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Research Article

Institutional Design of Home-Based Elderly Care Services in China: Legal Norms, Organizational Dilemmas, and Governance Pathways

Xianglong Dong[1,*]

[1]Law School, Beijing Normal University, Beijing 100875, China

[*]**Correspondence:** Xianglong Dong, 1271060364@qq.com

Abstract

China has established a multi-level legal framework for home-based elderly care services through local regulations and normative documents. However, quantitative legislative growth does not equate to effective institutional design. This paper identifies four fundamental design deficiencies that undermine the organizational performance of the service delivery system: (1) restrictive protection scope due to age thresholds and household registration barriers; (2) ineffective incentive norms for social forces; (3) fragmented entry standards coupled with a vacuum in exit mechanisms; and (4) over-reliance on fiscal funding without adequate supervision. These problems stem from four root causes: the absence of a rights-based legislative philosophy, structural imbalance in central-local legislative power allocation, hard constraints of service supply capacity, and institutional insufficiency of funding guarantees. To address these, this paper proposes systematic reforms: expand protection coverage through universal legislative philosophy and unified assessment procedures; institutionalize incentives for enterprises, social organizations, and volunteers via legally binding norms; establish unified, age-friendly entry standards and fill the institutional gap in exit mechanisms; diversify funding channels, elevate long-term care insurance to statutory social insurance, and institutionalize fund supervision. The core argument is that the legal-institutional framework must transition from management-oriented tools to rights-based protections, thereby achieving the shift from formal legislation to substantive governance.

Keywords

Home-based Elderly Care Services, Institutional Design, Legal Norms, Organizational Dilemmas, Incentive Mechanisms, Entry and Exit Standards, Long-term Care Insurance

1. Introduction

As a fundamental component of China's social elderly care service system, home-based elderly care services have taken initial shape in terms of institutional framework after nearly two decades of policy promotion and local legislative exploration (Su, 2020). In 2015, the Beijing Municipal Regulations on Home-based Elderly Care Services pioneered local legislation in this field, followed by Suzhou, Hefei, Ningbo, Hangzhou, Shijiazhuang, and other cities. By the end of 2024, there were 24 local regulations on home-based elderly care services in effect, along with 163 relevant local normative documents. In January 2025, the Central Committee of the Communist Party of China and the State Council issued the Opinions on Deepening the Reform and Development of Elderly Care Services, further explicitly proposing to consolidate the foundational role of home-based elderly care. In July 2026, the Beijing Municipal Regulations on Elderly Care Services came into effect, establishing an overall institutional framework for elderly care services as Beijing's first fundamental and comprehensive local regulation. From the perspective of institutional development, the legal provision for home-based elderly care services appears to have made considerable progress. Yet the proliferation of legal instruments raises a fundamental institutional design question: Does the current legal-institutional framework effectively structure the relationships among multiple organizational actors—government agencies, service-providing enterprises, social organizations, the elderly as service recipients, and funding institutions—to ensure an accessible, sustainable, and high-quality service delivery system? This paper addresses this question by examining four critical dimensions of institutional design: boundary control (who is entitled to services), incentive alignment (who is motivated to provide services), quality governance (how providers enter and exit), and resource sustainability (how services are financed and supervised).

However, the quantitative prosperity of legal norms does not equate to institutional effectiveness. Against the backdrop of increasing legislative texts, the actual operation of home-based elderly care services still faces numerous institutional dilemmas—the phenomena of elderly people being unable to buy, unable to afford, and afraid to buy services remain widespread, the enthusiasm for social force participation has not been fully released, the quality of service provision is uneven, and the sustainability of funding guarantees is concerning (Liu, 2022). This tension between legislative advancement and institutional idling reveals the structural deficiencies of the current legal-institutional design for home-based elderly care services: although legal norms provide an institutional framework, they have failed to effectively resolve the key bottlenecks and pain points in service provision.

From a legal-institutional perspective, the core task of institutional design for home-based elderly care services does not lie in the formal level of having laws to follow, but in effectively safeguarding the rights of the elderly to obtain elderly care services through institutional arrangements (Yang, 2022).

Based on empirical materials from China's local legislation on home-based elderly care services, this paper systematically analyzes the institutional dilemmas and their causes in four key aspects of current legal norm provision—protection scope, incentive mechanisms, entry and exit, and funding guarantees—and proposes actionable institutional optimization pathways drawing on relevant legislative experiences.

2. Institutional Dilemmas in the Current Design

This section identifies four distinct types of institutional failures embedded in the current legal framework. These failures correspond to the four core functions that any well-designed service delivery system must perform: defining its beneficiaries, motivating its providers, governing its quality, and securing its resources. Each is analyzed in turn, drawing on empirical evidence from 24 local regulations and 163 relevant normative documents.

