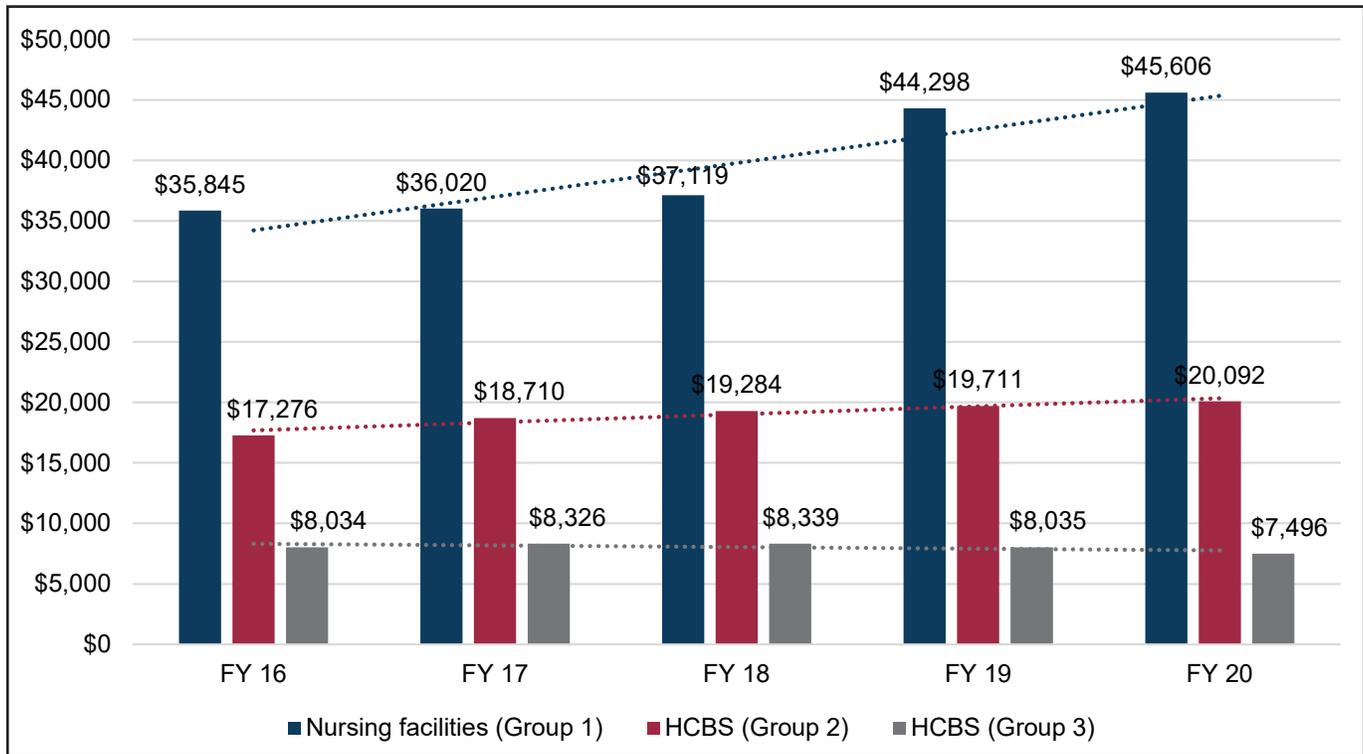


Note: HCBS refers to home and community-based services.

Source: OREA analysis of information provided by Division of TennCare.

The average expenditures *per person* for nursing facilities and home and community-based services under CHOICES show more variation from FY 2016 to FY 2020, with nursing home expenditures continuing to rise alongside some decrease in enrollment. (See Exhibit 5.) Per person expenditures for CHOICES Group 2 continue to be about half those for Group 1 in nursing homes.

**Exhibit 5: Under TennCare CHOICES, average expenditures per person varies from most expensive in nursing homes to least expensive in HCBS Group 3**



Notes: (1) HCBS refers to home and community-based services. (2) The chart is based on total expenditures divided by total program participants across the program year and not reflective of the annualized average cost of services across a complete 12-month period. (3) Increased Level of Care eligibility criteria were phased in beginning in FY 2013. TennCare implemented a new nursing facility reimbursement structure that reflects the higher acuity of residents and rewards improved quality. Sources: Data provided by the Division of TennCare, Long-Term Services and Supports, and the Tennessee Commission on Aging and Disability.

**Options for Community Living and the Older Americans Act**

The state-funded Options for Community Living program provides older Tennesseans at risk of becoming Medicaid eligible with services to allow them to remain in their homes. The federal Older Americans Act (OAA), passed by Congress in 1965 and reauthorized in 2020, provides federal funds through the U.S. Administration on Aging for services and programs designed to promote the independence, care, and well-being of seniors age 60 and over in their homes and communities for as long as possible.

Both programs are administered by the Area Agencies on Aging and Disability (AAADs) under the authority of the Tennessee Commission on Aging and Disability (TCAD). The programs assist individuals who are at risk of qualifying for nursing facility care, but who might be able to delay or avoid the need for institutional care if provided with a limited amount of support, such as help with homemaker services, personal care, and home-delivered meals.

Services provided under Options, OAA, and TennCare CHOICES Group 3 are similar in some respects: all programs provide services to allow those at risk of needing more intensive care to receive preventive assistance in their homes or communities. The primary difference is in how they are funded. Options is a state-funded program and CHOICES Group 3 is funded through TennCare, the state’s Medicaid program, mostly with federal dollars. OAA is funded through federal dollars with a state match.

## **Eligibility for Options and Older Americans Act programs**

Both the Options and OAA programs define seniors as those 60 and older. (TennCare CHOICES defines seniors as those age 65 and over.)<sup>E</sup> Eligible seniors include those who struggle with basic self-care such as bathing, dressing, and toileting, or daily living tasks such as taking medications, preparing meals, or managing finances.<sup>F</sup>

Neither the Options nor OAA programs have income eligibility requirements, but Adult Protective Services clients<sup>G</sup> and low-income applicants receive priority for home and community-based services.<sup>25</sup> To be considered low income, applicants must meet the annual federal poverty guidelines.<sup>26</sup> TCAD policy also emphasizes that funding for in-home services is limited and that the programs are not intended to pay for services to meet all the needs of an individual.<sup>27</sup>

Tennessee's nine Area Agencies on Aging and Disability (AAADs) determine whether applicants meet Options or OAA eligibility criteria and coordinate needed services accordingly.<sup>28</sup> AAADs conduct a standardized face-to-face assessment to determine an individual's risk of losing his or her independence and to assist in developing a care plan for services, if appropriate.<sup>29</sup> AAADs collect information about an individual's limitations in carrying out activities of daily living and instrumental activities of daily living, level of income, and other information.<sup>30</sup>

AAADs also screen applicants to determine their potential eligibility for services under TennCare CHOICES. Under state law and TCAD policy, if an individual qualifies for CHOICES, but chooses not to receive services under the program, they are not eligible for the Options program. When that is the case, AAADs screen them for services under the OAA programs, including home-delivered meals and in-home services.<sup>31</sup>

Not all seniors who are eligible for home and community-based services under the Options or OAA programs receive them. TCAD maintains wait lists for Options as well as some services under OAA. As of October 2021, the home-delivered meals program under OAA had a wait list of about 1,300 and in-home services had a wait list of about 1,500. TCAD annually reports the number of individuals on the Options wait list to the General Assembly.<sup>32</sup> In November 2020, TCAD reported 2,566 people on the Options wait list.<sup>33</sup> As of November 2021, TCAD reported 3,981 people on the Options wait list.<sup>34</sup>

In 2016, Options had an estimated 9,626 people on its wait list, significantly higher than the number reported in November 2020. TCAD explained that the number is lower in 2020 because wait list procedures have been redesigned to manage the list more effectively. In 2017 and 2018, the AAADs cleaned up the lists in their regions to ensure information was current (e.g., removing people who had since qualified for CHOICES, passed away, or moved out of state). The wait list was then divided into two categories: Category A for higher risk individuals and Category B for those who do not qualify for Category A. AAADs contact those on the Category A list at least once a year to verify their continued need. Those on the Category B list are asked to call their AAAD if they experience a significant life or status change, in which case they may need additional services and assistance.

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<sup>E</sup> TennCare CHOICES also serves persons under age 65 who qualify for nursing home care. The Options program also serves adults age 18 or over with a physical impairment. This report focuses on seniors.

<sup>F</sup> Activities of daily living (ADLs) are those in which people engage on a daily basis, including personal care activities such as bathing, dressing, walking, and toileting. Instrumental activities of daily living (IADLs) are activities related to independent living and whether the person is able to care for himself or herself. IADLs include managing medications, driving, cooking, and managing finances.

<sup>G</sup> Under the Tennessee Adult Protection Act, Adult Protective Services in the Tennessee Department of Human Services assesses the need for protective services for clients and provides or locates services to assist in this effort.

## ***Services provided under Options and Older Americans Act programs***

Services provided under Options and the Older Americans Act allow qualified seniors at risk of needing institutional nursing care to receive preventive assistance in their homes or communities. Under Options and OAA, the AAADs contract with service providers who employ caregivers to provide direct services. (Many of the providers under Options and OAA also provide services under TennCare CHOICES.) The specific services that each individual under Options and OAA receives are detailed in a care plan developed by the AAAD working with the individual and their family.<sup>35</sup>

Services provided under Options include homemaker services, personal care, and home-delivered meals:

- Under homemaker services, providers complete household tasks that enable an individual to live in a safe home environment, which may include shopping for groceries and personal items, meal preparation, managing money, using the telephone, and light housework.
- Personal care providers assist those having difficulty eating, dressing, bathing, walking, toileting, and/or transferring in and out of a bed or chair.
- Home-delivered meals are delivered to the recipient's residence.

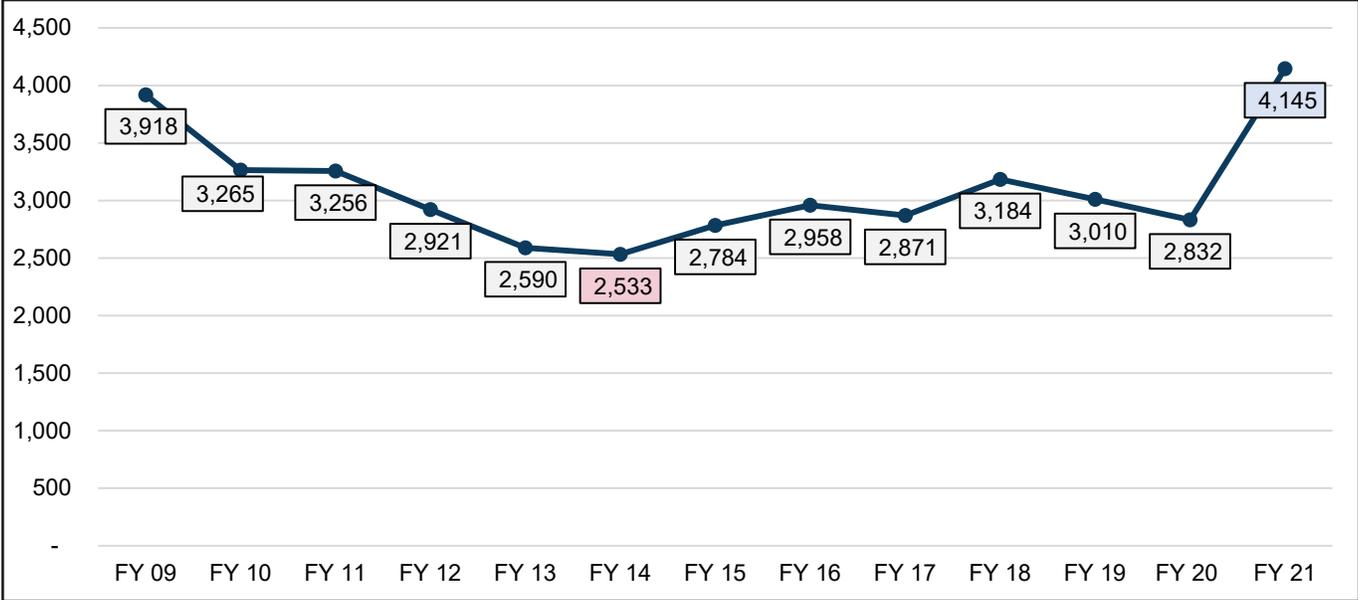
Services and supports provided through Older Americans Act funding include:

- Information and assistance – Information and referrals to connect seniors with area service providers as well as other publicly funded services such as the Supplemental Nutrition Assistance Program (formerly referred to as “food stamps”), rental assistance, home repair, and accessibility modifications.
- Senior centers – Offer a wide variety of group and individual services that promote healthy lifestyles, provide learning opportunities, and provide social interaction and volunteer opportunities.
- Nutrition and health promotion programs – Congregate and home-delivered meals offered through senior centers and volunteer programs; health, prevention, and wellness programs such as self-management of chronic diseases and fitness and exercise classes.
- Legal and protective services – Legal services for public benefits issues and to resolve consumer problems, as well as a long-term care ombudsman to advocate for seniors in institutional care and resolve complaints.
- Caregiver support – Assistance and education programs for caregivers, especially related to Alzheimer's disease or related disorders, respite care for caregivers, and some other services (personal care and homemaker) on a limited basis.
- Transportation services – Accessible rides to medical appointments, senior center activities, group meals, and shopping.

