Better Care Reconciliation Act of 2017 Senate Discussion Draft: Updated Key Medicaid Issues

On July 13, 2017, the Senate Budget Committee released a revised discussion draft of health care reform legislation, the "Better Care Reconciliation Act of 2017" ("Senate bill"). The latest version makes few changes to the Medicaid portions of the previous bill and keeps the devastating cuts to the Medicaid program. The Congressional Budget Office (CBO) is expected to release a new analysis of this bill early the week of July 17. The Senate is expected to vote on the bill later that week.

The initial CBO analysis of the cost of the bill and the impact on health care coverage found that at least 22 million fewer individuals would have health care coverage by 2026. CBO also found that the Senate bill cuts Medicaid by $772 billion over the next 10 years, but the most severe cuts do not begin to take effect until 2025. Starting in 2025, the cuts are billions more than the cuts in the House bill and would increase significantly over time. CBO found that, compared to current law, Medicaid would decrease by 35% in 2036.

The discussion draft also retains the $19 billion dollar cut of the enhanced federal match in the Community First Choice Option which is a program that provides an enhanced federal match to any state that chooses the option and it has no end date. Instead, the Senate bill includes a new home and community based demonstration program. A total of $8 billion is available over four years. It is a competitive grant but priority is given to the 15 most rural states. This is a woefully inadequate response to the deep cuts to Medicaid and the threat that poses to home and community based services.

Overall Key Points About the Medicaid Provisions

- The Senate bill is far worse than current law.
- The Senate bill's Medicaid changes are even more devastating than the cuts in the House bill.
- The Senate bill maintains the damaging per capita cap structure proposed in the House bill. As states cut eligibility and services to address dramatically reduced overall federal funding levels, any per capita cap scenario will inevitably lead to loss of Medicaid eligibility and services for children and adults with disabilities.
- The Senate bill continues to use cuts and caps to Medicaid as the source of revenue to pay for repealing taxes on health insurance, prescription drugs, medical devices, and numerous other provisions that fund the current law.
- The Senate bill ends the extra federal matching funds for the Medicaid expansion states by 2024. No additional states would be allowed to expand Medicaid to cover low income adults (currently individuals earning up to 138% of the federal poverty level, or $16,400 per year).

1. **Harm to many children who are blind or have disabilities**
   The Senate bill exempts from the formula for calculating federal funding to states under the per capita caps "*children under 19 years of age who are eligible for medical assistance under this title on the basis of being blind or disabled.*" Neither the revised Senate bill nor the initial CBO estimate clarify who these children are or how the state

might identify them. If this language is intended to target children who are eligible for Supplemental Security Income (SSI) (about 1.2 million children), it would leave out many children who have health needs or disabilities and do not meet SSI's strict income and disability standards but who become Medicaid eligible through many different eligibility pathways. This "carve out" implicitly acknowledges that Medicaid under per capita caps is unacceptable for children with disabilities. These children grow up to be adults and will face a devastated Medicaid program. States will not be able to make up the difference from the deep cuts under per capita caps and will not be able to protect any group. States will be focused on keeping Medicaid spending under the cap, or face penalties. The Senate bill's cuts are greater over time and, to make up for this massive loss of federal funding, states will be forced to cut services, eligibility groups, reimbursement rates for providers, make across the board cuts, or take other actions to cut costs. These cuts will impact the doctors, hospitals, therapists, and other providers that serve these children. While the traditional match may be an incentive for some states to continue serving children with disabilities, there is no specific language in the bill that provides protections against tightening eligibility for these children or cutting their services and supports.

The net effect is that children with disabilities will not be protected.

2. **New penalties punish states for investing in Medicaid services**
   Under the House bill, states with low Medicaid spending would forever be locked into current spending levels. States would not have resources to invest in rebalancing their service systems for people with disabilities, improving wages for direct support workers, or any other state priority. The Senate bill does the opposite of addressing this concern. It creates provisions to drive down spending in many states. Every year the federal government would compare each state's spending to the average national spending. If any state is significantly below average spending in the different categories (kids, adults, people with disabilities, older people), the state might get a bump in funding. But if a state has above average spending, the state may receive a cut in funding. This financially punishes the states that have invested the most in providing services to people with disabilities, seniors, and children. For many people with disabilities, being able to access timely care is a life or death matter. These penalties in the Senate's bill are a crude and unfair attempt to ease the negative impact of per capita caps on low-spending states simply by shifting the harm to states that have prioritized their Medicaid programs. The penalties for states that spend more money on care do not account for key demographic and economic factors (such as higher percentages of older Americans or higher unemployment rates) that shape differences in state spending. For more information about how this affects states see this analysis.

3. **Reductions to the provider tax will harm states.**
   Every state except Alaska currently uses this tax to fund parts of their Medicaid program. According to the CBO, the changes provided in the Senate bill will cut Medicaid by an additional $5 billion over 10 years. For more information on how states are affected, see this analysis

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