THE AMERICAN HEALTH CARE ACT (2017):

POTENTIAL IMPACT ON ARIZONANS WITH DISABILITIES

A report from the
Arizona Developmental Disabilities Planning Council

ARIZONA DEVELOPMENTAL DISABILITIES PLANNING COUNCIL℠

prepared by The Arc of Arizona

The Arc Arizona

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For people with intellectual and developmental disabilities

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Executive Summary

The American Health Care Act (AHCA), as passed by the United States House of Representatives, restructures Arizona's health care system and changes the way the federal government will share in Arizona Medicaid expenses. The AHCA implements a funding cap – a limit on the total amount of federal contribution based on Arizona's historic spending trends. Arizona, even more than most states, will be negatively affected by the AHCA because (1) Arizona currently receives and relies upon a higher than average amount of federal Medicaid funds; (2) Arizona has historically run a very efficient Medicaid program; and (3) Arizona's population growth and aging rate outpaces the national trend. The AHCA cap will reduce the amount of federal Medicaid funds available to Arizona, making it difficult to continue existing levels of health care for persons with disabilities.

The AHCA also restricts federal funding for and jeopardizes continuation of Arizona's Medicaid expansion, which extended coverage to almost a quarter of Arizona's current Medicaid population. The AHCA will reduce existing protections for persons with pre-existing conditions and essential health care needs, as well as available subsidies, all of which could make it harder for persons with disabilities to obtain affordable and adequate health care. Finally, under the AHCA, Arizona will lose significant community health funding for public health preparedness, preventative health education, vaccines, addiction programs and more. The overall reduction in federal funding available to Arizona under the AHCA will hinder Arizona's ability to be flexible and respond to the health care needs of its population, including many people with disabilities.

Released as a "discussion draft" in late June 2017, the Better Care Reconciliation Act (BCRA) is the U.S. Senate's version of health care reform. While not voted on prior to this writing, the initial version of the bill is similar in most respects to the one passed in the House. Key differences include a longer phase-out period for the Medicaid expansion but a more drastic overall curtailment in Medicaid funding through the per capita caps to be imposed.

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Introduction

On May 4, 2017, the United States House of Representatives passed the American Health Care Act[1] (AHCA) by a narrow vote of 217 to 213.[2] The bill departs from its predecessor, the Affordable Care Act (ACA), also known as "Obamacare," by restructuring Medicaid, insurance coverage requirements, health care subsidies, and preventative health funding. Supporters of the AHCA say it will provide greater budget certainty and reduce spending, while providing states with greater flexibility to manage their resources. The Congressional Budget Office (CBO) estimates that the AHCA will cut $1.5 trillion in federal funding of health coverage over 10 years.[3] Opponents of the AHCA cite the CBO's prediction that 23 million Americans will lose their health care coverage over that same 10-year period, [4] and assert that this will disproportionately affect the elderly and persons with disabilities.[5] Each state has its own Medicaid program and individualized health care needs based upon its population. If passed by the United States Senate and signed by the President, the AHCA may pose unique risks to Arizonans' access to health care - especially Arizonans with disabilities.

Medicaid Funding Restructuring

The AHCA proposal would cap the total amount of federal payments made to states for their Medicaid programs. This is substantially different than the current payment structure, which guarantees that states are reimbursed a minimum of 50% of the total costs of their

[1] Copy of bill: https://www.congress.gov/115/bills/hr1628/BILLS-115hr1628eh.pdf
[2] Daniel Derksen, The American Health Care Act, available at https://crh.arizona.edu/sites/default/files/u428/052417_AHCA_President%27s_Budget_Derksen_Analysis.pdf
[3] Copy of CBO score: https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr1628aspassed.pdf
[4] Ibid
[5] Daniel Derksen, The American Health Care Act

Medicaid programs. In 2008, the federal government paid 69% of all of Arizona's Medicaid costs.[6] The amount of Medicaid reimbursement is significant because the majority of all Medicaid expenditures are for the elderly and persons with disabilities.[7]

Under the proposed AHCA, Medicaid enrollees would be divided into five categories: children, elderly, blind and disabled, pregnant women and parents, and childless adults. Beginning in 2020, funding for each individual in each category would be set at each state's Medicaid spending level in 2016.[8] The base level would then be increased a little each year to align with national growth rate trends, rather than state-specific needs.[9] The CBO estimates that federal Medicaid spending will decrease by $880 billion over 10 years because of the cap on Medicaid spending.[10] However, this funding model also accounts for a significant portion of the 23 million expected to lose coverage under the proposal.[11]