## ***Enrollment and expenditures under Options***

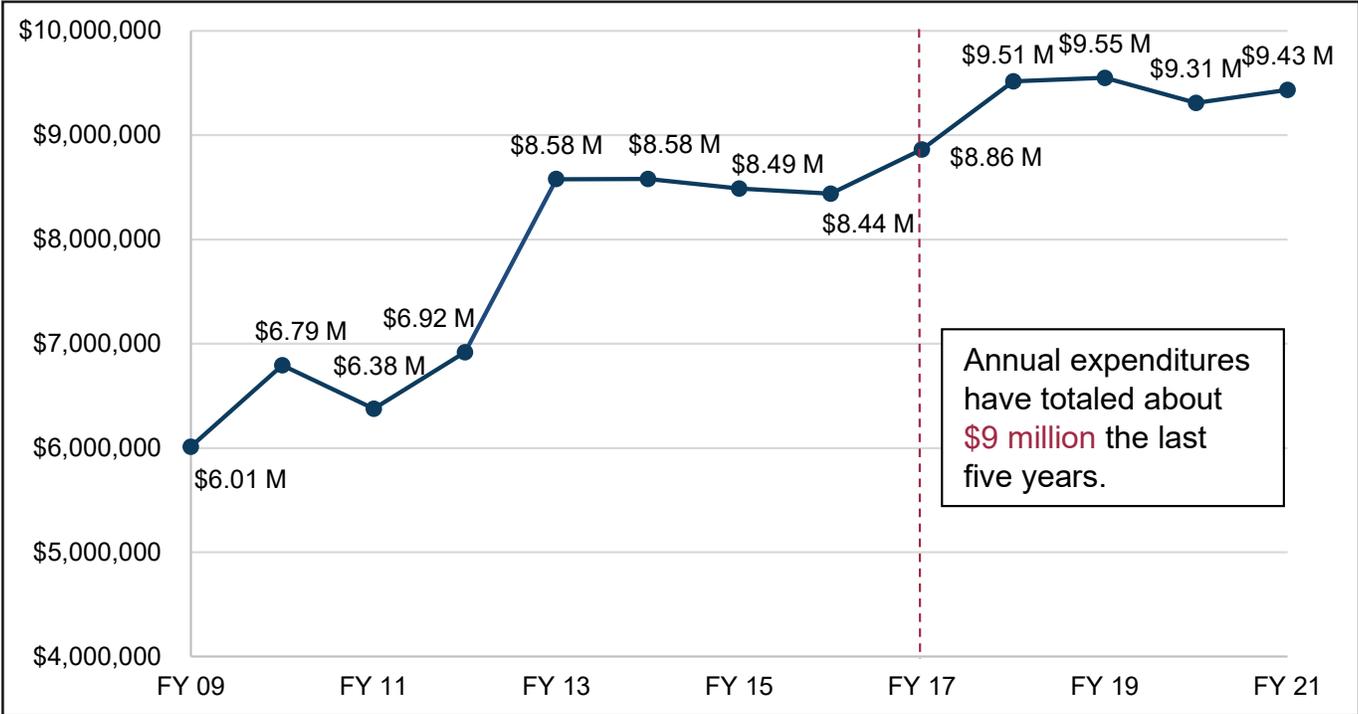
Total annual expenditures for the Options program have been approximately \$9 million over the last five years. In FY 2021, the program's total expenditures were approximately \$9.4 million, and it served 4,145 people at a statewide average cost of \$3,202 per person. Under Options, expenditures for services are capped at \$5,000, with a maximum of \$7,000 when approved by the AAAD. Due to the pandemic, the annual cap for services was increased to \$8,500 with a maximum of \$10,000.

**Exhibit 6: Number of recipients of state-funded Options program | FY 2009 – FY 2021**



Note: Colored boxes represent the lowest and highest number of recipients from FY 2009 – FY 2021.  
 Source: OREA analysis of data provided by Tennessee Commission on Aging and Disability.

**Exhibit 7: Options program expenditures | FY 2009 – FY 2021**



Note: The Options program is state-funded.  
 Source: Tennessee Commission on Aging and Disability.

### **How federal funding from OAA was able to be used for Options**

The number of people served in the Options program in 2021 increased significantly from the previous year, from 2,832 to 4,145. (See Exhibit 6.) The noticeable increase in Options participants occurred because of funding flexibility granted by the federal government, according to TCAD. Because food insecurity became more severe with the onset of the pandemic, the federal government, under the Major Disaster Declaration (MDD), permitted states to transfer funds as needed among OAA titles, which are usually reserved for specific purposes. Title IIIB services under OAA typically include support services such as assistance with activities of daily living; Title IIIC services are typically for congregate and home-delivered meals. Tennessee and other states were allowed to expend OAA Title IIIB funding for services such as groceries, food boxes, and grocery delivery services, which had not been previously allowable until the pandemic emergency.

TCAD was able to transfer some Title IIIB clients to Options, which accounts for the increased number of persons served under Options in 2021 as well as the decrease in the number of those served under OAA. (See Exhibits 6 and 8.) With this transfer, TCAD was able to use federal Title IIIB funding for groceries and other food services. (See the next section for more on OAA.) Federal guidance gives TCAD the leeway to make such transfers based on reasons such as service needs or funding availability as long as the level of services provided to clients does not change.

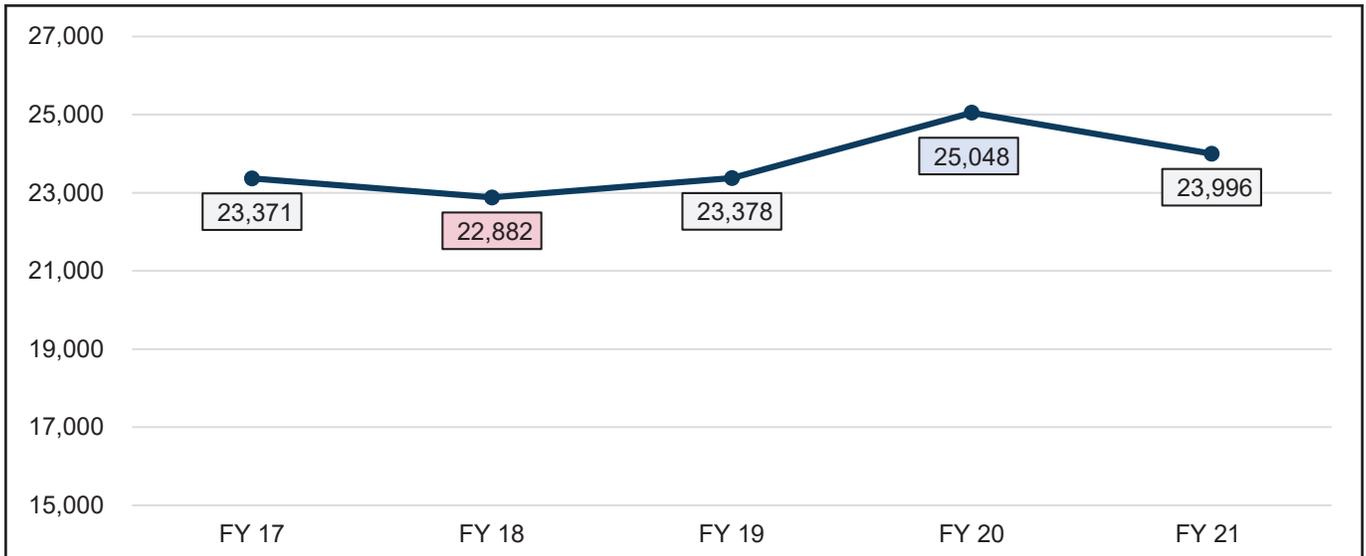
### ***Enrollment and expenditures under the Older Americans Act***

In FY 2020, Tennessee served 25,048 people in three OAA programs that provide direct services to help seniors remain in their homes or communities, including in-home, nutritional, and caregiver services. In FY 2021, it served 23,996. The decrease in 2021 occurred because TCAD was able to transfer some OAA recipients to Options. (See Exhibit 8.)

Most funding for services provided in Tennessee under the OAA comes from the federal government and is calculated using an intrastate funding formula based on the state's elderly population. OAA federal funding increased about 1.1 percent annually on average from FY 2001 to FY 2019 (from \$1.68 billion to \$2.06 billion).<sup>36</sup> In FY 2020-21, Tennessee received \$21.8 million in federal funds matched by \$2.1 million in state funds. (See Exhibit 9.) In FY 2019-20, the state received \$21.2 million in federal funds matched by \$2.1 million in state funds.<sup>37</sup>

In FY 2021, the average cost per person served under OAA in Tennessee was \$887 and in FY 2020 was similar at \$834. These figures reflect only the portions of OAA under which direct services are provided, which are Title IIIB (assistance with household tasks and activities of daily living), Title IIIC (congregate and home-delivered meals), and Title IIIE (temporary in-home or out-of-home relief for informal or relative caregivers). Additional services are also provided under OAA.<sup>38</sup>

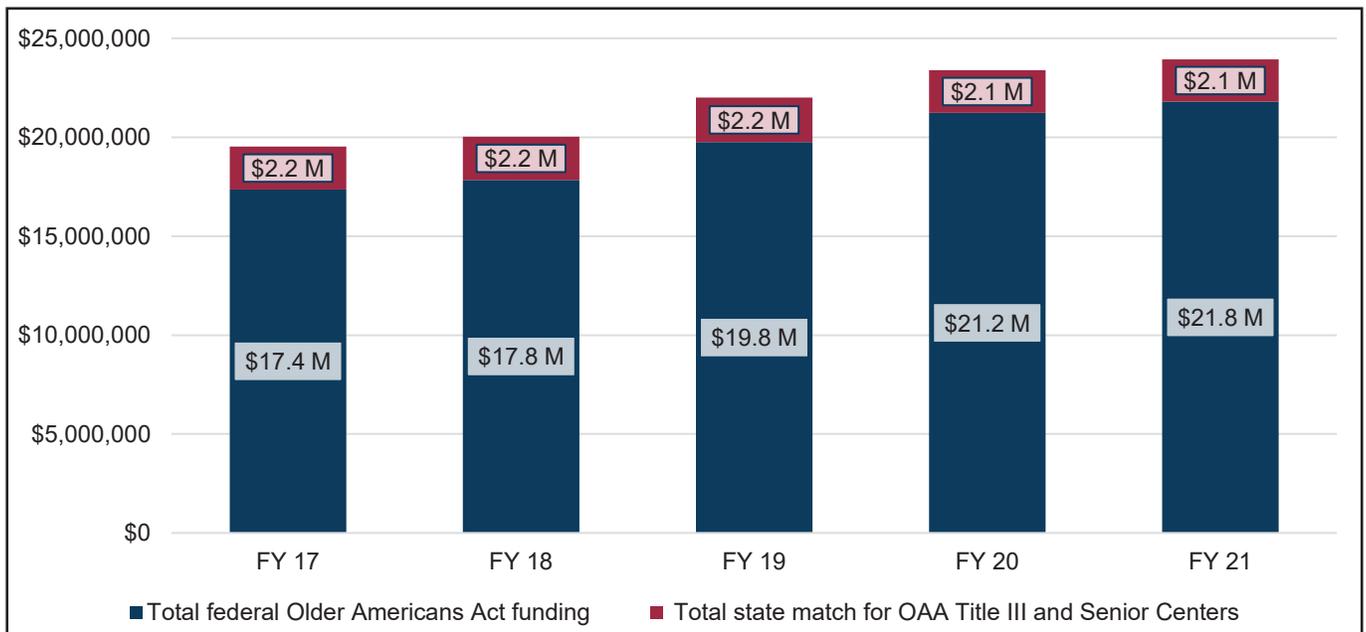
**Exhibit 8: Number of recipients of select programs under OAA | FY 2017 – FY 2021**



Note: (1) Colored boxes show the highest and lowest number of recipients from FY 2017 – FY 2021. (2) Select OAA programs included in the total participant numbers listed are Title IIIB Support Services (assistance with household tasks and activities of daily living), Title IIIC – Nutrition Services (congregate meals and home-delivered meals), and Title IIIE Caregiver Services (temporary in-home or out-of-home relief for informal or relative caregivers). Participants receive direct services under these programs.

