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ENERGY AND COMMERCE COMMITTEE BILL IMPOSES NEW COSTS ON LOW-INCOME MEDICAID BENEFICIARIES

By Victoria Wachino

This week the House Energy and Commerce Committee and the Senate Finance Committee voted on reconciliation legislation to reduce projected expenditures for programs under their jurisdiction. This legislation meets the requirements of this year's budget resolution to achieve reductions in entitlement programs, including Medicaid. The proposals that the two Committees have released to achieve these savings make clear, however, that they are employing sharply different approaches to meeting this requirement. The House Energy and Commerce Committee achieves savings in ways that are very likely to cause harm to the millions of low-income people who rely on Medicaid for health coverage. The Senate Finance Committee, in contrast, attempts to avoid making changes that are harmful to beneficiaries, in part by extracting significant savings from overpayments to Medicare managed care plans.

Medicaid Proposals in House Package Are Likely to Be Harmful to Low-Income People

Many of the House proposals to achieve savings in Medicaid would reduce low-income Americans' access to needed health care services and medications. Some of these proposals would lead to the elimination of coverage for necessary health services. Other proposals would shift more of the cost of health care to low-income children, parents, seniors and people with disabilities. Children are put at particular risk: the House proposals would roll back federal benefits and cost-sharing standards for about six million children on Medicaid.¹ In particular, the House Committee bill would:

- **Permit states to increase significantly the amounts that Medicaid beneficiaries pay out of pocket for premiums or co-payments for health care services, including prescription drugs.** Although the proposed House cost-sharing policies vary by beneficiary group and differ between prescription drugs and other types of services, at their most basic level, these proposals would allow states to increase co-payments *for many categories of beneficiaries for at least some services*, including poor children and pregnant women who currently are exempt from co-payments. In addition, children with incomes modestly above the poverty level (children age six and older with incomes above the poverty level and children under age six and pregnant women with

¹ Estimate by Jocelyn Guyer and Cindy Mann, "Cost-Sharing Provisions in the Energy and Commerce Medicaid Package: Key Issues for Children and Families," Georgetown University Health Policy Institute Center for Children and Families, October 27, 2005, www.ccf.georgetown.edu/pdfs/costsharing1005.pdf.

incomes above 133 percent of the poverty line) could for the first time be charged premiums that could be substantial in order to enroll in the program.

A longstanding body of research demonstrates that when cost sharing is increased significantly for low-income people, their use of essential health care services declines and their health status worsens. The House proposals allowing significant increases in co-payments for Medicaid beneficiaries carry a high risk of inducing some beneficiaries to scale back markedly the use of needed health services. The proposals relating to premiums would likely cause some beneficiaries to lose coverage altogether and become uninsured. (For a thorough discussion of the Energy and Commerce Committee cost-sharing proposals, see Jocelyn Guyer and Cindy Mann, "Cost Sharing Provisions in the Energy and Commerce Medicaid Proposal: Key Issues for Children and Families, Georgetown University Health Policy Institute Center on Children and Families, October 27, 2005.)

- **Allow states to restrict covered benefits for many Medicaid beneficiaries, including preventive care for many children.** The House proposal would allow states to restrict benefits for many Medicaid beneficiaries to the SCHIP benefits package. For example, states could scale back benefits for some children, including services covered under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requirements for children. Under EPDST, children must receive periodic health examinations, and are covered for treatment for all medical conditions diagnosed in those screenings.

The EPDST guarantee would be eliminated for children over the poverty line (over 133 percent of the poverty level for children under age six), with the result that many near-poor children could be denied coverage for various medical services. States would also be permitted to limit covered benefits for people who qualify for Supplemental Security Income because they have serious disabilities. Because Medicaid beneficiaries tend to be in poorer health and have little or no discretionary income that can be spent on health care services that Medicaid does not cover, it is likely that this proposal would significantly curtail access to needed health care services for people to whom it is applied. (For a thorough discussion of restricting Medicaid benefits for some beneficiaries to the SCHIP package, see Cindy Mann and Elizabeth Kenny, "Differences that Make a Difference," Georgetown University Health Policy Institute Center on Children and Families, October 25, 2005.)

The Senate Committee bill appears to have been designed to avoid such harmful proposals. Neither of them are included in the Senate proposal.

The House Committee bill also includes a provision to create demonstration "Health Opportunity Accounts" for Medicaid beneficiaries. These accounts, which are somewhat similar to Health Savings Accounts, raise concerns, because they could have the effect of substantially increasing the out-of-pocket costs faced by beneficiaries in the demonstration, in addition to the increases described above, and those out-of-pocket increases also could deter use of needed services.² The Senate package does not include such a provision.

² Edwin Park and Judy Solomon, "Health Opportunity Accounts for Medicaid Beneficiaries: A Risky Approach," Center on Budget and Policy Priorities, October 27, 2005.

The House Committee bill also includes a number of long term care proposals, particularly in the area of asset transfers. While some tightening of asset transfer policies is warranted, some of the changes that the House has proposed -- such as extending the period of time that is examined to determine whether a transfer of assets occurred and changing the manner in which penalties are set when an inappropriate transfer is found -- could have the unintended effect of penalizing people who make relatively small gifts or donations while they are still healthy and without any intention of doing so to qualify for Medicaid.³ The Senate Finance proposals relating to asset transfer offer a much more careful, well-targeted approach to preventing abuses in this area without denying coverage to innocent people who need long-term care.