The AHCA Medicaid cap creates negative financial risk for Arizona. From 2000-2011, Arizona's per capita Medicaid spending grew much more rapidly than funding for other states, and Medicaid spending for persons with disabilities increased at the second highest national rate. Arizona's growth rate was significantly faster than the overall trend across the United States. If the AHCA per capita cap had been in effect during that time, Arizona would have seen a 17%

[6] Daniel Derksen, The Perfect Storm: Putting America's Health Care in Peril, available at https://crh.arizona.edu/sites/default/files/u428/052417_AHCA_President%27s_Budget_Derksen_Daniel_Analysis.pdf
[7] Ibid
[8] John Holahan et al., The Impact of Per Capita Caps on Federal and State Medicaid Spending, Urban Institute, Mar 2017 available at http://www.urban.org/sites/default/files/publication/89061/2001186-the_imapct-of-per-capita-caps-on-federal-spending-and-state-medicaid-spending.pdf
[9] Rachel Garfield et al., What if Per Enrollee Medicaid Spending Growth Had Been Limited to CPI-M from 2001-2011?, Henry J Kaiser Family Foundation, Mar 23, 2017 available at http://www.kff.org/medicaid/issue-brief/data-note-what-if-per-enrollee-medicaid-spending-growth-had-been-limited-to-cpi-m-from-2001-2011/
[10] Copy of CBO score: https://www.cbo.gov/system/files/115th-cobgress-2017-2018/costestimate/hr1628aspassed.pdf
[11] Ibid

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decrease in overall Medicaid funding. [12] Arizona's Medicaid funding for people with disabilities would have been reduced more severely than almost any other state.[13]

In Arizona, people with disabilities are served through two Medicaid-funded programs. The Arizona Health Care Cost Containment System (AHCCCS) provides medical services for individuals meeting the income threshold, and the Arizona Long Term Care System (ALTCS) offers supportive services (including respite, habilitation and attendant care) for those individuals deemed at risk of institutionalization. Medicaid funding in our state allows many adults with disabilities to live and work in the community, and ensures children with disabilities receive the support they need in school.

A Medicaid cap based on national growth trends may limit the state's ability to continue funding services for enrollees with disabilities at the same level it does now, without investing additional state resources to make up for the lost federal funding. In order to minimize state spending while maintaining the greatest available federal financial participation, Arizona would be forced to eliminate some Medicaid medical benefits, establish higher enrollee co-pays and deductibles, and/or reduce payments to hospitals, doctors and other providers.[14] While Arizona's ALTCS program has historically been committed to serving everyone eligible, the financial strain imposed by the AHCA Medicaid cap could make that system unsustainable.

Arizona has invested heavily in community-based and cost-effective services to support individuals with disabilities. As a result, our state has a lower level of expenditures per person.

[12] Rachel Garfield et al., What if Per Enrollee Medicaid Spending Growth Had Been Limited to CPI-M from 2001-2011?, Henry J Kaiser Family Foundation, Mar 23, 2017
[13] Ibid
[14] John Holahan et al., The Impact of Per Capita Caps on Federal and State Medicaid Spending, Urban Institute, March 2017

In the year 2013, Arizona spent less per capita than the national average.[15] Under the AHCA, Arizona will be penalized for that efficiency, since federal funding reimbursements will be locked into this lower rate. In 2013, for example, Arizona spent $16,495 for each person with disabilities enrolled in Medicaid, while the national average was $20,091.[16] Under the AHCA, Arizona will be reimbursed at a rate that is significantly below the national average. Thus, in Arizona it will be harder to cover cost increases from important changes like new assistive technologies, breakthrough therapies or medical advancements. It would not be possible to increase rates for providers of services to people with disabilities without increasing the financial burden on the state budget.[17] Any new costs in the system would likely be absorbed entirely by the state, without any increase in federal participation.

Medicaid Expansion

In 2013, Arizona opted to expand its Medicaid program under the ACA, providing health care coverage to individuals with incomes up to 138% of the federal poverty level.[18] This was achieved with bipartisan support that overrode opposition from a majority of Republican state legislators who did not support the expansion.[19] As of 2016, over 416,000 individuals in Arizona joined Medicaid through the expansion program – 22% of the state's Medicaid

[15] Medicaid and CHIP Payment and Access Commission (MACPAC), MACStats: Medicaid and CHIP Data Book, December 2016, available at https://www.macpac.gov/wp-content/uploads/2016/12/MACStats_DataBook_Dec2016.pdf
[16] Ibid
[17] Ibid
[18] Larry Levitt et al., Gaps in Coverage Among People with Pre-Existing Conditions, Henry J. Kaiser Foundation, May 17, 2017
[19] Yvonne Wingett Sanchez et al., How Brewer won the day on Medicaid, AZ Republic, Jun 17, 2013 available at http://archive.azcentral.com/news/politics/articles/20130615brewer-medicaid-won-day.html

population.[20] A significant portion of these expanded Medicaid enrollees in Arizona have chronic health conditions or disabilities.[21]