Source: Data from the Tennessee Commission on Aging and Disability.

**Exhibit 9: Federal and state funding for Older Americans Act in Tennessee | FY 2017 – FY 2021**



Source: Tennessee Commission on Aging. Expenditure totals do not reflect nonrecurring COVID-19 specific funding.

All three home and community-based programs in Tennessee – CHOICES, Options, and OAA – have limitations on the number of people that can be served. Under CHOICES, which was designed to operate within an approved budget, Group 2 has had an enrollment target of 12,500 since 2012, but the number of people served under Group 2 has never reached the target. Group 3 has no enrollment target but is funded to serve only a specific number of people. Both CHOICES and Options can serve only as many as state and federal funding allows.

# Unlicensed residential facilities housing elderly and vulnerable people

State and regulatory agencies in Tennessee that work with the elderly and vulnerable population believe there has been an increase in unlicensed residential facilities in the last few years, resulting from a lack of small residential placement facilities for this population in several counties.<sup>H</sup> The number of unlicensed residential facilities throughout the state is unknown. The Tennessee Bureau of Investigation reported that it received 64 complaints regarding unlicensed residential facilities housing elderly and vulnerable adults in the first six months of 2021. For many years, the four Tennessee state agencies that regulate licensed residential facilities – the Departments of Health, Mental Health and Substance Abuse Services, Intellectual and Developmental Disabilities, and Human Services – have received complaints about unlicensed facilities housing elderly and vulnerable adults.

Each of these state departments regulate facilities that require licenses to operate:

- The Department of Health licenses homes for the aged, assisted care living facilities, adult care homes, and traumatic brain injury residential homes.<sup>39</sup>
- The Department of Mental Health and Substance Abuse Services and the Department of Intellectual and Developmental Disabilities license facilities that provide mental health, alcohol, and drug abuse prevention and/or treatment;<sup>40</sup> intellectual or developmental disability services; or personal support services.
- The Department of Human Services licenses adult day service facilities.<sup>41</sup>

Governor Lee tasked the Tennessee Commission on Aging and Disability (TCAD) with studying the unlicensed facilities issue. TCAD has documented what is known about unlicensed facilities and the ongoing multi-agency efforts to address them, as well as potential solutions, in a 2021 report, *An Examination of Unlicensed Facilities in Tennessee*.

Operating an unlicensed facility is a Class B misdemeanor under Tennessee state law. Closing unlicensed facilities, once they are known, can be difficult. Even though state law prohibits unlicensed facilities, addressing them has been challenging. There are gaps between each of the regulatory agencies' jurisdiction and the system for investigating unlicensed facilities is complaint driven. Based on its authority in state law and rule, each agency has different criteria for investigating an unlicensed facility case. The residents of an unlicensed facility often have varying conditions – many are elderly, some have mental health diagnoses or traumatic brain injury, and some are bedbound and need skilled nursing care, which they are unlikely to receive in an unlicensed facility. When an unlicensed facility is housing people with varying needs, no one agency in Tennessee has complete jurisdiction over the facility or the means to obtain an injunction based on licensure necessity.

Another common issue in unlicensed facilities is elder financial exploitation of residents. TCAD's report noted that "some unlicensed care home operators require residents to make the care home operator or the operator's designee their representative payee for SSI benefits, and that some operators also collect food stamps, medications, or other resources from residents, which the operators can then sell for profit."

See more on pages 23, 25, and 26 about the successful efforts in 2021 of TCAD and other agencies that worked together to close many unlicensed facilities and find placements for the residents.

See the policy options section for potential solutions that TCAD offered in its report on unlicensed facilities.

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<sup>H</sup>Tennessee Commission on Aging and Disability, *An Examination of Unlicensed Facilities in Tennessee*, 2021, <https://www.tn.gov/aging/publication-reports/unlicensed-facilities-white-paper.html>. The information presented in this section is based on the TCAD report.

## The provider network and frontline workers' pay

TennCare long-term care services and supports are offered through managed care entities called Managed Care Organizations (MCOs). Each MCO creates its own contracts with providers. Those providers employ direct support professionals (DSPs)<sup>1</sup> in Tennessee to work as caregivers under multiple home and community-based programs (HCBS), including TennCare CHOICES Groups 2 and 3,<sup>1</sup> as well as under Options and OAA.<sup>K</sup> Providers also staff cases for individuals who have long-term care (LTC) insurance, have benefits under the Veterans Administration (VA), or pay through private funds. DSPs assist individuals in their homes or in community settings with personal care needs such as getting out of bed, taking a bath, getting dressed, fixing and eating meals, and toileting. DSPs are generally paid hourly with few benefits.<sup>42</sup>

Tennessee has a critical shortage of paid caregivers, often called direct support professionals (DSPs), who help elderly and vulnerable adults in Tennessee continue to live in their homes rather than in nursing facilities.<sup>43</sup> Problems hiring staff and economic difficulties facing the businesses that employ caregivers could negatively affect the care of elderly and vulnerable people who are receiving care at home or in their communities. Over the last several years, there have been reports of a nationwide shortage of paid caregivers, which has worsened with the onset and continuation of the pandemic. Providers in Tennessee say that the supply of DSPs has declined to a severe level since the pandemic began. Despite efforts to recruit new employees – by opening more offices in rural areas, creating incentive payments, bonuses, and career development programs, providing virtual training, hosting open hiring events, for example – shortages persist.

One provider believes the single biggest reason for the hiring difficulty rests with “total pay,” an aggregate of hourly wage, hours worked, benefits earned, expenses (gas/mileage/child care costs), and more. Weighing all these factors together may lead an individual away from the caregiving profession to accept a less emotionally and physically demanding position – at retail shops or restaurants or in Amazon warehouses, for example – that pays more, has better benefits, and provides hiring bonuses.

Another provider wrote: “Working conditions for caregivers are much more difficult compared to other entry level positions that don’t require staff to assist clients with difficult tasks such as lifting, bathing, and dressing. Staff are also often going into clients’ homes with unsafe conditions and neighborhoods.”

To address this issue, in November 2021, TennCare increased provider reimbursement rates targeted specifically at increasing DSP wages under CHOICES Groups 2 and 3. On November 2, 2021, and retroactive to July 1, 2021, TennCare received federal and state authority to increase reimbursements to providers under CHOICES HCBS programs (Groups 2 and 3). The increased reimbursements, which are for specific services that require direct care to individuals receiving HCBS, are authorized under the American Rescue Plan. (See box “How TennCare is paying for the CHOICES provider rate increase.”) For example, the rate for personal care visits to individuals receiving home

### Provider comment

“At this time, our shortage of workers is severe and is growing worse. As inflation increases (specifically gas and food costs) we are not able to increase pay rates to retain employees. They are leaving our industry as they can easily get jobs at other places that have hiring bonuses, better benefits, and pay higher wages. We are critically short of employees at this time. Especially ones that want to serve in state programs because those clients typically have higher acuity and health needs than private pay clients. Also, employees that were older and worked part-time decided to leave the industry and retire. The risk of getting COVID-19 was too high for them. This has added to our caregiver shortage because several of our employees were older and worked part-time.”

<sup>1</sup> Direct support professionals are also called direct support workers, direct services staff, or frontline HCBS staff.

<sup>1</sup> These providers also serve disabled individuals under the TennCare ECF (Employment and Community First) CHOICES program. For information on legislative efforts to increase wages for DSPs working under ECF CHOICES, see a 2019 report titled Comptroller Survey Concerning Wages of Direct Support Professionals at <https://comptroller.tn.gov/office-functions/research-and-education-accountability/publications/other-topics/content/comptroller-survey-dsp-wages.html>.

<sup>K</sup> Under TennCare CHOICES, Managed Care Organizations (MCOs) contract with providers to staff services provided through the state’s home and community-based programs. Under Options and OAA, Area Agencies on Aging (AAADs) oversee by TCAD contract with providers to staff these services. In many cases, the same providers work under all state programs.

and community-based services, previously set at \$20.52 per hour, increased to \$21.32. The rate for attendant care, previously set at \$17.48 per hour, also increased to \$21.32.<sup>44</sup>

TennCare sets the rates that providers are reimbursed for services provided under CHOICES but does not set the hourly rates that providers pay DSPs. In a memo to providers on November 2, 2021, TennCare stated:

While TennCare does not prescribe hourly wages for frontline staff in CHOICES, by aligning rates of reimbursement in CHOICES (and ECF CHOICES) with rates for comparable services in the 1915(c) waivers [under which DIDD operates], the expectation is that comparable hourly wages for frontline support staff are accounted for across Medicaid HCBS programs and populations.<sup>45</sup>

Providers are required to spend the funding exclusively to increase the wages of frontline home and community-based workers, and must sign an attestation of compliance to qualify for the rate increases. Providers are permitted to keep about 16.7 percent of the funding, which TennCare believes is sufficient to cover taxes and other provider related costs.<sup>46</sup>

The current hourly DSP wage is \$12.50 under the 1915(c) waivers operated by DIDD,<sup>47</sup> which provides HCBS for people with intellectual and developmental disabilities. (The General Assembly appropriated funds in 2018 specifically to raise the DSP wages under the DIDD-operated program.)<sup>48</sup> TennCare does not stipulate how providers must pass funds resulting from the newly increased rates to frontline workers but does expect providers to account for an average hourly wage of at least \$12.50 per hour.

### **How TennCare is paying for the CHOICES provider rate increase**

To pay for the provider rate increase, TennCare is using funds from the federal American Rescue Plan, which is available to all states, with an increase in certain Medicaid expenditures for home and community-based services incurred between April 1, 2021, and March 31, 2022. All funds are to be spent exclusively on Medicaid HCBS by March 31, 2024. Of this increased funding, TennCare received federal and state approval to use \$137.5 million for targeted rate increases in both CHOICES and ECF CHOICES HCBS that have a direct care component. According to TennCare, “The belief is that by increasing the wages paid to these staff, providers will be better able to recruit and retain staff to provide these critically needed services, reducing overtime and costs associated with constant turnover.”

This funding is not recurring, and spending must occur by March 31, 2024. TennCare has requested recurring funding to continue the wage increases, which is addressed in the Governor’s Budget for Fiscal Year 2022-2023. If passed by the General Assembly, this would further increase the average wages accounted for in the provider reimbursement rates to at least \$13.75 per hour effective July 1, 2022.

Sources: Memo from TennCare to CHOICES providers of specified HCBS regarding wage increases for frontline HCBS workers in CHOICES, Nov. 2, 2021, p. 2, <https://www.tn.gov/content/dam/tn/tenncare/documents/CHOICESRateIncreaseMemo11022021.pdf>. Frequently Asked Questions from TennCare to CHOICES providers, <https://www.tn.gov/content/dam/tn/tenncare/documents/EnhancedFMAPFAQGuideFAQSet122121.pdf>.

