



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

On June 22, 2017, the Senate Budget Committee released a [discussion draft](#) of health care reform legislation, the “Better Care Reconciliation Act of 2017” (“Senate bill”). In a [statement](#) the same day, The Arc’s CEO, Peter Berns, noted that, “This bill will have a devastating impact on individuals with intellectual and/or developmental disabilities and their families. Make no mistake - people’s lives and independence are on the line.”

On June 27, the Congressional Budget Office (CBO) released an analysis of the cost of the bill and the impact on health care coverage. CBO 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 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.

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 House bill’s.
- 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).

The Senate bill includes provisions that appear to acknowledge several concerns raised about the Medicaid cuts in the House bill - but these provisions fail to fix the problems.

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 Senate bill nor the 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. Meaningless Medicaid Home and Community Based Services (HCBS) Waiver Language

Medicaid cuts and per capita caps will harm people with disabilities who need HCBS because "optional" and "waiver" HCBS will likely be cut first when states are faced with dramatically reduced federal funding. States will be forced to provide mandatory services, like nursing home care, before they can provide HCBS. The Senate bill directs the Secretary of Health and Human Services to implement procedures to encourage states to address the issue - a meaningless and wholly inadequate response to this critical concern.

4. 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](#)