The AHCA proposal would restructure this Medicaid expansion program beginning in 2020. Under the current law, the costs of Medicaid expansion were to be almost entirely funded by the federal government.[22] Under the AHCA, though, the Medicaid expansion population would shift to a capped formula and Arizona would lose funds for its Medicaid services. The phasing down of federal funding for Arizona's Medicaid expansion would in effect eliminate the entire program due to a provision in our state laws.[23] Thus, without further state action and resources, the AHCA could eliminate health care coverage for this expanded population altogether.

Pre-existing Conditions, Essential Health Benefits and Subsidies

In addition to the Medicaid changes, the AHCA proposal would affect the types and costs of insurance available in the private market - changes which could impact individuals with disabilities who are privately insured today. Under the new bill, states can allow insurance companies to vary insurance costs based on the pre-existing health conditions of their customers, which is illegal under existing law. If Arizona were to seek such a waiver, insurers could charge increased premiums for persons with disabilities. [24] States that are granted this waiver would be forced to establish high-risk pools or risk-sharing programs for high-risk individuals, both of

[20] State Health Reform Assistance Network, Medicaid Capped Funding, April 5, 2017 available at http://www.statenetwork.org/wp-content/uploads/2017/04/AZ-Fact-Sheet_rev-4.4.17-1.pdf
[21] The Arc of the United States, Major Provisions of the American Health Care Act, available at http://www.thearc.org/file/public-policy-document/Major-provisions-of-the-American-Health-Care-Act.pdf
[22] Daniel Derksen, The American Health Care Act
[23] Laws 2013, First Special Session, Chapter 10 available at https://apps.azleg.gov/BillStatus/GetDocumentPdf/231191
[24] Larry Levitt et al., Gaps in Coverage Among People with Pre-Existing Conditions, Henry J. Kaiser Foundation, May 17, 2017

which also typically carry increased premiums for people with pre-existing conditions.[25] Proponents of the bill note that it allocates $8 billion to help reduce premiums and pay out-of-pocket medical expenses for people with pre-existing conditions.[26] Opponents suggest that insurers would still have the option of pricing out those people with disabilities, essentially making it impossible for them to obtain or maintain insurance, even with the increased federal payment.

An additional waiver outlined in the proposal would allow states to redefine the essential health benefits, coverages that must be offered with every insurance product according to the current law. States who seek this waiver could allow insurers to exclude these essential health benefits from their insurance policies. Proponents of the AHCA may suggest that by eliminating this mandate, insurance will be cheaper for those who do not need or want those specific benefits. The AHCA bill does earmark $15 billion in 2020 for states that choose to waive the essential benefits requirement.[27] However, under this waiver, insurers would not be required to cover items such as prescription medication, mental health treatment, habilitation therapy, and other basic health care services[28] that are critical benefits for many persons with disabilities. It is not clear whether the additional federal appropriation will adequately compensate for the loss of benefits for persons with disabilities.

The AHCA proposal also restructures the subsidies that are currently available to help lower income individuals purchase health insurance. Proponents of the AHCA point out that the

[25] Ibid
[26] Ibid
[27] Daniel Derksen, The American Health Care Act
[28] Anna Marie Barry-Jester, The 4 Big Changes To Health Care In The Latest GOP Bill, FiveThirtyEight, May 2, 2017 available at https://fivethirtyeight.com/features/the-4-big-changes-to-health-care-in-the-latest-gop-bill/

bill allocates $100 billion to all states to help facilitate high-risk pools, reinsurance programs, and cost-sharing subsidies.[29] Opponents suggest that this only partially fixes the problem caused by the proposed $665 billion cut to federal subsidies that help individuals afford the purchase of insurance.[30] Arizona would incur a 56% decrease in existing tax credits aimed at making insurance premiums affordable.[31] Additionally, the AHCA's remaining tax credits would not scale by income,[32] thus making them less helpful to people with disabilities who are low-income.

Community Health

The AHCA's funding cuts will also impose significant restrictions on preventative community health. The proposal ends funding to the Prevention and Public Health Fund after 2018.[33] Through this fund, the current law allocates $900 million per year[34] to the states for public health preparedness, preventative health education, vaccines, and addiction programs. With this cut, Arizona would lose $46.8 million in federal funding over five years.[35] The elimination of federal assistance for emergency and preventative health only further shifts the economic burden of the proposed changes onto the states, which will exacerbate competition for limited resources.