The rate increases are retroactive to July 1, 2021. Providers who follow the specified procedures will receive “back pay” reflecting the increased rates based on their previously submitted claims.<sup>48</sup>

Under the same funding authority, TennCare also announced two new referral incentives for providers. One will pay providers \$500 for initiating specified services to an individual, in keeping with their support plan, who did not previously use those services. This is applicable to new service recipients or to current recipients for whom the type of service is new. For CHOICES Groups 2 and 3, the specific services are attendant care and personal care visits (which are provided only in the community, not in residential facilities) and residential

<sup>44</sup> For information on legislative efforts to increase wages for DSPs working under the DIDD-operated program, see a 2019 report titled Comptroller Survey Concerning Wages of Direct Support Professionals at <https://comptroller.tn.gov/office-functions/research-and-education-accountability/publications/other-topics/content/comptroller-survey-dsp-wages.html>.

services such as Community Living Supports, Adult Care Homes, and Assisted Living Facilities.<sup>49</sup> Providers are also eligible to receive a second incentive payment of \$500 for continuously staffing and providing the service to that individual for at least six months.<sup>M</sup>

Effective January 1, 2022, TCAD increased provider rates under both the Options for Community Living and the Older Americans Act (OAA) programs to be consistent with TennCare's increased provider rates. The TCAD Executive Director said, "After receiving input and data from stakeholders, the decision to increase HCBS rates was made so that our provider network remains robust and we can continue to provide critically needed services."<sup>50</sup> TCAD has historically kept pace with the provider rates that are set by TennCare.

The Governor's Budget for 2022-2023 calls for additional recurring funds for wage increases for frontline direct support professionals working in CHOICES, ECF CHOICES, and other programs operated by DIDD. If approved by the Tennessee General Assembly, the increased funding will account for a consistent wage of at least \$13.75 per hour for frontline DSPs working in these programs. The increased hourly wage would be effective on July 1, 2022.

TCAD is unable to make the increases for providers retroactive to July 1, 2021, and provide incentive bonuses to providers as TennCare is making. TCAD staff explained that the agency's current funding levels would not allow for the incentives and retroactive increase without decreasing program capacity to serve current clients.

## Family caregiver support

Most elderly people who need assistance with bathing, dressing, or preparing meals turn to family and other unpaid caregivers for help. This enables many seniors to continue living in their homes for as long as possible. Family and informal caregivers, many of whom are also seniors, save the state a considerable amount of resources by partially or completely offsetting the need for expanded public services. About 20 percent of family or other unpaid individuals 55 and older cared for elderly individuals in 2017 and 2018.<sup>51</sup>

The home and community-based services provided to individuals under the TennCare CHOICES, Options, and Older Americans Act (OAA) programs provide some assistance for family and other unpaid caregivers, including in-home or in-patient respite care. Respite care gives a caregiver a temporary break from providing continuous support to an adult who depends on others for daily needs.<sup>52</sup>

The pandemic resulted in additional stress for family and other caregivers. Studies document the increased stress of caregivers during the pandemic.<sup>53</sup> Two Centers for Disease Control and Prevention surveys in 2020 and 2021 found that during the pandemic 39 percent of caregivers for adults reported anxiety or depression symptoms and about 10 percent reported serious suicidal ideation.<sup>54</sup>

In November 2021, Tennessee began using federal COVID funding from the American Rescue Plan (ARP) to pay for additional services and supports for family caregivers. The ARP funding is available through March 31, 2024, for services provided to individuals in CHOICES receiving home and community-based services even if it exceeds services limits, budgets, or cost caps.<sup>55</sup>

The federal ARP funding is being used to provide family and other unpaid caregivers of TennCare CHOICES<sup>N</sup> enrollees in Groups 2 and 3 up to \$3,000 more of certain services, including respite, adult day services, assistive technology, enabling technology, and minor home modifications.

Individuals who do not qualify for TennCare CHOICES may seek caregiver services through the Older Americans Act National Family Caregiver Support Program administered by the Tennessee Commission on Aging and Disability. Assistance includes counseling and support groups, caregiver training, respite care,

<sup>M</sup>Other settings and services are also eligible under the ECF CHOICES program.

<sup>N</sup>The funding is also being used for enrollees under ECF CHOICES.

personal care, homemaker services, and adult day care.<sup>56</sup> Through ARP and the CARES Act, TCAD received \$5 million to be used for additional services for family and unpaid caregivers. This is in addition to the annual federal funding that TCAD receives under the OAA.

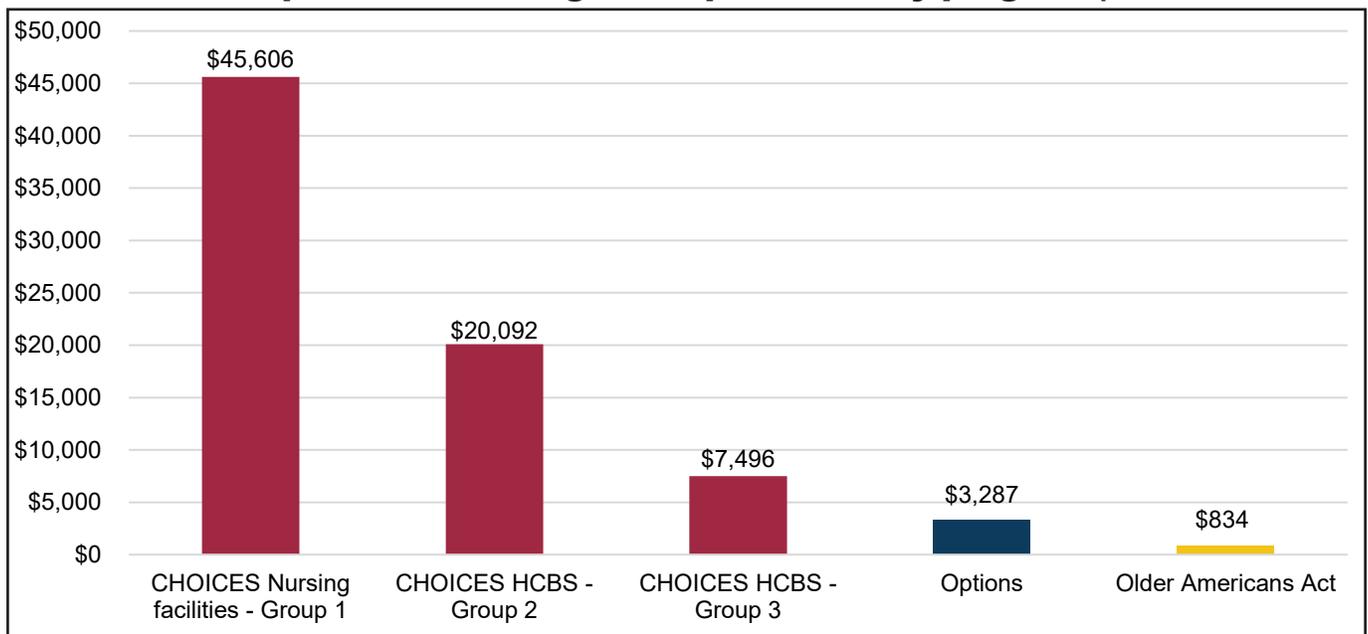
## Analysis: CHOICES, Options, and OAA represent a range of public programs that provide care for seniors

As described above, Tennessee’s public programs vary in the types of services offered and seniors served, which affects program costs per person served. These programs can be thought of as a continuum of services for Tennessee’s low-income elderly population. The most intensive and highest cost services are at one end with decreasing service levels and lower costs at the other. (See Exhibit 10.) Programs on the lower cost end of the continuum are meant to eliminate or delay the need for higher cost services.

*Because of the influx of federal funding in 2020 and 2021 that can be used for home and community-based services, the state has already taken actions to address some of the concerns this analysis discusses. These are noted in detail in the Governor’s Budget for Fiscal Year 2022-2023 and are referred to in the appropriate sections below.*

*Aside from funding proposed in the Governor’s Budget, the state received \$20 million in 2020 and another \$137.5 million in 2021 in federal funding for temporary provider rate increases under TennCare CHOICES. Additional federal funding has also been directed toward workforce development training and incentives. This funding was the result of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan (ARP) Act.*

**Exhibit 10: Comparison of average cost per senior by program | FY 2020**



Note: (1) HCBS refers to home and community-based services. (2) For CHOICES and Options, cost per senior was determined by dividing total expenditures by the total number of program participants served. Costs do not represent annualized per person costs. (3) The 2017 Comptroller’s report presented the cost per senior for the Older Americans Act using a different calculation, which resulted in a lower cost per participant. The services provided under OAA consist of multiple programs, not all of which provide direct services to individual participants. Working with TCAD staff, for this report OREA excluded three such programs for the purpose of creating a more accurate comparison of per person costs measuring similar services that make up the CHOICES, Options, and OAA programs. Source: Data provided by TennCare and Tennessee Commission on Aging and Disability.

## **Tennessee public programs and services designed to prevent or delay seniors from needing higher cost nursing facility services are not able to serve all seniors who could benefit from the services or are serving fewer seniors.**

The three programs examined by OREA are TennCare CHOICES Group 3, Options, and OAA programs. Services provided under all three programs allow qualified seniors at risk of needing institutional nursing care to receive preventive assistance in their homes or communities.

### ***Enrollment in CHOICES Group 3 began to decline in 2015 and has continued to drop.***

TennCare established CHOICES Group 3 in FY 2013 to make individuals “at risk of institutional placement” eligible for less expensive home and community-based services. Until July 1, 2015, applicants could qualify for Group 3 under the same financial eligibility requirements applicable to CHOICES Groups 1 and 2 (i.e., income up to 300 times the maximum amount of Supplemental Security Income at \$841 per month in 2022, which totals \$252,300 per month, and assets less than or equal to \$2,000 excluding the home in which the senior lives).<sup>57</sup>

In July 2015, as a result of state budget reduction requirements, financial eligibility to qualify for Group 3 was changed to include only individuals who receive Supplemental Security Income (SSI) administered by the Social Security Administration.<sup>58</sup> (In 2022, the qualifying income limit for SSI is \$841 for an individual.<sup>o</sup>) As stated in the 2015-16 budget document, the purpose of the budget reduction was to reduce funding by limiting enrollment in CHOICES Group 3.<sup>59</sup> The shift to the SSI criteria meant that fewer individuals would qualify for Group 3. Since that change, Group 3 enrollment of seniors age 65 and over decreased by about 54 percent from 3,455 in FY 2016 to 1,583 in FY 2020. (See Exhibit 3.) Total expenditures for Group 3 dropped from \$27.8 million in FY 2016 to \$11.9 million in FY 2020.<sup>p</sup> In interviews with OREA, representatives from the AAADs stated that limiting enrollment to Group 3 in 2015 had negatively affected some individuals’ ability to access care.

A 2020 external evaluation of TennCare CHOICES found that the more restricted enrollment criteria established in 2015 for CHOICES Group 3 resulted in fewer diversions from nursing care to home and community-based care. In 2012, nursing home eligibility requirements under TennCare CHOICES were raised to a higher standard so that only those individuals with the most significant medical needs would be admitted to nursing facilities. The expectation was that more people would be diverted from nursing care to home and community-based care. Almost 20 percent of nursing home applicants were diverted to home and community-based services for each year between 2012 and 2015. However, after the 2015 enrollment restrictions were made for Group 3, nursing facility diversion rates fell below 20 percent: 13.6 percent (period ending June 30, 2016); 11.52 percent (period ending June 30, 2017); 13.21 percent (period ending June 30, 2018); and 11.83 percent (period ending June 30, 2019).<sup>60</sup>

The 2020 evaluation stated:

The early successes of offering HCBS more broadly to at-risk groups in achieving greater diversion from institutional care warrant further consideration, particularly in light of the recent impacts of COVID-19 on [nursing facilities], and longer term, as it relates to ensuring the sustainability of the system in light of an aging population.<sup>61</sup>

<sup>o</sup>To qualify for SSI, an individual must be disabled, blind, or at least 65 years old and have limited income and resources. In 2022, the qualifying income limit for SSI is \$841 for an individual and \$1,261 for a couple. Most states, including Tennessee, provide supplements to SSI recipients.

<sup>p</sup>CHOICES Group 3 also serves eligible adults 21 and older with a disability. Because this report focuses on elderly adults, these figures do not include those CHOICES recipients who are under 65.