2.1. Boundary Control Failures: Restrictive Service Eligibility

Boundary control determines who is included in and who is excluded from the service system. The current legal framework restricts eligibility through mechanical age cutoffs, household registration requirements, and the absence of objective assessment criteria. These three institutional barriers are examined below.

2.1.1 Mechanical Age Thresholds

The Hebei Provincial Regulations on Home-based Elderly Care Services stipulate that elderly people can only enjoy free health examination services after reaching the age of 65. This setting of age as the sole threshold, though operationally simple, ignores the individual differences in health status and self-care ability among the elderly—a healthy 65-year-old can receive free health examinations, while a 62-year-old who is semi-disabled, living alone, and economically disadvantaged cannot enjoy the same services. The Beijing Municipal Regulations on Home-based Elderly Care Services adopt a more ambiguous formulation, vaguely defining the protection subjects as "disabled and oldest-old elderly," lacking clear identification standards and operational rules. Such mechanical criteria constitute poor boundary design that fails to allocate scarce service resources to those with the greatest actual needs.

2.1.2 Household Registration Barriers

An even more prominent problem is household registration restriction. The vast majority of local regulations limit service recipients to elderly people with local household registration residing in the locality. For example, although the Xuancheng Municipal Regulations on Home-based Elderly Care Services stipulate that families in need can purchase services, they do not clearly specify whether non-registered elderly people can enjoy subsidies, nor the standards and proportions of such subsidies. This practice of linking social welfare benefits with the household registration system constitutes substantial institutional exclusion in today's context of large-scale population mobility. A large number of elderly people who follow their children to live in different locations, though having actually resided in the locality for many years, are excluded from the protection scope of home-based elderly care services due to household registration barriers. According to relevant statistics, the number of migrant elderly in China has exceeded 18 million, and the elderly care service needs of this group are growing rapidly, but the current legal-institutional framework lacks effective response (National Health and Family Planning Commission, 2016). This boundary design effectively penalizes geographic mobility, a clear misalignment with the demographic realities of contemporary China.

2.1.3 Absence of Assessment Procedures

Apart from a few localities that provide services through government purchase for the oldest-old and those with special difficulties, the vast majority of local regulations have not established a systematic elderly care service needs assessment system. Whether an elderly person meets the standards for receiving home-based elderly care services, what type and level of services are needed, and what level of subsidies should be obtained—these questions lack objective, transparent, and operational determination procedures. The absence of determination mechanisms, on the one hand, makes it difficult for elderly people with actual needs to obtain services, and, on the other hand, prevents the government from scientifically planning the scale and structure of service provision. Without reliable assessment procedures, boundary control becomes arbitrary rather than rational, undermining both fairness and efficiency.

2.2. Incentive Alignment Failures: Ineffective Mobilization of Social Forces

Incentive alignment addresses whether the legal framework provides sufficient motivation for private and social actors to participate in service delivery. The current design relies predominantly on hortatory "encouragement" provisions that lack binding force and concrete returns. Three manifestations of this failure are discussed below.

2.2.1 Proliferation of Non-binding Advocacy Provisions

An examination of the texts of local regulations reveals that provisions concerning social force participation are predominantly authorizing norms, generally expressed as "encouraging" various social actors to participate in supporting home-based elderly care services. For example, most local regulations contain similar provisions: "encourage enterprises, social organizations, and individuals to establish home-based elderly care service institutions," "encourage volunteers to participate in home-based elderly care services," and "encourage social forces to support home-based elderly care services through donations, volunteer services, and other means." In terms of normative nature, "encourage" means that such provisions are flexible advocacy provisions rather than legally binding mandatory norms. From a design standpoint, these are soft law provisions that create no enforceable obligations and confer no justiciable rights.

2.2.2 Lack of Concrete Incentive Instruments

More critically, the specific means and methods of encouragement are rarely specified in legislation. Except for a few localities—such as some cities in Zhejiang Province—that provide tax reduction policies for qualified home-based elderly care service institutions, the vast majority of local regulations do not specify what substantive returns encouraged social actors can receive. Without concrete rewards—tax breaks, subsidies, priority contracting rights, or reputational benefits—the "encouragement" amounts to little more than rhetorical gesture. The design flaw is clear: the legal framework asks social actors to contribute but offers no credible commitment of reciprocity.

2.2.3 Practical Consequences of Incentive Absence

The absence of incentive systems has brought practical negative consequences. According to relevant surveys, Shenyang has piloted government purchase of home-based elderly care services in recent years, but soon found that government efforts alone are far from sufficient to meet the city's home-based elderly care service needs, and the elderly care service industry faces serious talent attrition and service capacity shortages (Han & Zou, 2025). Social organizations face significant legal challenges in participating in home-based care service provision, and their participation remains severely insufficient. The system fails to attract the very actors it needs to fulfill its mission—a classic failure of incentive design.