[29] Larry Levitt et al., Gaps in Coverage Among People with Pre-Existing Conditions, Henry J. Kaiser Foundation, May 17, 2017
[30] Daniel Derksen, The American Health Care Act
[31] Jesse Cross-Call et al., House-Passed Bill Would Devastate Health Care in Rural America, Center on Budget and Policy Priorities, May 16, 2017 available at https://firstfocus.org/wp-content/uploads/2017/05/PCC-Paper-032017-Final.pdf
[32] Larry Levitt et al., Gaps in Coverage Among People with Pre-Existing Conditions, Henry J. Kaiser Foundation, May 17, 2017
[33] Daniel Derksen, The American Health Care Act
[34] Ibid
[35] Daniel Derksen, The American Health Care Act

The per capita Medicaid structure may also inhibit states' ability to react to community health emergencies. [36] Proponents of the changes maintain that even with the reduced Medicaid funds, states will be able to allocate the money more efficiently and spur innovation, thus minimizing any potential growth in the uninsured population. Opponents counter that the restrictions of a per capita cap cannot be solved simply through efficiency and innovation. For example, in the event of a national disaster, which historically leads to increased injury, illness, and disability rates, states would not have the necessary funding flexibility to adjust to the increased Medicaid needs.[37]

Conclusion

The proposed changes in the AHCA attempt to reduce federal Medicaid spending and enable states to increase Medicaid innovation and efficiency. However, the restructured Medicaid funding cap will almost certainly cut the amount of federal Medicaid assistance available to cover Arizona Medicaid enrollees with disabilities. Because of Arizona's growth trends and other circumstances, the state may be forced to cut Medicaid benefits, increase co-payments and deductibles, reduce provider payments, and otherwise forego adding costs to its Medicaid system. Changes to the Medicaid expansion reimbursement jeopardize coverage for thousands of Arizonans, many of whom have disabilities. Furthermore, the AHCA proposal loosens existing protections for people with pre-existing conditions and those in need of essential services. Arizonans with disabilities will no longer benefit from federal healthcare subsidies and may lose access to affordable and adequate health care coverage. While the AHCA proposal

[36] Julia Paradise, Restructuring Medicaid in the American Health Care Act, Henry J. Kaiser Foundation, Mar 15, 2017 available at http://www.kff.org/medicaid/issue-brief/restructuring-medicaid-in-the-american-health-care-act-five-key-considerations/
[37] Lisa Shapiro, Medicaid Per Capita Caps, Mar 2017 available at https://firstfocus.org/wp-content/uploads/2017/05/PCC-Paper-032017-Final.pdf

does appropriate additional resources to assist states in dealing with some of these issues, it is questionable whether this funding is adequate to sustain the current level of access to health care services and support systems for Arizonans with disabilities.

A Note on the Better Care Reconciliation Act (BCRA)

Released as a "discussion draft" in late June 2017, the Better Care Reconciliation Act (BCRA) is the U.S. Senate's response to the House healthcare bill. A vote on the BCRA was expected prior to the Senate's Fourth of July recess but was postponed by the Majority Leader until mid-July. The initial version of the bill is fundamentally similar to the one passed in the House. Key differences include a longer phase-out period for the Medicaid expansion but a more drastic overall curtailment in Medicaid funding through the per capita caps to be imposed. The Senate bill ends the extra matching funds for the Medicaid expansion states by 2024. No additional states would be allowed to expand Medicaid to cover low income adults. Furthermore, the BCRA includes no provision to protect against cuts in programs that serve children with disabilities.[38]

Analysis by the Congressional Budget Office estimates approximately 22 million Americans would lose healthcare coverage by 2026 under BCRA, with 461,000 Arizona residents among that figure.[39] Arizona's Medicaid agency, AHCCCS, projects a loss to the state

[38] The Arc of the United States, Key Medicaid Points in Senate Bill, available at https://www.thearc.org/emailviewonwebpage.aspx?erid=9246989&trid=212de3c8-007a-4995-8bc0-007e7913ad5b
[39] Center for American Progress, Coverage Losses by State for the Senate Health Care Repeal Bill, available at https://www.americanprogress.org/issues/healthcare/news/2017/06/27/435112/coverage-losses-state-senate-health-care-repeal-bill/

of $7.1 billion from 2018-2026 due to the change in federal match funds, loss of hospital assessment revenue and per capita cap inflation impacts.[40]

[40] Arizona Health Care Cost Containment System, Summary of AHCCCS Impacts: American Health Care Act (House) and Better Care Reconciliation Act (Senate), available at https://www.azahcccs.gov/Shared/Downloads/News/BRCAAHCASummary.pdf

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