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December 18, 2005

BUDGET CONFERENCE AGREEMENT CONTAINS SUBSTANTIAL CUTS AIMED AT LOW-INCOME FAMILIES AND INDIVIDUALS

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Some are claiming that the conference agreement on the budget reconciliation bill is closer to the Senate-passed bill in the low-income area than to the House bill and does not harm low-income Americans to any significant degree. While some low-income cuts in the House bill have been dropped, the conference agreement contains numerous cuts in various low-income areas — including Medicaid — that are much closer to those in the House-passed bill than to the provisions of the Senate bill.

Taken as a whole, the provisions in the conference agreement would cause considerable hardship among low-income families and people who are elderly or have disabilities. This is due in no small part to action by the conferees to shield certain powerful special interests — principally pharmaceutical companies and the managed care industry — and to extract deeper savings from low-income families instead.

MEDICAID

The CBO estimates show that conference agreement retains the majority of the Medicaid cuts contained in the House-passed bill that directly affect low-income beneficiaries.

According to the preliminary estimates issued by the Congressional Budget Office (no legislative language is yet available), the reconciliation conference report achieves much of its Medicaid savings by retaining a number of provisions in the House-passed reconciliation bill that would require low-income Medicaid beneficiaries to pay more out-of-pocket for health care or reduce the health care services for which many beneficiaries are covered. The conference report forgoes the Senate reconciliation bill's more balanced approach; the Senate had avoided changes that would harm low-income beneficiaries by achieving larger savings in the area of Medicaid prescription drug pricing and by reducing excessive payments made to Medicare managed care plans. Key aspects of the Medicaid component of the conference report include the following:

- **Increases in co-payments and premiums.** The conference report leaves largely intact the House-passed cuts that would allow states to increase substantially the co-payments that many Medicaid beneficiaries are required to pay to access health care services and medications, as well as the premiums they can be charged to enroll in Medicaid in the first place. The cuts in the cost-sharing area in the conference report (i.e., the cuts resulting from increases in co-payments and premiums) are *80 percent* of the size of the House-passed cuts in this area over five years, and *90 percent* the size of the House cuts over ten years. A large body of research has found — and CBO has concluded — that such cost-sharing increases are likely to lead many low-income

Medicaid patients to forgo various health care services and medications or not to enroll in Medicaid at all.

Altogether, the conference report includes cuts related to co-payments and premiums that total $1.9 billion over five years and $10.1 billion over ten years (as compared to $2.4 billion over five years and $11.2 billion over ten years in the House-passed reconciliation bill). The Senate bill included no increases in co-payments and premiums.

- **Benefit reductions.** The conference report retains about one-third of the House-passed cuts that, for many Medicaid beneficiaries, would eliminate the federal standards which assure that they receive comprehensive health care coverage. Under the House bill, many beneficiaries could lose access to various medically necessary services, possibly including therapy services, personal care, eyeglasses, hearing aids, and crutches. The conference agreement includes benefit cuts of $1.3 billion over five years and $6.3 billion over ten years from a scaling back of the health care benefits that Medicaid covers. (The House bill contained $4 billion in benefit cuts over five years and $18.5 billion over ten years. The Senate included no reductions in benefit coverage in its bill.)

- **Overly restrictive asset transfer rules for people who need nursing home care.** The conference report appears both to adopt all of the provisions in the House-passed bill to restrict eligibility for Medicaid long-term care services and to contain additional provisions not included in the House bill that would yield further savings in this area. Under the conference agreement, the savings in this area would be 11 percent *larger* than under the House bill, and seven times larger than under the Senate bill.

  Preventing more-affluent individuals from sheltering assets that could be used to pay for their long-term care is a laudable goal. The provisions in the conference agreement, however, appear to go well beyond that. For example, one provision of the House bill that appears to have been retained in the conference report would penalize many non-affluent individuals who make modest gifts to relatives or contributions to charity, and then experience an unexpected decline in their health *several years later* that causes them to need long-term care. The conference agreement includes Medicaid reductions in this area of $2.4 billion over five years and $6.4 billion over ten years (higher than the $2.2 billion over five years and $5.8 billion over ten years in the House-passed bill). The Senate's more targeted and carefully designed provisions in this area would have produced savings of $335 million over five years and $890 million over ten years.

The conference report's health care provisions also move toward the House bill in another respect: they cater to powerful special interests — in particular, the pharmaceutical and managed care industries — at the expense of low-income beneficiaries.