### ***State budget proposal***

*The Governor's Budget for Fiscal Year 2022-2023 proposes to provide recurring funding to add 1,750 enrollees for CHOICES Group 3. This would provide up to \$15,000 per year per enrollee to be spent on personal care, home-delivered meals, minor home modifications, and other home and community-based services to individuals at risk of placement in a nursing facility.<sup>62</sup> The total amount of annual state expenditures would be about \$20 million and federal expenditures would be about \$39 million.<sup>63</sup>*

*This reflects the proposal TennCare made to use federal stimulus funds from the American Rescue Plan to reopen eligibility more broadly for Group 3, as well as to serve all individuals on the current wait list for the state-funded Options program.<sup>64</sup> (See next section for more about the wait list for Options.) If this is approved by the General Assembly, and/or by the State Financial Stimulus Accountability Group, financial eligibility requirements for Group 3 will revert to the original requirements that were effective from July 1, 2012, through June 30, 2015: 300 percent of the maximum amount of Supplemental Security Income, thus making more at-risk individuals eligible for home and community-based services under CHOICES.*

### **The state-funded Options program and the federal-state match funded OAA program continue to have wait lists.**

In its 2021-25 State Plan, the Tennessee Commission on Aging and Disability listed several concerns relative to its current funding levels and capacity to serve the growing population of those who qualify for OAA services. One primary concern noted by the agency is the ability to handle the increase in demand for services when current programs are already beyond maximum capacity, a common theme in each of the last three state plans. The 2021-25 TCAD State Plan noted “the current capacity of the aging network is unable to meet the immediate needs of the aging population and several programs and services have active waiting lists.”<sup>65</sup> As noted previously in this report, over 2,500 individuals are on the Options program wait list. As of October 2021, the home-delivered meals program under OAA had a wait list of about 1,300 and in-home services had a wait list of about 1,500.

Research shows that the home and community-based services offered by these programs may allow seniors to stay in their homes and delay or prevent seniors' functional decline, which often depletes caregiver and financial resources, and ultimately qualifies these seniors for more expensive Medicaid services. Thus, OAA programs, Options, and CHOICES Group 3 are intended to save money in the long run by delaying or avoiding the need for the more expensive care along the long-term care continuum.

### ***State budget proposal***

*The Governor's Budget for Fiscal Year 2022-2023 proposes to provide recurring state funding of \$10.4 million to eliminate the wait list for the Options for Community Living program.<sup>66</sup> If passed, this would double the amount of annual state funding for Options, which would allow for services to more people, possibly eliminating or delaying their need for more expensive services in the future.*

### ***Additional federal funding for TCAD and the AAADs***

*As the result of the American Rescue Plan, TCAD and the AAADs are receiving more than \$28 million to be spent by September 30, 2024, on Title III services under OAA.<sup>67</sup> The Title III services are those described earlier in this report that provide direct support services to seniors and other vulnerable adults, including home-delivered meals and caregiver relief. This funding is supplemental to the annual funding that states receive under the Older Americans Act. As under annual OAA funding, state matches are required.<sup>68</sup>*

*The Administration for Community Living under the Department of Health and Human Services announced the increases for all states in January 2022, noting that the aging and disability networks play an essential role in promoting and protecting the health of people and communities, particularly during a public health emergency.<sup>69</sup>*

***The growth in unlicensed facilities highlights the need for additional housing options for low-income seniors.***

In its 2021 report about unlicensed residential facilities in Tennessee, the Tennessee Commission on Aging and Disability (TCAD) noted unlicensed facilities are found in counties where healthcare “deserts” occur: “The lack of small residential health care facilities in these areas has allowed unlicensed facilities to flourish.”<sup>70</sup>

In 2021, a collective of state agencies, including TCAD and TennCare among several others, worked together to close two related unlicensed facilities in Hamblen County, and later 13 additional facilities across the state. The collective created a replicable set of protocols to address unlicensed facilities. The efforts to close the facilities and find placements for the residents were complex and involved actions taken by multiple agencies, including the State Fire Marshal’s Office, Adult Protective Services, Area Agencies on Aging and Disability, and district attorneys general. Operators of the unlicensed facilities made attempts to circumvent the orders issued by the State Fire Marshal’s Office to correct the numerous deficiencies found in the facilities that could affect the life and health of residents.<sup>71</sup>

As described in the TCAD report:

The providers in Hamblen County were the subject of multiple complaints of abuse, neglect, and financial exploitation over the years and were well known to local law enforcement, APS, the local codes department, and many of the regulatory agencies. In fact, one of the providers operating the unlicensed facility had previously been placed on the Tennessee Department of Health’s Abuse Registry by [APS] on the basis of neglect of a resident in her care.<sup>72</sup>

The Department of Health, on a visit to one of the unlicensed homes, discovered six residents in the basement of the ranch-style home with no means of egress and a non-working bathroom. Several fire hazards were also observed. As a result, a complaint was opened with the State Fire Marshal’s Office, which had not been previously included in prior efforts in these two homes. The facility was then issued a Review of Order or Removal or Remedy of Dangerous or Defective Conditions. The State Fire Marshal’s office issued a Plan of Corrective Action and ordered the facility to remedy the fire hazards and egress issues immediately or potentially have their electricity turned off due to the great safety risks present in the home. The facility was unable/unwilling to comply with the Plan of Corrective Action. A Final Order was then issued and the electrical service to the residence was disconnected.<sup>73</sup>

Most of the residents of the two homes in Hamblen County were initially ineligible for TennCare and had little ability to pay for care or housing. Following assessment by the AAAD and coordinated actions by APS, TennCare, MCOs, and the Department of Health, these individuals were later approved for CHOICES based on a Safety Determination procedure under TennCare rules.<sup>74</sup> APS also secured a permanent injunction preventing the unlicensed provider from continuing to operate.

The second home in Hamblen County contained 11 residents and had raw sewage in the front yard. One resident was bedbound and staff were regularly administering medication to some residents, including injectable insulin. The unlicensed facility was performing activities of daily living as well. Again state and regulatory agencies worked together to conduct CHOICES assessments and find placements for the residents. TBI worked with the district attorney general in Judicial District 3 to secure a nuisance abatement preventing continued operation, the first time this type of action has been used against an unlicensed facility in Tennessee.

### ***State budget proposal***

*The Governor's Budget for Fiscal Year 2022-2023 proposes to provide recurring state funding of \$929,600 to support the Interagency Unlicensed Facility Working Group, which is made up of the Tennessee Commission on Aging and Disability, the Division of TennCare, the Departments of Commerce and Insurance, Health, Human Services, Intellectual and Developmental Disabilities, and Mental Health and Substance Abuse Services.<sup>75</sup>*

## **Policy options**

Several reports in the last 20 years have offered numerous ideas on how Tennessee might prepare for the growth in the senior population, improve services for low-income seniors, and help seniors avoid or delay the need for higher cost services and supports. This update focuses on two issues that continue to be critical in 2022: expanding home and community-based services and community-based residential alternatives. It also looks at ongoing areas of concern that affect the state's ability to provide home and community-based support for seniors: wages for direct support workers who work as caregivers in the homes of people receiving care under the CHOICES, Options, and OAA programs; and continuing support for family and other unpaid caregivers. This report does not make recommendations or address what the state should spend on services and supports for the elderly population.

A 2003 report by the Comptroller's Office addressed the beginning stages of Tennessee's shift to providing more home and community-based services prior to the passage of the CHOICES Act in 2008. A follow up report in 2017 looked at the TennCare CHOICES program as well as the Options and OAA programs, in considering the state's efforts to care for the aging population. The 2017 report referred to a 2014 report by the Governor's Task Force on Aging, which focused on ways to promote healthy aging, create livable communities, and support family caregivers. The Tennessee Commission on Aging and Disability's 2021-25 State Plan explores concerns relative to capacity and funding for the future. Most of the Tennessee plans are based on feedback collected through statewide listening tours and surveys, which obtained input from state and local officials, as well as nonprofit, for-profit, and advocacy agencies that deal directly with senior populations and their concerns.

### **Expand home and community-based services**

Tennessee could expand the more basic forms of home and community-based services. Studies show that investing in home and community-based services, such as OAA programs, Tennessee's Options, and CHOICES Group 3, would likely result in decreased future use of more expensive home and community-based services and nursing homes through Medicaid/TennCare CHOICES.

According to Tennessee Area Agencies on Aging directors, in many cases, if a senior can get basic home services such as meals, bathing, and light housekeeping, they are more likely to be able to safely continue to live in their community for longer without enrolling in more expensive TennCare CHOICES services. The TennCare CHOICES program is based on the premise that when medically and safely appropriate, lower cost home and community-based services can reduce the lifetime costs of TennCare long-term services and supports for seniors by delaying their need for nursing facility care.<sup>76</sup>

Expanding more moderate home and community-based services such as CHOICES Group 3 and Options would likely reduce the use of more expensive home and community-based services and nursing facility care. Some seniors may be able to live out the rest of their lives at their home or in another residential setting with the support of less intensive home and community-based services. For other seniors, less intensive services can delay the point in time when more expensive, higher level services are needed and the duration of those services. In general, the longer a senior's needs can be met through less intensive levels of home and community-based services, the lower the overall cost of long-term services and supports for the state.

## Expand community-based residential alternatives

Since the CHOICES Act of 2008 was passed, legislative efforts have been made, with the support of TennCare, to develop more “community-based residential alternatives to institutional care for persons who can no longer live alone.”<sup>77</sup> These efforts have yielded some new options, but the increase in the number of unlicensed facilities across the state suggests that there may not be enough residential options for low-income people who lack a support system. Although some alternatives have been added (for example, adult foster care homes, called Community Living Supports – Family Model), attempts to create others have not succeeded (adult care homes for a broader population, for example).

Proposed legislation in 2009 called for the development of adult care homes for seniors who require assistance with activities of daily living but do not require specialized care and would have created a Level 1 adult care home licensure. In the bill’s final form, which was passed and became law, Level 1 licensure was eliminated, and a Level 2 adult care home was made available only to those with traumatic brain injury or who are ventilator-dependent. No more than five individuals can be provided services in one of these facilities.<sup>78</sup> (In 2021, of the 653 facilities the Tennessee Department of Health licenses, four are adult care homes.<sup>79</sup>) In 2012, a similar bill to create a Level 1 adult care home was filed but did not pass.<sup>80</sup>

Another bill in 2012 concerning licensing of facilities for those with intellectual and developmental disabilities was passed that permits elderly individuals and those with physical disabilities to be cared for in residential facilities licensed by the Tennessee Department of Intellectual and Developmental Disabilities (DIDD) “so long as the services are adequate to ensure the health, safety and welfare of each resident.”<sup>81</sup> Under the TennCare CHOICES program, this allowed the development of community-based residential alternatives called Community Living Supports (CLS) and Community Living Supports – Family Model (akin to an adult foster care home). TennCare reports that as of December 31, 2021, 133 CHOICES members were served in CLS – Family Model homes. (The homes also serve ECF CHOICES members who are intellectually or developmentally disabled.<sup>Q</sup>) A total of 318 CHOICES members received Community Living Supports in assisted living facilities, adult care homes, or their own or family members’ homes.<sup>R</sup>

### ***In its 2021 report on unlicensed facilities, TCAD suggests ways to increase the number of community-based residential alternatives available to low-income individuals, including:***

- Reopening enrollment into CHOICES Group 3 for those who do not qualify for institutional care but are at risk of placement without home and community-based services, as discussed on page 21 of this report.<sup>82</sup>
- Certifying rather than requiring a license for residential homes for the aged, currently licensed by the Department of Health. The Tennessee Department of Health currently licenses 46 homes for the aged with a total bed count of 966.<sup>83</sup> Each facility can have no fewer than four residents. The law defines the resident of a home for the aged as someone who is ambulatory and requires permanent, domiciliary care, but who would be transferred to a different type of facility if more intensive care were needed.<sup>84</sup> TCAD suggests that if homes for the aged were allowed to be established under a certification rather than a licensing process, they could be made smaller, allowing for only four residents, and residents could be eligible for CHOICES HCBS.<sup>S</sup> Surveys by the Fire Marshal’s Office could be required for certified homes, which may lessen some life safety requirements under licensing for larger facilities. This could help make opening certified homes less expensive, while preserving critical safety needs for residents.<sup>85</sup>
- Expanding semi-independent living services, modeled after those provided by the Tennessee Department of Intellectual and Developmental Disabilities and also provided in TennCare CHOICES under some Community Living Supports models. Under this type of service, up to three individuals may receive

<sup>Q</sup> The CLS – Family Model also served 247 ECF CHOICES members as of July 1, 2021.

<sup>R</sup> These numbers include CHOICES recipients of all ages.

