Dialogue on Diversity:
What’s at Stake for Medicaid in 2017?

Mara Youdelman
Managing Attorney (DC Office)
youdelman@healthlaw.org @marayoudelman
www.healthlaw.org @nhelp_org

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About NHeLP

• National non-profit law firm committed to improving health care access and quality for underserved individuals and families

• State & Local Partners:
  • Disability rights advocates – 50 states + DC
  • Poverty & legal aid advocates – 50 states + DC

• Offices: CA, DC, NC

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Demographics of Medicaid

- People of color represent 58% of all non-elderly Medicaid enrollees
  - African-Americans comprise 22 percent of Medicaid enrollment
  - Hispanics comprise 25 percent
- Over 10 million people with disabilities on Medicaid
- Many LGBTQ gained coverage through Medicaid Expansion because previously didn’t fit into a traditional eligibility category
- Gains still need to be made:
  - Racial and ethnic minorities are more likely than White non-Hispanics to lack insurance and fall in the Medicaid gap.
  - Lack of Medicaid expansion disproportionately affects African Americans and women who make up the majority of poor uninsured adults in states that did not expand Medicaid.
Medicaid is not “Discretionary”

- Discretionary programs are funded yearly at specific levels by legislative action
- Discretionary program funding can be cut and they can run out of money
Medicaid is an “Entitlement”

- Mandatory programs are automatically funded at open-ended levels based on need
  - Can _not_ run out of money
## Current Medicaid financing

<table>
<thead>
<tr>
<th>If a state wants to...</th>
<th>Does it get more federal $?</th>
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<tbody>
<tr>
<td>add more enrollees</td>
<td>✓</td>
</tr>
<tr>
<td>e.g. expansion, natural disasters, economic downturns</td>
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<tr>
<td>add more services</td>
<td>✓</td>
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<td>e.g. HCBS, ABA therapy, adult dental, family planning</td>
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<tr>
<td>cover new Rx</td>
<td>✓</td>
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<td>e.g. Solvaldi, Zika vaccine</td>
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<tr>
<td>increase provider reimbursement</td>
<td>✓</td>
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Other Medicaid features

• As an “entitlement,” Medicaid is a “property interest” under the Constitution and can’t be taken away without due process
• No waiting lists (except for some waiver programs)
• Federal-state partnership –
  • states pay part of the costs
  • on average 63% paid by the federal government but up to 75% in states with lowest per capita income
  • enhanced federal match for systems upgrades, services for newly eligible adults, family planning, preventive services
Block grants

- Block grants eliminate the budgetary entitlement by setting a fixed allotment for each state.
- Block grants put states at heavy risk for enrollment increases.
Per capita caps

• Theoretically, per capita caps solve the enrollment problem, by setting the cap per enrollee

• But per capita caps still leave states fully at risk for numerous other cost drivers
Cost drivers PCCs do not address

$ Medical innovations (ex. new Rx)
$ New health conditions or pandemics (ex. HIV)
$ Outbreaks (ex. Zika/flu)
$ New health trends (ex. obesity, SUDs)
$ Shifts in health demographics (ex. more aging enrollees)
$ Natural disaster health impacts (ex. hurricane Katrina)
$ Up-front investments that save $ over long term
**Current financing v. block grants & per capita caps (in theory)**

If a state wants to... | Does it get more federal $? |
<table>
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*This is theoretical since any proposal can alter a state’s ability to add more enrollees or other features of the Medicaid program.*
Design a PCC: Details

- Singular, combined cap creates issues because of varied spending – e.g. “healthy” child v. person with HIV/AIDS
- Five caps design creates other issues – e.g. determining who is in which group
A word about “flexibility”

- Medicaid is flexible
  - Optional services and eligibility
  - Sec. 1115 waiver/demonstration projects
  - 60% of Medicaid spending is on optional services and eligibility – inc. Rx, HCBS

- Per capita caps/block grants shift costs onto states above the cap

- Cutting billions means less flexibility
American Health Care Act (AHCA) & Medicaid