2.3. Quality Governance Failures: Entry and Exit Institutional Gaps

Quality governance encompasses both the standards for admitting service providers and the protocols for their orderly exit. The current framework suffers from fragmented entry standards that vary across localities and a complete institutional vacuum regarding provider withdrawal. These two interrelated deficiencies are examined below.

2.3.1 Fragmented and Inadequate Entry Standards

In terms of facility standards, local regulations differ significantly in their provisions regarding service facilities. The Shaoxing Municipal Regulations on Home-based Elderly Care Services require the overall layout of home-based elderly care service facilities based primarily on the permanent elderly population, service demand, and service radius. The Hebei Provincial Regulations require newly built residential areas to provide supporting elderly care service facilities at a standard of no less than 30 square meters per 100 households. The Shanxi Provincial Regulations on Community Home-based Elderly Care Services, by contrast, vaguely state that construction should follow "national standards" without providing specific operational indicators (Wang, 2024). While this lack of uniform standards reflects differences in levels of economic and social development across regions, it also results in uneven baselines of service quality—a fragmented entry control system that permits wide variation in minimum quality thresholds.

More critically, existing facility standards focus primarily on area and quantity indicators, while paying insufficient attention to livability and age-friendliness. A typical case occurred in Ningbo—a community elderly care service facility, though meeting the area standards stipulated in the regulations, was located on the second floor of a building without an accessible elevator, rendering it practically inaccessible for elderly people with mobility impairments. This phenomenon of "meeting standards but being unusable" reflects a deviation in the value orientation of entry standards, prioritizing administrative convenience over substantive usability.

In terms of practitioner qualifications, the problems are equally prominent. Apart from specific positions such as medical care, rehabilitation, and fire safety that have clear professional qualification requirements, the qualification standards for frontline nursing staff in home-based elderly care services are vaguely addressed in most local regulations. Should elderly care nursing staff receive professional skills training? Must they achieve corresponding grade certifications before taking up positions? What scope of services can practitioners at different grades provide? These questions remain largely unanswered in local legislation in the absence of further provisions in the Measures for the Administration of Elderly Care Institutions.

2.3.2 Complete Vacuum in Exit Mechanisms

The Measures for the Administration of Elderly Care Institutions do not clearly stipulate the exit procedures for elderly care service providers. Although local regulations provide for the service obligations and standards of providers, most remain silent on the question of how providers exit. The absence of exit mechanisms brings multiple risks: for elderly care service institutions that become legally bankrupt due to improper operation, the path for property liquidation is unclear; for institutions that voluntarily withdraw based on their own will, there is a lack of procedural norms for advance notice, elderly relocation, and property transfer. In practice, some community elderly care service institutions have suddenly closed down overnight due to poor management, leaving the relocation of elderly residents and remedies for rights infringement from service interruption without timely and effective legal relief. From a governance perspective, a system with entry controls but no exit protocols is incomplete: it can admit providers but cannot manage their departure, exposing vulnerable recipients to abrupt service termination.

2.4. Resource Governance Failures: Structural Funding Deficiencies

Resource governance concerns how the service system secures, allocates, and supervises the financial resources necessary for its operation. The current design exhibits three structural deficiencies: excessive reliance on fiscal allocation, the mispositioning of long-term care insurance, and the absence of effective fund supervision.

2.4.1 Over-Reliance on Fiscal Allocation

In terms of funding channels, most local regulations limit funding sources to government financial input and allocation of a certain proportion of social welfare lottery public welfare funds.

While financial input is the foundation of funding guarantees for home-based elderly care services, complete reliance on fiscal allocation faces two structural contradictions: first, the sustainability of fiscal expenditure—as the degree of aging deepens and elderly care service demand continues to grow, the pressure on financial input will increase year by year; second, the efficiency of fiscal fund allocation—the government is less flexible and professional than market and social forces in service provision, and relying solely on fiscal funds makes it difficult to achieve diversification and individualization of service provision (Zhang & Zhao, 2024). The scale of social capital participation in home-based elderly care service provision has not been fully realized, and the role of charitable organizations and social funds has far from been fully activated. The resource base is dangerously narrow for a challenge of this magnitude.