<sup>S</sup> To be eligible for Medicaid funding, facilities would also have to comply with the federal home and community-based settings rule.

services in a shared living arrangement with others who need varying levels of support, with a provider who can safely meet each resident’s needs. The service is appropriate for people who need intermittent or limited support to remain in their own home and do not require staff to live on-site. Access to emergency supports from the provider is required under this arrangement.<sup>86</sup>

***To close existing and prevent the opening of unlicensed facilities, the TCAD report also proposed:*<sup>87</sup>**

- Designating in state law a standing “strike force” to follow specific protocols developed by the group of state and regulatory agencies formed in 2021 to investigate and take appropriate actions on unlicensed facilities as they are identified.
- Amending state law to add a new criminal penalty of Class D felony for continuous or chronic operation of an unlicensed facility – the state and regulatory agencies that worked together in 2021 found that many unlicensed operators are chronic offenders.

## **Address frontline workers’ pay**

Providers employ direct support professionals (DSPs) in Tennessee to work as caregivers under multiple home and community-based programs (HCBS), including TennCare CHOICES Groups 2 and 3, as well as under Options and OAA.<sup>T,U</sup> DSPs assist individuals in their homes or in community settings with personal care needs such as getting out of bed, taking a bath, getting dressed, fixing and eating meals, and toileting. DSPs are generally paid hourly with few benefits.

This issue has been recently addressed through actions taken by TennCare and TCAD to increase provider rates targeted specifically at pay for DSPs. Details are below.

**Tennessee has a critical shortage of paid caregivers who help elderly and vulnerable adults continue to live in their homes rather than in nursing facilities.** Problems hiring staff could negatively affect the care of elderly and vulnerable people who are receiving care at home or in their communities. Over the last several years, there have been reports of a nationwide shortage of paid caregivers, often called direct support professionals (DSPs), which has worsened with the onset and continuation of the pandemic. Providers in Tennessee say that the supply of DSPs has declined to a severe level since the pandemic began in early 2020. Despite providers’ efforts to recruit new employees – by opening more offices in rural areas, creating incentive payments, bonuses, and career development programs, providing virtual training, hosting open hiring events, for example – shortages persist.

One provider believes the single biggest reason for the hiring difficulty rests with “total pay,” an aggregate of hourly wage, hours worked, benefits earned, expenses (gas/mileage/childcare costs), and more. Weighing all these factors together may lead an individual away from the caregiving profession to accept a less emotionally and physically demanding position – at retail shops or restaurants or in Amazon warehouses, for example – that pays more, has better benefits, and provides hiring bonuses. Another provider wrote: “Working conditions for caregivers are much more difficult as compared to other entry level positions that don’t require staff to assist clients with difficult tasks such as lifting, bathing, and dressing. Staff are also often going into clients’ homes with unsafe conditions and neighborhoods.”

<sup>T</sup> These providers also serve disabled individuals under the TennCare ECF (Employment and Community First) CHOICES program. For information on legislative efforts to increase wages for DSPs working under ECF CHOICES, see a 2019 report titled Comptroller Survey Concerning Wages of Direct Support Professionals at <https://comptroller.tn.gov/office-functions/research-and-education-accountability/publications/other-topics/content/comptroller-survey-dsp-wages.html>.

<sup>U</sup> Under TennCare CHOICES, Managed Care Organizations (MCOs) contract with providers to staff services provided through the state’s home and community-based programs. Under Options and OAA, Area Agencies on Aging (AAADs) overseen by TCAD contract with providers to staff these services. In many cases, the same providers work under all state programs.

**In November 2021, TennCare increased provider rates targeted specifically at increasing DSP wages under CHOICES Groups 2 and 3.** On November 2, 2021, and retroactive to July 1, 2021, TennCare received federal and state authority to increase reimbursements to providers under CHOICES HCBS programs (Groups 2 and 3). The increased reimbursements are authorized under the American Rescue Plan. (See box “How TennCare is paying for the CHOICES provider rate increase.”) The services targeted for increase are those through which recipients receive direct care. For example, the rate for personal care visits to individuals receiving home and community-based services increased to \$21.32 per hour (previously set at \$20.52 since 2010).<sup>88</sup>

TennCare sets the reimbursement rates for providers but does not set the hourly rates for DSPs who work for the providers. Based on the increased rates, however, TennCare expects providers to set hourly DSP rates at a comparable level across all TennCare HCBS programs. The current hourly DSP wage is \$12.50 under the 1915(c) waivers operated by DIDD,<sup>89</sup> which provides HCBS for people with intellectual and developmental disabilities.<sup>v</sup> (The General Assembly appropriated funds in 2018 specifically to raise the DSP wages under the DIDD-operated program.)<sup>w</sup>

To qualify for reimbursement, providers must spend the funding exclusively to increase the wages of frontline home and community-based workers, and must sign an attestation of compliance to qualify for the rate increases. Providers are permitted to keep about 16.7 percent of the funding, which TennCare believes is sufficient to cover taxes and other provider related costs.<sup>90</sup> TennCare does not stipulate how providers must pass funds resulting from the newly increased rates to frontline workers but does expect providers to account for an hourly rate of at least \$12.50 per hour.<sup>91</sup> The rate increases are retroactive to July 1, 2021. Providers who follow the specified procedures will receive “back pay” reflecting the increased rates based on their submitted claims.

The Governor’s Budget for Fiscal Year 2022-2023 further proposes \$15.3 million in recurring state funding to increase the average pay of frontline direct support professionals in the CHOICES program to provide a wage of at least \$13.75 per hour.<sup>92</sup> If passed by the General Assembly, the increase would be effective July 1, 2022.

Also using funding from the federal American Rescue Plan, TennCare announced two new referral incentives for providers. One will pay providers \$500 for initiating specified services to an individual, in keeping with their support plan, who did not previously use those services. This is applicable to new service recipients or to current recipients for whom the type of service is new. For CHOICES Groups 2 and 3, the specific services are limited to attendant care and personal care visits in residential facilities, including adult care homes and assisted care living facilities.<sup>93</sup> Providers are also eligible to receive a second incentive payment of \$500 for continuously staffing and providing the service to that individual for at least six months.<sup>94</sup>

**Effective January 1, 2022, TCAD increased provider rates under both the Options for Community Living and the Older Americans Act (OAA) programs to be consistent with TennCare’s increased provider rates.**<sup>95</sup> The TCAD Executive Director said, “After receiving input and data from stakeholders, the decision to increase HCBS rates was made so that our provider network remains robust and we can continue to provide critically needed services.”<sup>96</sup> TCAD has historically kept pace with the provider rates that are set by TennCare. TCAD policy prohibits reimbursement rates for providers under Options and OAA from exceeding the TennCare CHOICES reimbursement rates.

<sup>v</sup> For information about ECF CHOICES, see <https://www.tn.gov/didd/employment-and-community-first-choices.html>.

<sup>w</sup> For information on legislative efforts to increase wages for DSPs working under ECF CHOICES, see a 2019 report titled Comptroller Survey Concerning Wages of Direct Support Professionals at <https://comptroller.tn.gov/office-functions/research-and-education-accountability/publications/other-topics/content/comptroller-survey-dsp-wages.html>.

TCAD sets an expenditure ceiling for specific direct care services that are provided to individuals under the Options and OAA programs. The services include personal care and homemaker services. The new rates of \$21.32 per hour match the increased rates TennCare announced for CHOICES providers on November 2, 2021.<sup>97</sup> AAADs may reimburse providers at rates below that amount but cannot reimburse above that amount. TCAD is unable to make the increases for providers retroactive to July 1, 2021, and provide incentive bonuses to providers that TennCare is making. TCAD staff explained that the agency's current funding levels would not allow for the incentives and retroactive increase without decreasing program capacity to serve current clients.<sup>98</sup>

### ***State budget proposal***

*The Governor's Budget for Fiscal Year 2022-2023 proposes \$1.25 million in recurring state funding to increase the pay of direct support professionals in the Options for Community Living program.<sup>99</sup>*

*The Governor's Budget further proposes \$15.3 million in recurring state funding to increase the pay of frontline direct support professionals in the CHOICES program to provide a wage of at least \$13.75 per hour.<sup>100</sup>*

## **Continue additional support for family and other unpaid caregivers**

The additional funding that the state is receiving through federal COVID-19 relief efforts is being used to provide additional support for family and other unpaid caregivers as described previously. (See pages 19-20.) The funding provides additional supports for these caregivers under TennCare CHOICES through March 31, 2024, and under the OAA programs through September 30, 2024.<sup>101</sup>

The state could consider providing recurring funding for these caregivers. Family and informal caregivers, many of whom are also seniors, save the state a considerable amount of resources by partially or completely offsetting the need for expanded public services. According to a 2019 Bureau of Labor Statistics report, about 20 percent of family or other unpaid individuals 55 and older cared for elderly individuals in 2017 and 2018. Individuals between 55 and 64 were the most likely to provide eldercare (24 percent). Of those age 65 and over, 18 percent provided care to elders. Fifty percent of eldercare providers had provided care for two years or less, while 15 percent had provided it for 10 years or more. Most (46 percent) provided care daily or several times a week.

## Endnotes

- <sup>1</sup> The University of Tennessee-Knoxville, Tennessee State Data Center, <https://tnsdc.utk.edu/estimates-and-projections/boyd-center-population-projections/>, Boyd Center Tennessee Population Projections: 2018-2070.
- <sup>2</sup> Richard Fry, The pace of Boomer retirements has accelerated in the past year, Pew Research Center, Nov. 9, 2020, <https://www.pewresearch.org/fact-tank/2020/11/09/the-pace-of-boomer-retirements-has-accelerated-in-the-past-year/>.
- <sup>3</sup> OREA analysis using UT Boyd Center Tennessee Population Projections: 2020-2070 by age. Data provided by TennCare.
- <sup>4</sup> Information provided by Tennessee Department of Finance and Administration
- <sup>5</sup> This analysis is based on growth for TennCare CHOICES Groups 1 (nursing facility services) and Groups 2 and 3 (home and community-based services). OREA analysis based on information provided by TennCare CHOICES Enrollment and Expenditures – SFY 16-20 and data from the University of Tennessee-Knoxville, Tennessee State Data Center, <http://tndata.utk.edu/sdcpopulationprojections.htm>.
- <sup>6</sup> Tennessee Public Chapter 1190, 2008, Long-Term Care Community CHOICES Act of 2008, <https://publications.tnsosfiles.com/acts/105/pub/pc1190.pdf>.
- <sup>7</sup> TCA 71-5-1402 (h).
- <sup>8</sup> Erica L. Reaves and MaryBeth Musumeci, Medicaid and Long-Term Services and Supports: A Primer, Kaiser Family Foundation, Dec. 2015, <https://files.kff.org/attachment/report-medicaid-and-long-term-services-and-supports-a-primer>.
- <sup>9</sup> TennCare Long-Term Care Programs 1200-13-01-.04(b), Revised May 2021.
- <sup>10</sup> The income limit is subject to change each calendar year.
- <sup>11</sup> People who qualify for SSI have low income and few assets. The maximum federal benefit in 2022 for SSI for an individual is \$841 per month. Like most states, Tennessee provides a supplement to those who receive SSI payments. In December 2020, the state had a total of 33,563 people age 65 and over receiving both the SSI federal benefit and a state supplement. The total supplement to all Tennessee recipients age 65 and older in 2020 was \$12,850,000. U.S. Social Security Administration, Office of Retirement and Disability Policy, Office of Research, Evaluation, and Statistics, SSI Recipients by State and County, 2020, p. 2, [https://www.ssa.gov/policy/docs/statcomps/ssi\\_sc/2020/ssi\\_sc20.pdf](https://www.ssa.gov/policy/docs/statcomps/ssi_sc/2020/ssi_sc20.pdf).
- <sup>12</sup> TennCare Long-Term Care Programs 1200-13-01-.01(3), Revised May 2021.
- <sup>13</sup> For complete list of covered services, see <https://www.tn.gov/tenncare/long-term-services-supports/choices/what-home-care-services-are-covered-in-choices.html>.
- <sup>14</sup> TennCare Long-Term Care Programs 1200-13-01-.02(193), Room and Board, p. 69.
- <sup>15</sup> TennCare Long-Term Care Programs 1200-13-01-.05(3)(f), p. 85. The cap excludes the cost of minor home modifications.
- <sup>16</sup> TennCare Long-Term Care Programs 1200-13-01-.05(4)(f), p. 91.
- <sup>17</sup> TennCare Long-Term Care Programs 1200-13-01-.05(8)(l), Benefits for CHOICES 3 members, p.106.
- <sup>18</sup> TennCare Long-Term Care Programs 1200-13-01-.05(4)(c)(3)(i), p. 87.
- <sup>19</sup> Data provided by TennCare.
- <sup>20</sup> OREA analysis of U.S. Census Bureau data.
- <sup>21</sup> Data provided by TennCare.
- <sup>22</sup> Data provided by TennCare.
- <sup>23</sup> Data provided by TennCare. FY20 cost share includes a temporary increase of 6.2 percent in federal COVID-related funding. This is not the

standard cost share rate for prior or future years once the COVID-related funding ends.

