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Many Proposals, Little Agreement, High Stakes for Medicaid and Access to Care

Republican governors and House leadership work on health care proposals, both of which would cut Medicaid funding; but House Conservatives are already calling for even deeper cuts to this critical safety net program

While there is considerable debate swirling around the specifics of Republican proposals to repeal and replace the Affordable Care Act (ACA), it is already clear that Medicaid and other policies that have improved access to care for vulnerable populations are at risk. At both the state and federal level, Republican leaders are considering plans that would radically change the funding structure of Medicaid. At the National Governors Association (NGA) meeting this past weekend, Republican governors put forward a proposal that would keep the ACA's Medicaid expansion, but replace its current entitlement structure with federal per capita spending caps. Further, a leaked draft of repeal legislation demonstrates that Republicans in the House are also contemplating drastic changes to Medicaid's funding structure. The changes under consideration would likely result in hundreds of thousands of Medicaid enrollees losing coverage and many more facing benefits cuts. The leaked House proposal also includes concerning changes to the Marketplaces that could make it more difficult for people living with chronic illnesses and disabilities to access the care they need to manage their conditions.

The way forward for these proposals, however, is uncertain. Even with these significant changes, some Republican groups, such as the more conservative members of the House, see these proposals as not going far enough, and they are calling for even deeper cuts. The Trump Administration, meanwhile, has given mixed signals and has not clearly indicated the President's position. Congressional Democrats have capitalized on this confusion to ignite renewed pushback against the repeal and replace efforts, and are rallying their forces for the upcoming fight.

This is a critical time in the debates about the structure and financing of our nation's health care system, particularly with respect to programs intended to protect vulnerable populations.

To ensure that their voices are heard in this discussion, advocates should:

1. Understand the role that governors play in the Medicaid funding discussions; appreciate the impact that the Republican governors' proposal would have on access to care, and work to educate state leadership on the importance of maintaining a strong federal financial commitment to Medicaid.
2. Continue to monitor Congress for developments in the fight over ACA repeal and use the leaked draft legislation as a jumping off point for understanding how repeal proposals might affect access to care. Advocates should be sure to educate their Congressional delegations on the impact that some commonly proposed elements, such as a continuous coverage requirement, may have on access to care.
3. Advocates should make their voices heard on the benefits that the ACA, and its attendant consumer protections and health insurance subsidies, have had on their communities.



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Advocates should stress the impact that removing those access to care gains could have on individuals living with chronic illnesses and disabilities. Advocates should be mindful that this is a critical window of opportunity to make their perspectives heard on the access to care gains realized over the last several years, before a legislative proposal is finalized.

Republican Governors Propose Changes to Medicaid Funding that Could Undermine Access to Care

Over the weekend of February 25, governors from around the country gathered at the annual NGA meeting. Although the focus of this meeting was not exclusively health care, this topic was front and center throughout the weekend. Tensions arose in particular between Democratic and Republican governors as Republican governors unveiled a [proposal](#) to overhaul Medicaid by dramatically changing its funding structure.

The Republican governors' proposal would shift Medicaid from an open ended federal entitlement program, in which the federal government must match state spending, to a program designed by each state within a pre-set financial limit, here a per capita cap. Under the proposal, states would be given the authority to control their Medicaid enrollment and eligibility in order to address costs, and could use new benefit designs such as work requirements and premiums.

While this proposal does not embrace block grants, a potential funding mechanism popular among more conservative House Republicans, the use of per capita caps is [alarming for proponents of access to care](#). Per capita caps can be especially problematic for higher cost individuals, such as those living with chronic illnesses and disabilities, because it puts a ceiling on the federal contribution towards each individual's health care costs. This means that states would be responsible for all costs above the per-beneficiary cap, which may be challenging in states with tight budgets. Per capita caps are unlikely to reflect health care cost growth, the increases of costs as baby boomers continue to age, as well as any unexpected increases in Medicaid per beneficiary costs such as new diseases or outbreaks such as Zika. Allowing states to cut eligibility is also problematic because it will significantly restrict access to this needed safety net health care system. It is also unclear whether the per capita caps would be based upon current spending, which would enshrine the [disparities in funding](#) between the different state Medicaid programs permanently.

This proposal is spearheaded by Governor Kasich (R-OH) and it is supported by many Republican governors from states that expanded Medicaid, such as Arizona, Nevada, and Michigan. The motivation behind this proposal was likely a desire to protect Medicaid expansion in these states while trading future federal funding for state flexibility.

In past battles over Medicaid financing, strong opposition by Governors, including then [Governor George Bush](#), halted proposals to switch Medicaid from entitlement funding to per capita caps. Because of their unique role in overseeing the state side of Medicaid, governors, particularly Republican governors, would be strong allies for preventing Congress from undermining Medicaid funding. As a result of their critical role in Medicaid discussions, it is vital to educate governors on the impact that any move away from an entitlement funding structure would have on their constituents, including those living with chronic illnesses and disabilities.

Advocates should focus on educating their governors about the importance of Medicaid in their state, including its impact on health care jobs, and emphasize the potential impact per capita caps could have on vulnerable individuals who depend on Medicaid. In particular advocates should remind their governors about the NGA's [request to Congress](#) that "Congress continue to maintain a meaningful federal role in this partnership" to support Medicaid, and that it "does not shift costs to states." Advocates should also educate their governors on the current successes of their Medicaid programs, such as any innovative programs that would lose funding under a per capita cap. Advocates with Democratic governors should not rest easy, despite Democratic governors' [strong opposition](#) to per capita caps or block grants. Rather, in these states, advocates should continue to reinforce their governor's position and promote the importance of preserving Medicaid's entitlement

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structure when it comes to access to care.