- **No increase in drug manufacturer rebates.** The Senate bill avoided harmful co-payment and premium increases and benefit reductions in part because it achieved much of its Medicaid savings by restraining the amounts that Medicaid pays for prescription drugs. To ensure that Medicaid gets the best prescription drug prices, the Senate bill increased the minimum rebates that drug manufacturers are required to pay the Medicaid program for drugs dispensed to Medicaid beneficiaries. The Senate bill also applied the rebates to drugs provided to Medicaid beneficiaries through managed care plans. The Senate drug rebate provisions produced Medicaid savings of $3.9 billion over five years and $10.5 billion over ten years, which helped the Senate reach its savings target without harming low-income beneficiaries.

In a victory for the powerful pharmaceutical industry, the conference agreement fails to include the Senate's significant rebate provisions. The conference agreement includes only two minor provisions related to drug rebates already included in both the House-passed and Senate-passed bills; these provisions generate savings of only $220 million over five years and $720 million over ten years.

- **No elimination of the Medicare stabilization fund.** The conference report also protects Medicare managed care plans. It drops a Senate provision that would have eliminated a wasteful $10 billion slush fund to encourage participation in Medicare by regional Preferred Provider Organizations (PPOs). The Medicare Payment Advisory Commission (MedPAC) — the official, independent advisory body to Congress on Medicare payment policy — recommended this summer, in a nearly unanimous vote, that this fund be eliminated because it is unnecessary and unwarranted and provides an unfair competitive advantage to PPOs over traditional Medicare fee-for-service and other managed care plans such as Medicare HMOs. Nevertheless, the conference agreement leaves this fund fully intact, forgoing $5.4 billion in savings over five years (and twice that over ten years) that were contained in the Senate bill. The removal of this Senate provision likely was done at the behest of the managed care industry and the Administration, which threatened to veto the budget bill if the Senate provision was included in the final conference agreement.

- **Partially gutting another provision to curb overpayments to managed care plans**. There is near-universal agreement among analysts that the current Medicare payment structure provides excessive payments to managed care plans, and the Administration announced earlier this year that it would act administratively to eliminate a feature of the payment formula that is responsible for a significant volume of excessive payments. MedPAC endorsed the Administration's action, and the Senate reconciliation bill wrote the Administration's planned administrative action into law, for a savings of $6.5 billion over five years and $26 billion over ten years, according to CBO. Under the conference agreement, however, the ten-year savings have been lowered from $26 billion to $4.1 billion, according to the CBO estimates. While the conference report language is not yet available, it appears that the conference agreement is written so the part of the Medicare payment formula that would be reformed would revert to its current, problematic status after five years, and after that time, managed care plans would again receive the overpayments this provision is supposed to curb.

In short, in place of the Senate's reasonable savings from eliminating the wasteful Medicare stabilization fund and lowering the prices that Medicaid pays pharmaceutical companies for prescription drugs, the conference agreement includes a hefty share of the House Medicaid provisions on cost-sharing and benefits, which the research indicates are likely to reduce the affordability and accessibility of health care for large numbers of low-income patients.

LOW-INCOME PROGRAMS OUTSIDE THE HEALTH AREA

The Senate reconciliation bill did not include cuts in any low-income program other than Medicaid, and did not seek to rewrite the welfare rules in a reconciliation bill. The

conference agreement, by contrast, includes sizeable cuts in child support enforcement, SSI, and foster care, as well as highly controversial TANF provisions that would impose expensive, unfunded work requirements on states and result in the loss of child care for many low-income working families not receiving TANF cash assistance.

1. Child Support Enforcement: The CBO estimates show that the conference report includes a $1.5 billion cut in federal funding for child support enforcement efforts over the next five years and a $4.9 billion cut over the next ten years. This is funding that states use to track down absent parents, establish legally enforceable child support orders, and collect and distribute child support owed to families. *CBO has estimated that this loss in federal child support funding will result in $2.9 billion in child support going uncollected over the next five years, and $8.4 billion going uncollected over the next ten years.* These cuts are smaller than those in the House bill, but will nevertheless take billions of dollars out of the pockets of mothers and children who are owed child support. (The conference agreement also contains some modest improvements in the child support program. The cuts in federal support for the program and the associated loss of child support collections, however, far outweigh the very modest benefits that some families would see as a result of a few improvements in other child support provisions.)