The cuts the House Energy and Commerce Committee proposes in health coverage for low-income people are in addition to reductions House Committees are considering making to other low-income programs. The House Ways and Means Committee is proposing to make significant cuts to the child support enforcement program, which will lead to reductions in the amount of child support collected on behalf of children owed support. The Ways and Means proposal also calls for cuts in foster care and SSI and includes far less child care funding than is needed to avert significant reductions in the number of children in low-income working families who receive child care subsidies. Also, the House Agriculture Committee making significant cuts to the Food Stamp Program, the nation's most important anti-hunger program.

When looked at together, these three House bills would require significant sacrifices from the nation's poorest residents while leaving wealthy families' tax cuts untouched and the interests of powerful entities — such as Medicare managed care companies that have been shown to be receiving inflated payments for their services — unscathed.

The Senate Finance Committee Plan Avoids the Harmful Proposals the House is Advancing

In its reconciliation package, the Senate Finance Committee is limiting the Medicaid cuts to \$7.6 billion over five years. Some \$3.3 billion of these savings would be reinvested in the Medicaid program for purposes like providing temporary Medicaid coverage for some survivors of Hurricane Katrina and extending coverage to children with disabilities (No comparable figure is available for the House package). The net reduction in federal Medicaid funding is therefore only \$4.3 billion. Under the terms of the budget resolution, the Senate Finance Committee is required to achieve \$10 billion in savings from entitlement programs under its jurisdiction.

The Senate minimizes cuts in Medicaid by reducing excessive and unwarranted payments in *Medicare*. Two-thirds of the Committee's Medicare savings are derived by reducing overpayments to Medicare managed care plans in ways that are consistent with the recommendations issued in June by the independent, non-partisan Medicare Payment Advisory Commission (MedPAC.) The remaining savings would be achieved through a new Medicare "pay for performance" initiative for providers to reward quality of care and through some additional smaller changes.

The savings from these Medicare proposals are considerable: the Congressional Budget Office estimates total savings from the Medicare provisions at almost \$18 billion over five years. While

³ Victoria Wachino et al., "An Analysis of the National Governor's Association Proposals for Short-Run Medicaid Reform," Center on Budget and Policy Priorities, October 14, 2005.

nearly \$13 billion of this savings would be reinvested in new Medicare spending, most notably, an increase in payments to physicians, the net savings to Medicare are nearly \$6 billion. In this manner, the Senate Committee achieves more than half of the \$10 billion in reductions to entitlement programs required under the budget resolution through changes in Medicare, rather than principally through Medicaid.

The Senate Finance Committee package also goes substantially further than the House package in reducing what Medicaid pays for prescription drugs. Both the House and Senate plans make proposals to change the basis of payment to pharmacies to reduce overpayments for prescription drugs. However, the Senate Finance Committee proposal is significantly more comprehensive than the House Energy and Commerce Committee proposal, which makes a number of exclusions. Consequently, the Finance Committee savings from these proposals are significantly higher, \$4.6 billion, than the savings from the less-comprehensive Energy and Commerce proposals, which save about \$2 billion⁴. Both bills also include more narrow proposals that will reduce what Medicaid pays for prescription drugs by ensuring that Medicaid receives rebates on drugs that are administered in a physician's office and ensuring that "authorized generics" are included in rebate calculations.

The Senate Finance package goes a step further in achieving prescription drug savings, however, by increasing the rebate that manufacturers pay to the Medicaid program for drugs that are dispensed to Medicaid beneficiaries. The rebates were designed to ensure that Medicaid gets a favorable price on prescription drugs, but states' recent ability to go beyond the federal minimum rebate to negotiate supplemental rebates strongly suggests that the federal government could establish higher minimum rebates. There is bipartisan consensus that rebate levels are too low and can be increased. The Senate Finance provision, which CBO estimates would save \$1.4 billion over five years, is consistent with recommendations that the National Governors' Association made to reduce Medicaid expenditures and would not have a significant adverse impact on low-income people. Were the House to adopt this proposal, it could eliminate or scale back some of the proposals it has made that do increase risks to low-income people.

Conclusion

In developing its proposals for achieving health entitlement savings for reconciliation, the House Energy and Commerce Committee has put forward a number of proposals that are likely to make it more difficult for many low-income Medicaid beneficiaries to afford and access health care services and medications they need. This approach stands in sharp contrast to that taken by the Senate Finance Committee in its reconciliation package. Those proposals include provisions to reduce excessive payments to Medicare managed care plans, as well as reforms to reduce the high prices that Medicaid pays drug manufacturers for prescription drugs. The Finance Committee also achieves some savings by ensuring that Medicaid gets the best price from drug manufacturers, a needed reform. By relying on these approaches to achieve savings and being willing to take on powerful interest groups like the managed care plans and the drug industry the Senate Finance Committee has minimized the harm that low-income people will face.

⁴ The original prescription drug provisions of the Chairman's Mark were estimated to save \$1 billion. The Committee amended a provision of the Chairman's Mark; preliminary CBO estimates put the savings from this amendment at an additional \$.9 billion.