2.4.2 Mispositioning of Long-term Care Insurance

Long-term care insurance is a key institutional tool for solving the funding guarantee problem for long-term care services for the elderly (Dai, 2024). However, an analysis of relevant provisions in local regulations reveals significant divergence in local legislative attitudes toward long-term care insurance. Most local regulations do not address long-term care insurance. Among those that do, such as the Lishui Municipal Regulations on Home-based Elderly Care Services, long-term care insurance is positioned as "encouraging commercial insurance institutions to provide insurance products connected to long-term care insurance," essentially treating it as commercial insurance. The Jinhua Municipal Regulations on Home-based Elderly Care Services stipulate that only economically disadvantaged elderly people receive subsidies for long-term care insurance contributions. This approach of positioning long-term care insurance as commercial insurance or as available only to a small number of disadvantaged groups falls far short of meeting the enormous long-term care needs under the context of population aging (Zheng, 2022). The failure to elevate long-term care insurance to statutory social insurance represents a major resource governance deficit.

2.4.3 Absence of Fund Supervision

In terms of fund supervision, the problems are even more prominent. Many local regulations, though providing for funding sources, do not establish corresponding fund supervision systems (Lei & Wang, 2020). After fiscal funds are allocated, how they are used, whether they are used effectively, and whether there is waste or misappropriation—these questions lack transparent reporting systems and effective oversight mechanisms (Wang, 2023). The absence of fund supervision not only affects the efficiency of fiscal fund utilization but may also breed corruption such as irregular use and fraudulent claims, fundamentally undermining the institutional credibility of home-based elderly care services (Jiang, 2022). Without supervision, resource governance degenerates into a black box.

3. Root Causes of the Institutional Dilemmas

The four institutional failures identified above, though manifesting differently across dimensions, share common underlying causes. These root causes operate at the levels of legislative philosophy, constitutional structure, supply-side capacity, and financial institutionalization. Each is analyzed in turn.

3.1. Absence of a Rights-Based Legislative Philosophy

The most fundamental defect in the current legal-institutional design for home-based elderly care services lies in the substitution of management-based for rights-based legislative philosophy. Some scholars, after examining the liability provisions in the Law on the Protection of the Rights and Interests of the Elderly and 36 local regulations, found that current legislation suffers from unclear responsible parties, unreasonable allocation of responsibilities, ambiguous liability content, and imperfect accountability procedures (Han, 2023). In terms of normative composition, the provisions of local regulations on home-based elderly care services are predominantly obligatory norms—stipulating what the government should do, what service institutions must not do, and what responsibilities families should bear—while insufficiently providing for the specific content, exercise methods, and remedies for elderly rights. As some scholars have pointed out, the reason for this legislative tendency is that home-based elderly care services are government-led, emphasizing substance over procedure, with high investment and low feedback, focusing more on government responsibilities themselves and failing to attach importance to the rights-oriented nature of the elderly and the initiative of social forces.

When elderly care services are positioned as relief rather than rights, the restriction of protection scope acquires logical inevitability—relief is inherently selective and targeted at specific groups, whereas rights are universal and equal (Xiao, 2023). Similarly, when elderly care services are positioned as management rather than services, incentives for social forces are easily overlooked—management emphasizes control and compliance, while services require cooperation and incentives. The absence of a rights-based legislative philosophy is the deep-seated cause of problems such as the restriction of protection scope and the formalization of incentives. Traditional elderly care models heavily depend on families, yet against the backdrop of increasingly miniaturized family structures and heightened population mobility, legislators still adhere to the mindset of “family primary responsibility, government supplementary role,” failing to promptly establish a new rights protection concept of “state guarantee, social coordination, family foundation” (Huang & Chang, 2020).

3.2. Imbalance in Central-Local Legislative Power Allocation

Another structural dilemma in the legal-institutional design lies in the tension between the absence of unified national legislation and the fragmentation of local legislation. At the national level, there is neither a specialized Home-based Elderly Care Services Law nor an administrative regulation systematically providing for home-based elderly care services. The Constitution and the Law on the Protection of the Rights and Interests of the Elderly can only make principled, declarative provisions, lacking operational rules (Xi, 2024). Norms with genuine operability are concentrated at the local regulatory level, but standards vary across regions and coverage is incomplete.

This situation is characterized by policy dominance and legal absence, with notable policy fragmentation and departmentalization, insufficient policy rigidity, ineffective implementation, and unsatisfactory outcomes (Tong, 2023). Some scholars have pointed out that the lag in national-level elderly care service legislation, the imbalance in legislation, and the current state predominantly based on policy documents cannot effectively implement the national strategy for responding to population aging or meet the diverse elderly care needs of the elderly.