<sup>24</sup> Data provided by TennCare.

<sup>25</sup> Tennessee Commission on Aging and Disability, Policy 16-1-.08, Priority for Provision of Services, pp. 10-11, <https://www.tn.gov/content/dam/tn/aging/documents/TCAD-PI-2020-07%20-%20Chapter%2016%20HCBS-Rev%20Nov%202019.pdf>. Rules of Tennessee Commission on Aging and Disability, Chapter 0030-1-7, Cost Sharing for Services for the Elderly Provided Through Title III of the Older Americans Act, Aug. 2005 (revised), <https://publications.tnsosfiles.com/rules/0030/0030-01/0030-01-07.pdf>.

<sup>26</sup> Tennessee Commission on Aging and Disability, Policy 16-1-08(2), p. 11, and Federal Poverty Guidelines, p. 84 of PDF, <https://www.tn.gov/content/dam/tn/aging/documents/TCAD-PI-2020-07%20-%20Chapter%2016%20HCBS-Rev%20Nov%202019.pdf>.

<sup>27</sup> Tennessee Commission on Aging and Disability, Policy 16-1-.03(6), <https://www.tn.gov/content/dam/tn/aging/documents/TCAD-PI-2020-07%20-%20Chapter%2016%20HCBS-Rev%20Nov%202019.pdf>.

<sup>28</sup> Tennessee Comptroller of the Treasury, *Senior Long-Term Care in Tennessee: Trends and Options*, Susan Mattson and Tara Bergfeld, Office of Research and Education Accountability, April 2017, p.13, <https://comptroller.tn.gov/content/dam/cot/orea/advanced-search/2017/Seniorlongtermcare.pdf>.

<sup>29</sup> Tennessee Commission on Aging and Disability, Policy 16-1-.03, <https://www.tn.gov/content/dam/tn/aging/documents/TCAD-PI-2020-07%20-%20Chapter%2016%20HCBS-Rev%20Nov%202019.pdf>.

<sup>30</sup> Tennessee Commission on Aging and Disability, Policy 16-1, Appendix A, <https://www.tn.gov/content/dam/tn/aging/documents/TCAD-PI-2020-07%20-%20Chapter%2016%20HCBS-Rev%20Nov%202019.pdf>.

<sup>31</sup> TCA 71-5-1416. Tennessee Commission on Aging and Disability, Policy 16-1-.02(1)(e).]

<sup>32</sup> TCAD is required to report this information annually to the General Assembly according to TCA 71-2-105(a)(11).

<sup>33</sup> Tennessee Commission on Aging and Disability, Options Report for General Assembly, Jan. 15, 2021, [https://www.capitol.tn.gov/Archives/senate/112GA/committees/LtGovReports/2021/2021-01-15\\_TN%20Commission%20on%20Aging%20and%20Disability-Opinions%20Report.pdf](https://www.capitol.tn.gov/Archives/senate/112GA/committees/LtGovReports/2021/2021-01-15_TN%20Commission%20on%20Aging%20and%20Disability-Opinions%20Report.pdf).

<sup>34</sup> Tennessee Commission on Aging and Disability, Options Report for General Assembly, Jan. 12, 2022, [https://www.capitol.tn.gov/Archives/senate/112GA/committees/LtGovReports/2022/2022-01-12\\_TCAD\\_OPTIONS%20Report%20FINAL.pdf](https://www.capitol.tn.gov/Archives/senate/112GA/committees/LtGovReports/2022/2022-01-12_TCAD_OPTIONS%20Report%20FINAL.pdf).

<sup>35</sup> Tennessee Commission on Aging and Disability, Policy 16-1-.03(3) and 16-1-.06.

<sup>36</sup> The program experienced increases in 2009-10 due to temporary stimulus funding from the American Recovery and Reinvestment Act during the Great Recession but decreased soon after by about 5 percent during sequestration reduction. Kathleen Ujvari, Wendy Fox-Grage, and Ari Houser, Spotlight: Older Americans Act, AARP Public Policy Institute, Feb. 2019, <https://www.aarp.org/content/dam/aarp/ppi/2019/02/older-americans-act.pdf>.

<sup>37</sup> Data provided by TCAD.

<sup>38</sup> Data provided by TCAD.

<sup>39</sup> TCA 68-11-201 and 68-11-213.

<sup>40</sup> TCA 33-2-405 and 33-2-417.

<sup>41</sup> TCA 71-2-401 and 402.

<sup>42</sup> Jordan Baker, Behind the Poor Pay and High Turnover Rates of Direct Support Professionals, Relias, Oct. 6, 2021, <https://www.relias.com/blog/minimum-wage-poor-pay-and-high-turnover-rates-of-dsps>.

<sup>43</sup> Tennessee Department of Intellectual and Developmental Disabilities, “DIDD Hosts Roundtable Discussion for Direct Support Professionals in Middle Tennessee,” Sept. 20, 2021, <https://www.tn.gov/didd/news/2021/9/20/didd-hosts-roundtable-discussion-for-direct-support-professionals-in-middle-tennessee.html>.

<sup>44</sup> Rate increases for additional services can be found in this memo from TennCare to CHOICES providers of specified HCBS regarding wage increases for frontline HCBS workers in CHOICES, Nov. 2, 2021, p. 2, at <https://www.tn.gov/content/dam/tn/tenncare/documents/CHOICESRateIncreaseMemo11022021.pdf>. Note that the personal care rate of \$20.52 set in 2010 was reduced by 1 percent in 2015 to \$20.32 until 2017 when it was increased to \$20.52.

<sup>45</sup> Ibid.

<sup>46</sup> Memo from TennCare to CHOICES providers of specified HCBS regarding wage increases for frontline HCBS workers in CHOICES, Nov. 2, 2021, p. 2, <https://www.tn.gov/content/dam/tn/tenncare/documents/CHOICESRateIncreaseMemo11022021.pdf>. Frequently Asked Questions from TennCare to CHOICES providers, <https://www.tn.gov/content/dam/tn/tenncare/documents/EnhancedFMAPFAQGuideFAQSet122121.pdf>.

<sup>47</sup> Memo from TennCare to CHOICES providers of specified HCBS regarding wage increases for frontline HCBS workers in CHOICES, Nov. 2, 2021, <https://www.tn.gov/content/dam/tn/tenncare/documents/CHOICESRateIncreaseMemo11022021.pdf>.

<sup>48</sup> Frequently Asked Questions from TennCare to CHOICES providers, pp. 9-10, <https://www.tn.gov/content/dam/tn/tenncare/documents/EnhancedFMAPFAQGuideFAQSet122121.pdf>.

<sup>49</sup> TennCare, Protocol Title: CHOICES, Employment and Community First CHOICES, and Katie Beckett Part A ARPA FMAP Provider Referral Incentives, Effective Nov. 2, 2021, Revised Jan. 18, 2022, <https://www.tn.gov/content/dam/tn/tenncare/documents/ProviderReferralIncentiveProtocol11022021.pdf>.

<sup>50</sup> TN.Gov, News Release: TCAD Announces Rate Increase for Home and Community-Based Services, Jan. 5, 2022, <https://www.tn.gov/aging/news/2022/1/5/tcad-announces-rate-increase-for-home-and-community-based-services.html>.

<sup>51</sup> In 2017-2018, 17.5 percent of individuals 65 and over provided unpaid care to elderly individuals. An additional 24.2 percent of those 55 to 64 provided unpaid care to elders. Bureau of Labor Statistics, News Release: Unpaid Eldercare in the United States, 2017-2018 Data from the American Time Use Survey, Nov. 22, 2019, <https://www.bls.gov/news.release/pdf/elcare.pdf>.

<sup>52</sup> Tennessee Commission on Aging and Disability, Helping Family Caregivers, <https://www.tn.gov/aging/resources/community-resource-guide/helping-family-caregivers.html>.

<sup>53</sup> Katherine Harmon Courage, How to fix the Covid-19 mental health crisis for caregivers, Vox, Aug. 4, 2021, <https://www.vox.com/22442407/care-for-caregivers-mental-health-covid>.

<sup>54</sup> Centers for Disease Control and Prevention, Mental Health Among Parents of Children Aged less than 18 Years and Unpaid Caregivers of Adults During the COVID-19 Pandemic, Dec. 2020 and Feb.-March 2021, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7024a3.htm>.

<sup>55</sup> Division of TennCare Long-Term Services and Supports Operational Protocol, Family Caregiver Support Benefit, Nov. 2, 2021, <https://www.tn.gov/content/dam/tn/tenncare/documents/FamilyCaregiverSupportsBenefitProtocol11022021.pdf>.

<sup>56</sup> Tennessee Commission on Aging and Disability, Helping Family Caregivers, <https://www.tn.gov/aging/resources/community-resource-guide/helping-family-caregivers.html>.

<sup>57</sup> The amount of Supplemental Security Income (SSI) stated here is based on the current amount allowable in 2022. The amount in 2015 was \$733. See <https://www.ssa.gov/policy/docs/statcomps/supplement/2015/ssi.html>.

<sup>58</sup> TennCare recognized that some people who qualified for Choices Group 3 under the old financial eligibility requirements would no longer qualify under the new Group 3 standards. To address this population, TennCare maintains an interim CHOICES 3 group, allowing those already receiving services to remain in the interim group.

<sup>59</sup> State of Tennessee, The Budget, Fiscal Year 2015-16, Vol. 2: Base Budget Reductions, 318.00 Finance and Administration, Bureau of TennCare, CHOICES 3 Enrollment Limit, p. 29 of PDF, <https://www.tn.gov/content/dam/tn/finance/budget/documents/2016BudgetDocumentVol2.pdf>. The Governor's proposal to change the eligibility criteria for Group 3 was adopted by the General Assembly in Public Chapter 427, 2015.

<sup>60</sup> Division of TennCare, TennCare II Extension (No. 11-W-00151/4), Draft Interim Evaluation Report, Nov. 9, 2020, p. 47 (p. 73 of the PDF), <https://www.tn.gov/content/dam/tn/tenncare/documents2/DraftTennCareExtensionApplication.pdf>. The evaluation was conducted by QSource, TennCare's contracted External Quality Review Organization, and by a CMS contracted Quality Innovation Network-Quality Improvement Organization.

<sup>61</sup> Division of TennCare, TennCare II Extension (No. 11-W-00151/4), Draft Interim Evaluation Report, Nov. 9, 2020, p. 47 (p. 73 of PDF), <https://www.tn.gov/content/dam/tn/tenncare/documents2/DraftTennCareExtensionApplication.pdf>.

<sup>62</sup> As stated earlier in the report, \$15,000 is the cap for Group 3. The amount of expenditures for an individual in Group 3 depends on their medical needs.

<sup>63</sup> State of Tennessee, The Budget, Fiscal Year 2022-2023, p. 347 of PDF, <https://www.tn.gov/content/dam/tn/finance/budget/documents/2023BudgetDocumentVol1.pdf>.

<sup>64</sup> TennCare presentation to State Fiscal Stimulus Accountability Group, Sept. 2, 2021, <https://www.tn.gov/finance/looking-for/stimulus-financial-accountability-group.html>.

<sup>65</sup> Tennessee Commission on Aging and

Disability, Tennessee State Plan on Aging, Oct. 1, 2021-Sept. 30, 2025, p. 17 of PDF, <https://www.tn.gov/content/dam/tn/finance/budget/documents/2023BudgetDocumentVol1.pdf>.

