Mr. Chairmen and Subcommittee Members,

I would like to take this opportunity to address a few of the misconceptions about the Community First Choice Option ("CFCO") program that I have heard being expressed by some people. I believe that the most effective method of countering misconceptions is to look at facts, from both a historical and a current perspective.

The law that is the basis for much of the discussion we are having today is the Americans with Disabilities Act. It was signed into law in 1990 by President George H. W. Bush. It was later amended by the ADA Amendments Act of 2008, which was signed into law by George W. Bush. In 1999, the Supreme Court issued its ruling in the Olmstead v. L.C. case. The Olmstead ruling stated that pursuant to the ADA, government services provided to the disabled must be furnished in the most integrated setting appropriate to the individual. One might assume that efforts to reform the institutional bias in the Medicaid program did not begin until some time after the Olmstead ruling.

This is not the case. In June of 1997, almost exactly two years before the Olmstead ruling, a bill was introduced in Congress. Let me quote from the Congressman's introduction of the bill, "Mr. Speaker, I want to introduce today the Medicaid Community Attendant Services Act of 1997 as part of my commitment to empowering all Americans, and to the principles of community-based care. This bill allows for choices for persons with disabilities so that individuals can receive the care that is more appropriate for them. Everyone deserves the opportunity to lead a full and independent life, and people with disabilities are no exception". It sounds like something a leftist liberal might say. In fact, they are the words of Newt Gingrich, who later became the Speaker of the House and campaigned to be the Republican nominee for President.

In 1999, the bill was reintroduced as the Medicaid Community Based Attendant Services and Supports Act. It was reintroduced in 2001, 2003 and 2005. In 2007, an equivalent bill was introduced as the Community Choice Act. It was reintroduced in 2009. For fourteen years prior to the Affordable Care Act, advocates and members of Congress had been trying to enact revisions to the Medicaid program that would permit the same types of attendant care services and supports that are found in the Community First Choice Option. The CFCO is not something President Obama and the Democrats dreamed up. It is a vision of how the Medicaid program can best furnish services to the disabled in compliance to the principles of the ADA, a Republican enacted law. It was included in the ACA because that's how Congress works. While the CFCO certainly qualifies as a health care reform program, it is entirely separate from, and not dependent on, the Medicaid expansion and individual and employer mandate provisions of the Act. It simply allows the right services to be provided to the right people in the right setting, while also helping states to control costs.

This leads me into the next misperception about the CFCO. Some believe that the CFCO will take what is now a capped program and turn it into an entitlement. This view mixes apples and oranges to come up with a belief that in inaccurate. According to the DHS Statistical Report for the State Fiscal Year of 2013, there were 18,345 Medicaid recipients receiving services in nursing facilities. Total expenditures on Long Term Care Facilities were $807 million. The people receiving Medicaid funded nursing home care are individual that are categorically eligible for Medicaid because of age, income or disability. No Medicaid program can deny eligibility to any individual that meets the qualifications of one of the eligibility categories. As such, there is no cap on the number of people than can receive long term care in a nursing home.

Nursing home coverage is a benefit provided under every Medicaid State Plan. It is, always has been, and will continue in the future to be, an entitlement. So, the basic premise that the CFCO will

take a capped program and turn it into an entitlement is wrong. If you do not adopt the CFCO, the state will still be obligated to spend $800 million dollars or more per year to cover the nursing home costs of more than 18,000 people. With an aging population, both the number of recipients and the total cost can be expected to grow and, without the CFCO, there really isn't much you can do to impact that. On the other hand, the CFCO will allow the state to take steps that will not only help reduce and control future costs, but it will have a positive impact on the quality of life of the recipients.

Now let us turn to services and supports provided to the developmentally disabled. Although institutionally based care at the Human Development Centers is arguably uncapped and an entitlement, it is correct that community based services are furnished through waiver programs that have an enrollment cap and where the services are not an entitlement. This is a situation that needs to be changed. While the Olmstead ruling did not say that individuals in institutions had to be removed from the institutions, it did say that individuals in an institution, and those at risk of institutionalization had to be given a choice of receiving services in the most integrated setting appropriate to them. The key concept is choice. Individuals in an HDC have a choice. They can stay or move out in the community. Those individuals currently in one of the waiver programs have a similar choice. They can stay in the community and get the care they need, or they can move to an institution.

However, there are over 3,000 people on a waiting list for the ACS Waiver that are not being provided with any other choice but to be institutionalized, because the availability of community based services is arbitrarily capped. This violates both the letter and the spirit of the law. The CFCO will finally provide these people with real choices. If the CFCO is not adopted, the waiver programs will not go away. There will still be as many recipients as before, and the state will still spend as much money on them as before. It is true that if the CFCO is adopted, the number of people receiving community based attendant services and supports will increase, as will total spending. However, it is reasonable to expect that the savings from the reduction in expenditures on long term nursing facility care will more than offset the increase in costs associated with covering the individuals on the waiting list that will finally become eligible to receive desperately needed services and supports.

I agree that the ability to control costs is an important concern of the Legislature. However, I believe this discussion about the CFCO involves issues that are far more important than money. As a people, we have decided that the elderly and the disabled are an especially vulnerable population and that they deserve our help and understanding to become, or to remain, individuals that are fully included members of society. To share in the American dream of independence and opportunity, these individuals must be given choices on how they lead their lives. Today, tens of thousands of elderly or disabled Arkansans are faced with a heart wrenching choice; they can struggle and suffer while attempting to live independently in their communities, or they can lose their independence and dignity by having to accept placement in an institutional setting. They deserve an opportunity to make real choices. The CFCO will provide them with choices, and will allow the state to better manage its costs in ways that no other program can.

I urge the Legislature to do the right thing for the citizens of Arkansas and approve the CFCO.

Thank you.

Mark George