The imbalance in the allocation of legislative powers between central and local authorities brings dual consequences: on the one hand, the lack of a unified institutional benchmark at the national level leads local authorities to act independently in terms of protection scope, entry standards, and incentive intensity, resulting in uneven service quality; on the other hand, in the absence of guidance from higher-level laws, local legislation tends toward conservatism—prioritizing those “most in need” and “the most urgent demands,” rather than constructing institutions from the perspective of universal rights. While the experimental and gradual nature of local legislation has its rationality, it also causes institutional supply to consistently lag behind practical needs. Moreover, relevant elderly care service provisions are relatively scattered and lack specificity; legal supply is predominantly in the form of policy documents and guidance opinions, with insufficient rigid constraints from higher-level laws, leading to frequent difficulties in cross-departmental collaboration during law enforcement.

3.3. Hard Constraints of Service Supply Capacity

The third cause of institutional dilemmas lies in the practical constraints of service supply capacity (Chen & Sun, 2024). The expansion of protection scope, the participation of social forces, the improvement of entry standards, and the increase of funding input all require corresponding service supply capacity as support. However, China’s supply side of home-based elderly care services itself suffers from serious deficiencies.

In terms of service facilities, there are obvious shortcomings in facility supply, particularly the shortage of elderly care service facilities in old residential areas, and the channels for transforming existing resources are not smooth. In terms of service personnel, specialized elderly care service teams fall far short of demand in both quantity and quality, especially in most rural areas where specialized elderly care service teams have not yet been established. In terms of service quality, the lack of standardization and insufficient professional personnel constrain the development of home-based elderly care. Although relevant departments have successively issued national standards for elderly care services, they lack implementation rules, and the central and local governments have not yet achieved unified and connected rules; the quality assessment system lags behind, resulting in uneven service quality.

This supply-side deficiency in turn constrains the design of legal institutions—legislators, knowing that service supply capacity is insufficient, even if willing to expand protection scope or raise entry standards, must confront the dilemma of legal provisions being unenforceable. Resource allocation requires further optimization, manifested in imbalances between home-based and institutional elderly care, unreasonable facility layouts between urban and suburban areas, and mismatches between service supply and diverse demands. In other words, the restriction of protection scope is not only a matter of legislative philosophy but also a constraint of supply capacity; the formalization of incentive norms is not only a matter of legislative technique but also a reflection of insufficient development of social forces. Social organizations face significant legal challenges in participating in home-based care service provision. Institutional dilemmas and supply dilemmas reinforce each other—insufficient legal norm supply constrains the improvement of service supply capacity, while insufficient service supply capacity in turn reinforces the conservatism of legal norms. This is a classic feedback loop in institutional design: weak capacity makes legislators risk-averse, and risk-averse legislation fails to stimulate capacity growth.

3.4. Institutional Deficiency in Funding Guarantees

The funding issue runs through all the above institutional dilemmas as a connecting thread. Expanding protection scope requires more fiscal expenditure to subsidize service costs; incentivizing social forces requires genuine input such as tax reductions and fiscal subsidies; improving entry standards and exit mechanisms requires corresponding regulatory resources and risk reserves. It can be said that funding shortages constitute the hardest constraint on the effectiveness of the legal-institutional system for home-based elderly care services.

The institutional deficiency in funding guarantees manifests at three levels:

First, funding channels rely excessively on fiscal allocation, lacking institutionalized channels for social capital and charitable force participation. The operation of government-purchased elderly care services is primarily driven by elderly care service public policies, with unclear legal bases, non-standardized purchasing methods and content, and a lack of legal norms for service providers. Influenced by different stakeholders, the supervision of government-purchased elderly care services suffers from insufficient legislative supervision supply, administrative supervision inertia, and a lack of social supervision channels.

Second, long-term care insurance has not yet been elevated to statutory social insurance, and the payment side of home-based elderly care services lacks stable and sustainable funding sources. Current pilot programs for long-term care insurance remain at the policy level and have not yet formed a unified legal system. The coordination between home-based elderly care systems and relevant legal provisions faces difficulties, and the integration of the latest institutions such as smart elderly care, medical-nursing integration, and long-term care insurance with the existing legal framework faces obstacles.

Third, the fund supervision system is imperfect, and limited fiscal resources have not been allocated and utilized most effectively. Problems such as chaotic supervisory bodies, unsound oversight mechanisms, and a lack of scientific evaluation and supervision results are widespread. The function of the elderly care service regulatory system has not been effectively realized, with problems including insufficient legal supply, weak supervision, and excessive legislative costs. These three levels of problems intertwine to form a vicious cycle of “insufficient funds—reluctance to expand protection—unwillingness of social forces to enter—even more insufficient service supply,” fundamentally constraining the effectiveness of the legal-institutional system for home-based elderly care services.

4. Optimization Pathways for Institutional Design

In response to the four institutional dilemmas identified in Section 2, this section proposes corresponding optimization pathways. Each pathway addresses one dimension of the design failure—boundary control, incentive alignment, quality governance, and resource governance—while remaining grounded in the legal-institutional analysis developed throughout this paper.