<sup>66</sup> State of Tennessee, The Budget, Fiscal Year 2022-2023, pp. 21 and 346 of PDF, <https://www.tn.gov/content/dam/tn/finance/budget/documents/2023BudgetDocumentVol1.pdf>.

<sup>67</sup> The total amount to Tennessee also includes funding for Title IIID (Preventive Services) and Title VII (Ombudsman). Administration for Community Living, U.S. Department of Health and Human Services, ACL begins awarding \$150 million to expand the aging and disability networks' public health workforce, Jan. 13, 2022, <https://acl.gov/news-and-events/announcements/acl-begins-awarding-150m-expand-aging-and-disability-networks-public>. See allocation table for all states at <https://acl.gov/sites/default/files/about-acl/2021-05/FY%202021%20ARP%206%20Programs%204-30-21%20Values%20Only%20version%202.pdf>.

<sup>68</sup> Administration for Community Living, U.S. Department of Health and Human Services, Fiscal FAQ – COVID-19 Emergency, Older Americans Act Funding and American Rescue Plan Act, May 3, 2021, p. 4, [https://acl.gov/sites/default/files/2021-05/ARP%20Fiscal%20FAQ\\_4\\_30\\_2021.pdf](https://acl.gov/sites/default/files/2021-05/ARP%20Fiscal%20FAQ_4_30_2021.pdf). State matches are not required for Title IIID-Preventive Services and Title VII-Ombudsman.

<sup>69</sup> Administration for Community Living, U.S. Department of Health and Human Services, ACL begins awarding \$150M to expand the aging and disability networks' public health workforce, Jan. 13, 2022, <https://acl.gov/news-and-events/announcements/acl-begins-awarding-150m-expand-aging-and-disability-networks-public>.

<sup>70</sup> Tennessee Commission on Aging and Disability, An Examination of Unlicensed Facilities in Tennessee, 2021, p. 22, <https://www.tn.gov/aging/publication-reports/unlicensed-facilities-white-paper.html>.

<sup>71</sup> Ibid., pp. 4-7.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid., p. 5. Rules of Tennessee Department of Finance and Administration, Bureau of TennCare, TennCare Long-Term Care Programs 1200-13-01-.02(194), Definition of Safety Determination, and 1200-13-01-.05(6), Safety Determination Requests, p. 93, Revised Nov. 2020.

<sup>75</sup> State of Tennessee, The Budget, Fiscal Year 2022-2023, p. 347 of PDF, <https://www.tn.gov/content/dam/tn/finance/budget/documents/2023BudgetDocumentVol1.pdf>.

<sup>76</sup> Tennessee Public Chapter 1190, 2008, Long-Term Care Community CHOICES Act of 2008, <https://publications.tnsosfiles.com/acts/105/pub/pc1190.pdf>. See definition of “cost effective.”

<sup>77</sup> Ibid.

<sup>78</sup> Public Chapter 579, 2009, <https://publications.tnsosfiles.com/acts/106/pub/pc0579.pdf>. House Bill 2282, 2009, original version, prior to amendment, <https://www.capitol.tn.gov/Bills/106/Bill/HB2282.pdf>.

<sup>79</sup> Information found on Department of Health, Health Care Facilities searchable database, <https://apps.health.tn.gov/facilityListings/>, March 12, 2022. As of that date, the Tennessee Department of Health also licensed 332 assisted living care facilities, 317 skilled nursing facilities, and one traumatic brain injury home.

<sup>80</sup> House Bill 3442 / Senate Bill 3158, 2012, <https://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB3442&ga=107>

<sup>81</sup> TCA 33-2-418(c). Public Chapter 1010, 2012, <https://publications.tnsosfiles.com/acts/107/pub/pc1010.pdf>.

<sup>82</sup> Tennessee Commission on Aging and Disability, An Examination of Unlicensed Facilities in Tennessee, 2021, p. 16, <https://www.tn.gov/aging/publication-reports/unlicensed-facilities-white-paper.html>.

<sup>83</sup> Tennessee Department of Health, Health Care Facilities searchable database, Homes for the Aged.

Results downloaded March 12, 2022, at <https://apps.health.tn.gov/facilityListings/>.

<sup>84</sup> TCA 68-11-201(18) and (19).

<sup>85</sup> Tennessee Commission on Aging and Disability, An Examination of Unlicensed Facilities in Tennessee, 2021, pp. 19-20, <https://www.tn.gov/aging/publication-reports/unlicensed-facilities-white-paper.html>.

<sup>86</sup> Ibid., p. 21.

<sup>87</sup> Ibid., pp. 13-15.

<sup>88</sup> Rate increases for additional services can be found in this memo from TennCare to CHOICES providers of specified HCBS regarding wage increases for frontline HCBS workers in CHOICES, Nov. 2, 2021, p. 2, at <https://www.tn.gov/content/dam/tn/tenncare/documents/CHOICESRateIncreaseMemo11022021.pdf>. Note that the rate of \$20.52 set in 2010 was reduced by 1 percent in 2015 to \$20.32 until 2017 when it was increased to \$20.52.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid., p. 2. Also see Frequently Asked Questions from TennCare to CHOICES providers at <https://www.tn.gov/content/dam/tn/tenncare/documents/EnhancedFMAPFAQGuideFAQSet122121.pdf>.

<sup>91</sup> For example, providers could choose to provide workers with recurring bonuses or mileage allowances as long as these are recurring to ensure that all of the funding is passed through to frontline workers. Providers must be able to account for the various methods they use. See Frequently Asked Questions from TennCare to CHOICES providers at <https://www.tn.gov/content/dam/tn/tenncare/documents/EnhancedFMAPFAQGuideFAQSet122121.pdf>. For information about ECF CHOICES, see <https://www.tn.gov/didd/employment-and-community-first-choices.html>.

<sup>92</sup> If approved by the Tennessee General Assembly, the \$15.3 million will also provide recurring funding to raise wages to at least \$13.75 per hour for DSPs working under ECF CHOICES. TennCare overview

of Governor Lee's Fiscal Year 2023 Proposed Budget for Home and Community-Based Services in Tennessee.

<sup>93</sup> Other settings and services are also eligible under ECF CHOICES programs. See TennCare Long-Term Services and Supports, Protocol Title: CHOICES, Employment and Community First CHOICES, and Katie Beckett Part A ARPA FMAP Provider Referral Incentives, Effective Nov. 2, 2021, Revised Jan. 18, 2022, <https://www.tn.gov/content/dam/tn/tenncare/documents/ProviderReferralIncentiveProtocol11022021.pdf>.

<sup>94</sup> Ibid.

<sup>95</sup> Tennessee Commission on Aging and Disability, TCAD Aging Program Administrator, email to OREA, Jan. 12, 2022. Tennessee Commission on Aging and Disability, TCAD Announces Rate Increase for Home and Community-Based Services, Jan 5, 2022, <https://www.tn.gov/aging/news/2022/1/5/tcad-announces-rate-increase-for-home-and-community-based-services.html>.

<sup>96</sup> Ibid.

<sup>97</sup> James Dunn, Executive Director, Tennessee Commission on Aging and Disability, memorandum TCAD-PI-2022-05 to Directors, Area Agencies on Aging and Disability (AAADs), "New OAA Title III HCBS & Options Rates."

<sup>98</sup> Tennessee Commission on Aging and Disability, TCAD Aging Program Administrator, email, Jan. 13, 2022.

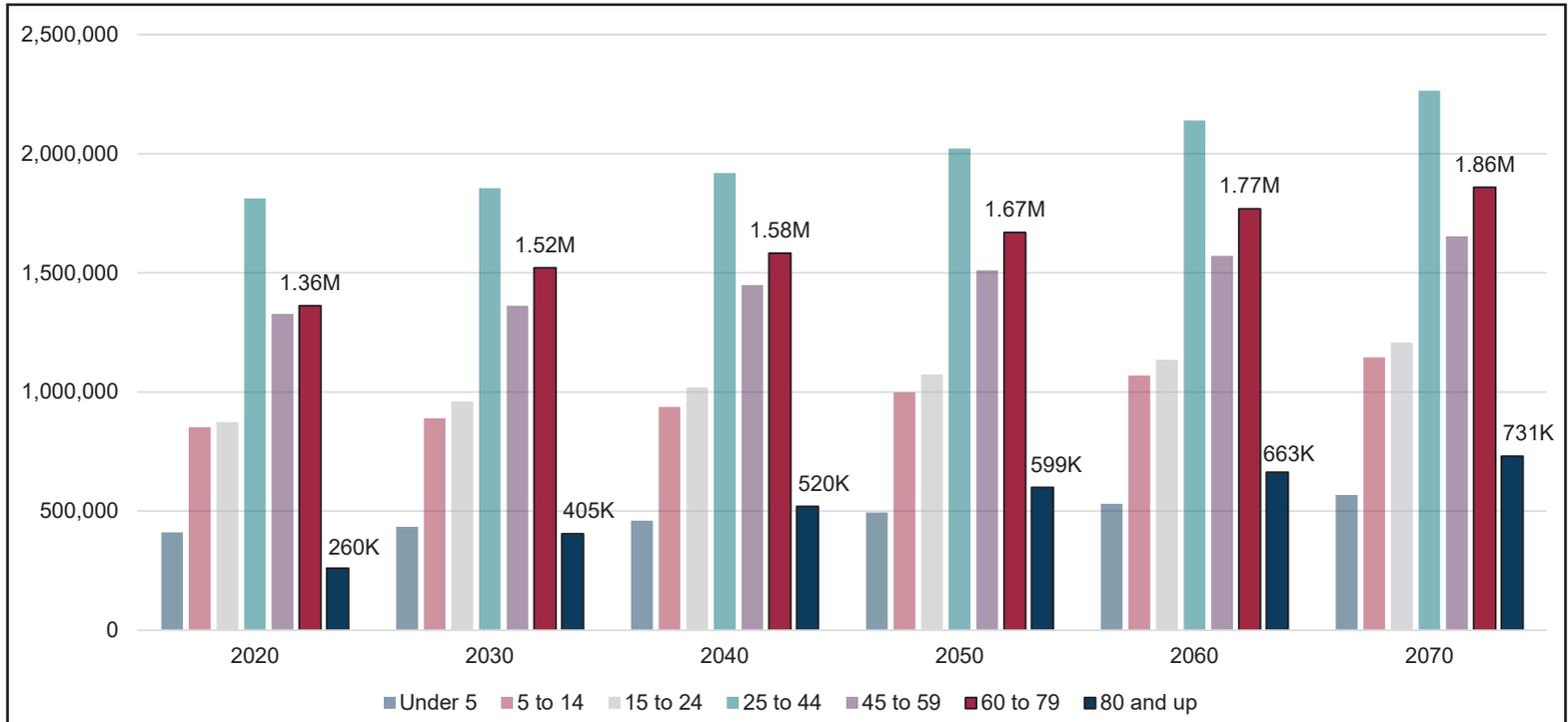
<sup>99</sup> State of Tennessee, The Budget, Fiscal Year 2022-2023, p. 346 of PDF, <https://www.tn.gov/content/dam/tn/finance/budget/documents/2023BudgetDocumentVol1.pdf>.

<sup>100</sup> The \$15.3 million would also provide recurring funding for DSPs working under ECF CHOICES.

<sup>101</sup> Medicaid.Gov, Strengthening and Investing in Home and Community-Based Services for Medicaid Beneficiaries, American Rescue Plan Act of 2021 Section 9817 Spending Plans and

Narratives, <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/strengthening-and-investing-home-and-community-based-services-for-medicaid-beneficiaries-american-rescue-plan-act-of-2021-section-9817-spending-plans-and-narratives/index.html>. Administration for Community Living, COVID-19 Response, Fiscal FAQ – COVID-19 Emergency, Older Americans Act Funding and American Rescue Plan Act (ARP), May 3, 2021, [https://acl.gov/sites/default/files/2021-05/ARP%20Fiscal%20FAQ\\_4\\_30\\_2021.pdf](https://acl.gov/sites/default/files/2021-05/ARP%20Fiscal%20FAQ_4_30_2021.pdf).

# Appendix A: Tennessee population projections by age range, 2020-2070



Source: OREA analysis of The University of Tennessee Knoxville, Tennessee State Data Center, <https://tnsdc.utk.edu/estimates-and-projections/boyd-center-population-projections/>, Boyd Center Tennessee Population Projections: 2020-2070.

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