- Passed by the House on 5/4
  - Implements a per capita cap on Medicaid – 5 “buckets” (elderly; people who are blind or have disabilities; children; Medicaid expansion adults; other adults)
  - Index is CPI-M
  - Repeals Medicaid expansion enhanced funding after 1/1/2020 (except for individuals enrolled before 1/1/2020 and who don’t experience > 1 month gap in coverage)

- AHCA also restructures private marketplaces
Designing a PCC

- First, a base year spending level is set
- Second, an index is used to set the yearly growth rate for the base spending level
AHCA baseline

- Uses state’s 2016 spending – locks in historical anomalies inc. high v. low spending states
- Increases 2016 by CPI-M for until 2019
  - CPI-M is based on out-of-pocket health care spending and not actual health care cost growth
- After 2019, increases annual spending by CPI-M for kids/adults and CPI-M + 1% for elderly and people with disabilities
Growth in per capita health spending has consistently been higher than overall economic growth


Losers and More Losers

• Funding is locked in to 2016 spending
• Indexes are not counter-cyclical while current Medicaid funding is
• Ultimately the indexes make the federal funding gap grow every year
• State variability makes it hard to pick a base criteria that is fair to all
  • Some states have higher spending
  • Some states have higher federal match rates
• Over time, all states lose because index is lower than actual growth in health care costs
Escalation of the Funding Gap
CBO/JCT “Score”

- Estimate on AHCA released 3/13/17 (earlier version of bill)
  - Cuts $839 B from Medicaid over 10 years
  - 14 million would likely lose Medicaid coverage, 17% less than current law
  - By 2024, only 5% of Medicaid expansion population would remain with enhanced funding

- Full report available [here](#)

- Revised estimate expected 5/24 but don’t expect major changes re: Medicaid
So in summary, AHCA would... 

- Cut $839 B from program in 10 years
- Cut 14 million people from Medicaid coverage
- Put Medicaid at risk in every budget cycle and make it easy to continue making more cuts but dialing down the index
- Shift burden to states to make difficult decisions about cutting eligibility, services and provider rates
- Roll back gains in coverage for people of color and LGBTQ
- Use savings from Medicaid cuts to pay for tax cuts for wealthy
Other AHCA Medicaid changes

• Cuts eligibility for children age 6-19 to pre-ACA levels
• Cuts HCBS attendant supports after 1/1/2020
• Eliminates enhanced match for Medicaid Expansion (up to 138% FPL) after 12/31/2019; prohibits Medicaid expansion for individuals over 138% FPL; and grandfathered MedEx enrollees only get enhanced match if no more than 1 month loss in coverage
• Sunsets EHB in Medicaid after 12/31/2019
• Repeals retroactive eligibility
• Reduces exclusion for home equity
• Excludes Planned Parenthood from Medicaid for 1 year
• And much, much more...
Next Steps

• Senate developing its own bill
  • But AHCA seen as a start
  • “Gang of 13” is taking leadership
  • Vote could occur in June

• If House & Senate bills differ, will need to either send Senate bill back to House for acceptance or convene a “Conference Committee” to resolve the differences
  • After Conference Committee, would have to pass both House and Senate again
Conclusions

• Changing financing to Medicaid radically alters the entitlement of the program

• Medicaid is a critical safety net to address health disparities and ensure people of color, people with disabilities and LGBT individuals can access health care

• Burden shifts to states to make tough decisions about eligibility, services, etc.

• States won’t be able to be flexible if they don’t have the $ to do it

• Affects enrollees, hospitals, insurers and providers – no one is safe
Resources

- NHeLP -- http://www.healthlaw.org/issues/medicaid
  - Top 10 Changes to Medicaid Under House Republicans’ ACA Repeal Bill
  - Medicaid Expansion and the Republicans’ ACA Repeal bill
  - Medicaid - Fast Facts
- CBO -- https://www.cbo.gov/publication/52486
- Kaiser Family Foundation – Insurance Coverage Changes for People with HIV Under the ACA
- AHCA legislative text –
  - Energy & Commerce bill (Medicaid provisions)
  - Ways & Means bill (private market provisions)