4.1. Expanding the Protection Scope

Reforming boundary control requires coordinated changes at both the philosophical and procedural levels. The following four sub-sections address the conceptual shift toward universal coverage, the establishment of objective assessment procedures, the removal of household registration barriers, and the design of a tiered subsidy system.

4.1.1 Establishing a Universal Legislative Philosophy

Home-based elderly care services should not be a special preference for a small number of disadvantaged groups, but rather a universal benefit for all elderly people—the elderly contributed to national and social development in their youth, and obtaining elderly care services from society in old age is their rightful return. The transformation of legislative philosophy means that the criteria for selecting protection targets should shift from “who needs it most” to “who has needs”—that is, all elderly people with needs for home-based elderly care services should have equal rights and opportunities to obtain services. Of course, universality does not mean undifferentiated egalitarianism.

Under conditions of limited resources, differentiated protection can be implemented based on the economic and health conditions of the elderly—providing free or highly subsidized services to those who are economically disadvantaged and severely disabled, while offering cost-price or appropriately subsidized services to other elderly people (Qin, 2021). This is a design that balances universal entitlement with proportionate allocation.

4.1.2 Unified Assessment and Determination Procedures

Drawing on the experience of Japan’s long-term care needs certification system under the Long-term Care Insurance Act, professional third-party assessment agencies should conduct comprehensive evaluations of elderly people’s physical and mental health status, activities of daily living, and family support resources. Based on the assessment results, it should be determined whether the elderly person meets the access standards for home-based elderly care services and what level of services should be obtained. The design of assessment procedures should emphasize fairness and operability: elderly people or their family members may apply to designated assessment agencies for certification; the assessment agency should complete the assessment and issue a report within a specified period; the government should review the assessment report and make a determination decision; if the determination is not approved, the elderly person has the right to reapply after a certain period, or to apply for administrative reconsideration or file an administrative lawsuit within the statutory period. Proceduralization of boundary decisions converts arbitrary exclusion into reasoned inclusion.

4.1.3 Breaking Through Household Registration Barriers

Consideration should be given to stipulating that non-registered elderly people who have continuously resided in the locality for more than one year enjoy the same rights to home-based elderly care services as registered elderly people. This adjustment aligns with the policy direction of equalizing basic public services for the resident population and can effectively respond to the elderly care service needs of migrant elderly people. At the same time, regarding the protection of home-based elderly care services in rural areas, the gap should be gradually narrowed within an integrated urban-rural institutional framework to avoid the solidification and continuation of the urban-rural dual structure in the field of elderly care services.

4.1.4 Establishing a Tiered Subsidy System

For elderly people who obtain home-based elderly care service eligibility through the determination process, different levels of subsidies can be granted based on their economic and health conditions. Elderly people who are economically disadvantaged and more severely disabled can receive higher subsidies or even fully free services; those with better economic conditions or lower levels of disability can enjoy lower subsidies or purchase services at cost. A tiered subsidy system both reflects the safety net function of social assistance and the universal nature of social welfare, making it a feasible solution for balancing fairness and efficiency in boundary design.

4.2. Reconstructing Incentive Mechanisms

Reforming incentive alignment requires converting hortatory “encouragement” provisions into legally binding norms that specify concrete returns for social actors. The following four sub-sections address incentive design for enterprises, social organizations, volunteers, and the legal hardening of governmental incentive obligations.

4.2.1 Tax and Performance Incentives for Enterprises

In terms of tax incentives, local legislation on home-based elderly care services should clearly specify the specific circumstances and proportions of tax reductions and subsidies that enterprises can enjoy (Ministry of Finance et al., 2026). It is recommended that local regulations add dedicated provisions explicitly listing the tax incentive catalogue that home-based elderly care service institutions can enjoy, including but not limited to: reducing value-added tax on service income provided by home-based elderly care service institutions; reducing property tax and urban land use tax on properties and land used for home-based elderly care services; and allowing pre-tax deductions for donations made by enterprises and individuals to home-based elderly care service institutions when calculating taxable income.

In terms of performance incentives, a system linking home-based elderly care service quality assessment with incentives should be established. The government or third-party assessment agencies entrusted by it should conduct comprehensive evaluations of home-based elderly care service institutions on a regular basis. Based on the assessment results, service institutions should be graded—excellent performers should receive a larger share of government-purchased services, more substantial fiscal subsidies, and more favorable tax treatment; underperforming institutions should be given a deadline for rectification.