As Early Drafts Leak, Congressional Republicans Remain Sharply Divided Over Plans to Repeal and Replace the ACA

As of February 28, 2017, no ACA repeal legislation has been formally introduced, and it appears that Congressional Republicans remain far from consensus. On the afternoon of Friday, February 24, however, a [draft](#) of a House Republican repeal bill was leaked (the “Leaked Draft”). While this Leaked Draft has already been criticized as not going far enough for some Congressional conservatives, it does represent the most detailed picture yet to emerge from the Republican repeal and replace effort.

The Leaked Draft raises significant concerns for advocates fighting to protect access to care through both the ACA’s Marketplaces and state Medicaid programs. The Leaked Draft undermines the ACA by undoing the individual mandate, significantly altering the operation of the ACA’s Marketplaces, and eliminating taxes that currently fund subsidies that are critical to low income populations. Under the framework of the Leaked Draft, individuals would get tax credits to subsidize purchase of health care insurance, with the amount of the subsidy based on age rather than income, as is the case under the ACA’s current structure. For example, all individuals under age 30 would receive \$2,000 to help subsidize health insurance, regardless of income level. Unfortunately, because these credits are not scaled to income, many lower income individuals will find it challenging if not impossible to find meaningful coverage for the amount of these subsidies. This is especially problematic for lower income people living with chronic illnesses and disabilities who must purchase robust coverage, as opposed to cheaper catastrophic care plans, in order to have meaningful access to treatments and services to manage their conditions.

In an effort to support individuals with high health costs, the Leaked Draft provides states with funds to create high-risk pools for some people with pre-existing conditions. Although the \$100 billion in “state innovation grants” could help subsidize some vulnerable individuals, [past experience](#) with high risk pools has shown that [they do not work](#). They are prohibitively expensive to administer, the coverage is too costly for consumers, and the benefits they offer are poor compared to other plans. The high risk pools in this proposal are not an adequate tradeoff for eliminating many of the ACA’s important consumer protections that allow individuals living with chronic illnesses and disabilities to participate in the broader Marketplaces.

Additionally, this proposal replaces the ACA’s prohibition against health underwriting with a continuous coverage provision, which penalizes people living with long term conditions. Such continuous coverage requirements are problematic for vulnerable populations, because if an individual’s coverage lapses for whatever reason, such as loss of employment, he or she will then face higher premiums when they reenter the insurance market. The Leaked Draft allows insurers to charge 30% more for an individual living with a pre-existing condition if that person experiences a lapse in coverage.

The proposal also raises significant concerns around access to care under state Medicaid programs. Most importantly, the Leaked Draft would eliminate Medicaid expansion by 2020. While states could opt to continue to provide Medicaid to the expanded eligibility groups after that date, they would bear much more of the financial burden of that expansion, as they would no longer receive enhanced federal reimbursement for this population. The proposal also significantly curtails Medicaid spending by doing away with the entitlement structure and replacing it with per capita caps. As discussed above, per capita caps are especially problematic for vulnerable individuals, such as those living with chronic illnesses and disabilities, because they result in financial pressures on the states to cut eligibility and benefits.

Even with these changes, the Leaked Draft does not go far enough for some Congressional Republicans. Leaders of the House Freedom Caucus and the Republican Study Committee, two of the more conservative groups in Congress, have made it clear that they oppose the Leaked Draft, with Senator Rand Paul (R-KY) dubbing the proposal “Obamacare lite.” Specific points of contention include the size of the age-adjusted tax credits and the level of the per-capita state Medicaid caps.

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Further complicating the debate, due to the rules of the reconciliation process being used to pass this bill, Congress must deliver \$2 billion in spending cuts through this legislation. That challenge is made even more difficult because Republicans intend to eliminate many of the revenue streams that were used to fund the ACA. The only revenue generator included in this proposal is a cap on the tax exemption for employer sponsored insurance above a certain amount.

Given the current disunity among Congressional Republicans, leaders have called on the Trump Administration to weigh in. In the first six weeks of the Administration, however, there have been mixed signals regarding how the Administration wants to move forward on the ACA and health policy. President Trump's statements have largely focused on general policy objectives rather than specific proposals, and it is not yet clear whether the Administration intends to offer its own plan or seek to influence efforts already underway in Congress. The President's upcoming speech to Congress provides him with the opportunity to address these issues, but early reports indicate he is unlikely to offer specific recommendations, and will instead urge Democrats and Republicans to work together on these issues. Senate Republicans will meet tomorrow, March 1, to discuss various options.

Meanwhile, Congressional Democrats have sought to capitalize on this disunity and confusion, fighting to keep some, if not all, of the ACA in place. Advocates of the ACA have flooded town hall meetings to vocally support the law and push lawmakers to protect coverage gains. In Congress, Democratic leaders are newly invigorated to push back against the repeal and replace effort, as polls show that the popularity of the ACA is now rising.

This is a critical opportunity for advocates to weigh in to support vulnerable populations' access to care. With so many issues still in flux, advocates should educate their Congressional delegations about the importance of the ACA, Medicaid, and the coverage gains that have been made in recent years. In addition to fighting against repeal, advocates should seek to influence conversations about what a replacement plan would look like. Advocates should highlight the importance of strong consumer protections for individuals living with chronic illnesses and disabilities as well as the inadequacy of continuous coverage requirements and high risk pools to address these individuals' health care needs. Advocates should also highlight the importance of maintaining strong federal funding for Medicaid.

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