2. TANF: Despite representing the largest change in welfare policy since 1996, the nature of the TANF provisions in the conference report has been a closely guarded secret. CBO analyses show, however, that the conference agreement would impose very expensive new work requirements on states. Moreover, in a major change in policy that goes well beyond anything in any prior TANF bill, including the House budget reconciliation bill, the conference agreement would *remove* from states the flexibility they now have to apply different types of work-related requirements to people receiving assistance funded entirely with *state* "maintenance of effort" funds. (These are state funds that a state must expend to draw down federal TANF funds.)

CBO estimates that if states attempt to meet the work requirements in the conference agreement by placing more parents in welfare-to-work programs (rather than by reducing the number of poor families receiving assistance at all), the cost to states would be $8.4 billion over the next five years, which is slightly *more* than the cost would have been under the House reconciliation bill. CBO projects that some states would not meet the new mandates and would face fiscal penalties as a consequence.

It is widely known that there was a concerted effort in the conference to redesign the House bill's work requirements so that the Congressional Budget Office would conclude that some states would not be able to meet the requirements and thus would be subject to fiscal penalties. This was purposefully done to get around the "Byrd rule," a procedural rule that generally prohibits the inclusion in a reconciliation bill of changes in policy that do not significantly reduce or increase federal costs or revenues. The goal here appears to have been to secure an estimate from CBO that the changes in the work requirements would, in fact, save money for the federal Treasury — and to do so by making the new requirements sufficiently unrealistic that some states would not be able to meet them. (It remains unclear whether the TANF work provisions in the conference agreement succeed in meeting the Byrd rule test.)

3. Child Care: The conference report includes $1 billion in additional funding for child care, which is *$7.4 billion less* than CBO estimates to be the cost to states of meeting the new work requirements, and more than *$11 billion less* than what states will need both to meet the new work requirements and to ensure that their current child care programs for low-income working families not on TANF do not have to be scaled back as a result of the impact of inflation on child care costs. This means the conference agreement includes *no new funding* for states to help meet the intensified work requirements that will be imposed upon them or to provide child care for children whose parents will newly be placed in work programs.

To come up with the funds to meet the new work requirements and provide child care for the children of mothers placed in these excluded work programs, many states will have little alternative but to scale back child care slots for working poor families not on welfare and shift those slots to TANF families instead. As a result of the under-funding of child care in the conference agreement, we estimate that by 2010, *some 255,000 fewer children in low-income working families not on TANF will receive child care assistance than received such assistance in 2004*.

The $1 billion in child care funding in the conference agreement is higher than the $500 million in the House-passed bill. It is $5 billion lower, however, than the amount included for child care in the bipartisan TANF legislation approved by the Senate Finance Committee earlier this year.

4. SSI: Under the conference agreement, poor individuals with disabilities who have waited months for the Social Security Administration to review and approve their applications for SSI (a common occurrence in SSI), and consequently are owed more than three months of back benefits, would have to receive these benefits in installments that could stretch out over the course of a year. The first installment would include no more than three months of back benefits. By contrast, under current law, most such disabled individuals receive their back benefits in a single lump sum payment. Individuals owed more than 12 months' worth of benefits receive benefits in installments, but the first installment is equal to 12 months of benefits.

This provision of the conference agreement means many poor SSI recipients with disabilities would have to wait longer for benefits they are owed, making it more difficult for them to pay off arrears in bills that have built up during the period when they were unable to work due to their disability and were not receiving monthly SSI benefits because SSA was still processing their application. Under the conference agreement, some poor individuals with disabilities could die before receiving the full back benefits they are owed. (With two minor exceptions, if a person dies before being paid SSI benefits they are owed, the SSI benefits are not paid to the person’s relatives or estate. These back benefits are not even available to help family members pay for funeral costs.)

This SSI provision is largely a budget gimmick; it would make most of the affected beneficiaries wait longer for the benefits they are owed, thereby shifting costs from one year to the next and providing savings in the five-year budget “window.” (Some "true" savings apparently would be achieved, as well, as a result of some individuals dying before receiving the back benefits they are owed.) CBO estimates the savings from this provision at $425 million over five years. This is an example of a budget gimmick with a real human cost, since many impoverished individuals with disabilities will face a more difficult time making ends meet as a result of the delays they will be forced to experience in receiving SSI payments that they are owed.

5. Foster Care: The bill includes $343 million in net cuts in foster care funding**,** including two cuts that will make it harder for some states to provide federally funded foster care benefits to certain grandparents who are raising their grandchildren.