4.2.2 Financial and Talent Support for Social Organizations

In terms of financial support, local legislation should clearly stipulate that fiscal departments provide corresponding operating funds and project subsidies to social service organizations based on their work contribution and social satisfaction. Legislation may also consider allowing social service organizations to charge a certain proportion of service fees from service recipients and use such income for the daily operations and personnel expenses of the organizations, forming a diversified funding structure of “government subsidies + service fees + social donations.”

In terms of talent security, local legislation may stipulate that a certain proportion of government fiscal subsidies should be specifically allocated to improving the compensation of frontline service personnel, or to providing position allowances and career development support for elderly care service professionals.

4.2.3 Time Bank System for Volunteers

For incentivizing volunteer participation in home-based elderly care services, the core institutional innovation lies in refining the "time bank" savings system—when volunteers participate in home-based elderly care services, their service hours can be exchanged for an equivalent amount of home-based elderly care services for themselves or their immediate family members when needed in the future. The effective operation of time banks requires solving the following legal issues: the standards for recording and certifying service hours, the cross-regional exchange mechanism for service hours, and the rules for liability allocation in case of disputes during service delivery. It is recommended that provincial civil affairs departments uniformly establish time bank information management platforms, formulate operational standards for recording and exchanging service hours, and clarify through legislation the legal nature and dispute resolution mechanisms of time banks.

4.2.4 Hardening Incentive Obligations into Legal Duties

Some encouragement provisions should be upgraded to "shall" provisions, clarifying the government's incentive obligations. For example, "encourage the government to support home-based elderly care service institutions through government purchase of services" should be revised to "the people's governments at the municipal, county (city, district) level shall allocate a certain proportion of the annual fiscal budget to support the development of home-based elderly care service institutions through government purchase of services." At the same time, accountability provisions for failure to fulfill incentive responsibilities should be added in the legal liability chapter, and an annual assessment and reporting system for incentive policy implementation should be established.

4.3. Standardizing Entry and Exit

Reforming quality governance requires both unifying and upgrading entry standards and filling the institutional vacuum in exit protocols. The following two sub-sections address each of these complementary dimensions in turn.

4.3.1 Unifying and Age-Proofing Entry Standards

At the national level, the Measures for the Administration of Elderly Care Institutions should incorporate standards such as the degree of age-friendliness, the degree of medical-nursing integration, practitioner grades, and environmental livability into consideration, and establish clear national minimum standards as fallback provisions. In terms of practitioner qualifications, a nationally unified qualification examination system for elderly care nursing personnel should be established, with three grades—primary, intermediate, and advanced—and only those who pass the corresponding grade examination and obtain qualification certificates should be permitted to engage in services at the corresponding grade.

In terms of age-friendly facility standards, the dimension of environmental livability should be added to legislation: barrier-free access (entrances, corridors, restrooms, etc. should meet wheelchair accessibility standards), safety protection (floor slip resistance, handrail installation, emergency call devices, etc. should comply with safety regulations), and functional reasonableness (service spaces should meet the diverse needs of the elderly). Local regulations may draw on the Ministry of Housing and Urban-Rural Development's Standards for Barrier-free Environment Construction and the Architectural Design Standards for Elderly Care Facilities to formulate detailed local rules for age-friendly facility construction.

4.3.2 Filling the Institutional Void in Exit Mechanisms

For the exit of non-profit home-based elderly care institutions due to legal bankruptcy from improper operation, after paying liquidation expenses, liquidation property should be repaid in the following order: arrears in service personnel wages and social insurance premiums, prepaid but unprovided service fees of the elderly, and other debts. The remaining assets after liquidation, being subject to the non-distribution principle, should be transferred to other elderly care service institutions or social welfare institutions with the same or similar public welfare purposes.

For the voluntary withdrawal of home-based elderly care institutions, it should be stipulated that: institutions deciding to withdraw from home-based elderly care services should submit a written application to the competent authority six months in advance, along with a relocation plan for the elderly in residence; the competent authority should make a decision on whether to approve the withdrawal within three months of receiving the application; before obtaining approval, the institution should continue to fulfill its service obligations. For approved withdrawals, the competent authority should assist the institution in relocating the elderly, the urban and rural planning department should take over the institution's remaining service facilities, and the fiscal department should supervise the liquidation and transfer of remaining assets. In addition, a post-withdrawal service connection mechanism should be established to ensure the continuity and stability of home-based elderly care services within the jurisdiction.

4.4. Diversifying and Institutionalizing Funding

Reforming resource governance requires diversifying funding sources beyond fiscal allocation, elevating long-term care insurance to statutory social insurance, and institutionalizing fund supervision. These three interconnected reforms are addressed below.

4.4.1 Diversifying Funding Channels

The principle of "government leadership, social participation, and reasonable individual burden-sharing" should be established for diversified fund-raising. In terms of introducing social capital, the cooperative and equal legal status of social capital and government should be clarified, providing guarantees for private capital to enter the home-based elderly care service field in terms of land supply, financing support, and operational guidance. In terms of charitable force participation, charitable organizations should be encouraged to establish special funds for home-based elderly care services in accordance with the law, and tax incentives should be provided to donating enterprises and individuals. In terms of individual burden-sharing, the connection between the pension insurance legal system and home-based elderly care service legislation should be improved, and home-based medical care service costs should be included in the scope of medical insurance reimbursement.

4.4.2 Elevating Long-term Care Insurance to Statutory Status

Drawing on the experience of Germany and Japan, the legal status of long-term care insurance should be repositioned as compulsory social insurance. It is recommended that the Long-term Care Insurance Regulation be formulated at the national level, clearly establishing long-term care insurance as a statutory social insurance scheme with mandatory participation, covering all basic medical insurance participants, and gradually extending to urban and rural residents. In terms of institutional design, unified national disability grade assessment standards and care service benefit standards should be established, the funding sources of the insurance fund should be clarified (shared by employer contributions, individual contributions, and fiscal subsidies), and the application, assessment, and benefit procedures should be standardized.

At the local legislative level for home-based elderly care services, connection with the national long-term care insurance system should be strengthened: for elderly people participating in long-term care insurance, when receiving nursing services provided by home-based elderly care service institutions, a portion of the service costs may be paid by the long-term care insurance fund in accordance with regulations; home-based elderly care service institutions should possess the qualification conditions for contracting designated long-term care insurance service providers.

4.4.3 Institutionalizing Fund Supervision

Special funds for home-based elderly care services should be established, with separate revenue and expenditure management, and exclusive use for designated purposes. A fund use reporting and auditing system should be established—fiscal departments should regularly report fund use to the standing committees of the same-level people's congresses, audit institutions should conduct regular and special audits, and audit results should be disclosed to the public. Third-party performance evaluation mechanisms should be introduced to conduct independent assessments of the effectiveness of fund use. Social supervision channels should be established, and elderly people and their families should have the right to know about fund use and the right to file complaints and reports.

5. Conclusion

The legal-institutional design for home-based elderly care services is undergoing a transformation from quantitative expansion to quality improvement. Currently, local legislation has achieved remarkable quantitative results—regulations and normative documents provide a basic legal framework for the standardized operation of home-based elderly care services. However, quantitative prosperity cannot mask institutional deficiencies. The household registration barriers in protection scope, the formalization of incentive norms, the institutional vacuum in entry and exit, and the narrowness of funding channels—these issues collectively constitute the institutional bottlenecks restricting the high-quality development of home-based elderly care services.

This paper, following the institutional chain of protection scope—incentive mechanisms—entry and exit—funding guarantees, systematically presents the manifestations of institutional dilemmas, deeply analyzes the four underlying causes of legislative philosophy, central-local legislative power allocation, service supply capacity, and funding guarantees, and proposes systematic institutional optimization plans on this basis. The core proposition of these plans is that the legal-institutional framework for home-based elderly care services should transition from management tools to rights protection, and from formal norms to substantive effectiveness. Only in this way can home-based elderly care services achieve the leap from "having laws to follow" to "good laws and good governance."

The release of the January 2025 Opinions on Deepening the Reform and Development of Elderly Care Services by the CPC Central Committee and the State Council provides policy guidance and reform opportunities for improving the legal-institutional design of home-based elderly care services. Legislators should seize this opportunity, and on the basis of summarizing local legislative practical experience and drawing on useful comparative law achievements, promptly study and formulate a national-level Home-based Elderly Care Services Regulation or Elderly Care Services Law, providing unified, systematic, and powerful legal protection for the healthy and sustainable development of home-based elderly care services.

From an organizational design standpoint, the legal-institutional framework analyzed in this paper represents the formal institutional infrastructure that governs a complex multi-actor service delivery system. The four dimensions examined—boundary control, incentive alignment, quality governance, and resource governance—are not merely legal categories but fundamental design parameters that determine whether the organizational system can achieve adaptability, resilience, and effectiveness in responding to the challenges of population aging. The proposed reforms—clarifying eligibility boundaries, hardening incentive norms, institutionalizing entry-exit protocols, and diversifying funding governance—collectively aim to enhance the performance of this organizational system. Future research may further explore how digital technologies and smart elderly care platforms interact with the legal-institutional framework to reshape service delivery organizations, and how the design principles identified in this paper might be generalized to other public service domains facing similar multi-actor coordination challenges.

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Data availability

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Declarations

Conflict of interest

The author declares that there is no conflict of interest.

Ethics approval

Not applicable.

Consent to participate

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Consent for publication

Not applicable.

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