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## House Medicaid Bill Would Result in More Uninsured Low-Income Individuals and Families

By January Angeles

The House Energy and Commerce Committee is scheduled this week to consider a bill that would substantially change the way Medicaid counts certain income for purposes of determining income eligibility. While the bill — H.R. 2339, sponsored by Rep. Joe Pitts (R-PA) — is intended to prevent people who win large lottery payouts from receiving Medicaid, it goes far beyond that by altering how Medicaid treats all kinds of lump-sum payments. This would undermine the streamlined, coordinated eligibility approach that health reform established for Medicaid and the marketplace subsidies and would result in a number of low-income people who would otherwise be eligible, including people with disabilities, becoming uninsured.

### House Proposal Would Alter How Medicaid Treats Lump-Sum Payments

Health reform created a streamlined, coordinated approach to determining eligibility for Medicaid, the Children's Health Insurance Program (CHIP), and the premium tax credits and cost-sharing subsidies that help people afford marketplace coverage. This approach ensures that people can qualify for the appropriate coverage without gaps in coverage and that they can readily move between programs when their incomes change and they lose eligibility for one program and become eligible for another.

For example, the Affordable Care Act (ACA) redefined for most beneficiaries the way that Medicaid counts income and eliminated the asset test. This change aligned Medicaid rules with the definition of income that is used in the tax code and hence, for determining eligibility for health reform's premium tax credits (i.e., for the premium subsidies that make coverage affordable for the vast majority of people who receive coverage through the health insurance marketplaces). This revision in Medicaid eligibility rules was essential to coordinate Medicaid with marketplace coverage.

Lump-sum income is income that an individual generally receives on a one-time basis, such as insurance settlements for serious injuries, retroactive disability or unemployment compensation payments (to cover months when the individual was eligible but the state or federal agency was processing his or her application). Under longstanding federal Medicaid rules, which continue under health reform, Medicaid counts a lump-sum payment as income in the month in which it is received and as an asset after that for those Medicaid beneficiaries who remain subject to an asset test, including most seniors and people with disabilities (income generated from such assets, such as interest, would be counted under both Medicaid and premium tax credits rules). Because health

reform's premium tax credits are based on *annual* rather than monthly income, taxable lump-sum income is included in a tax filer's annual income level and thus is used to calculate his or her eligibility for a premium tax credit.

While the Pitts bill is supposedly intended to bar Medicaid eligibility for those few people with very large lottery winnings, it would actually alter the Medicaid rules described above by allowing states to consider lottery winnings and any other lump-sum payments between \$20,000 and \$50,000 as monthly income (on a proportional basis) for up to 12 months. People who receive a lump-sum payment of more than \$50,000 could have a portion of that income counted proportionally as monthly income for up to *20 years*, depending on the length of time the state chooses. As a result, if the Pitts bill were enacted, a substantial number of low-income people who receive lump-sum income, such as people who have suffered a serious injury or disability and receive retroactive disability payments when their application is approved, would become ineligible for Medicaid for a number of months. And because eligibility for premium credits is based on annual income in a tax year, people who received lump-sum income could end up being determined ineligible for Medicaid for extended periods because their monthly income is *too high*, but ineligible for premium tax credits for marketplace coverage because their annual income is considered *too low*.

Consider this illustrative example. Suppose that in July 2015, a Medicaid enrollee with annual income of \$10,000 who was injured in an accident received \$25,000 in taxable proceeds from a lawsuit or other settlement. Under the Pitts bill, a state Medicaid program could count the one-time lump sum as monthly income for the next 12 months, and the individual would be deemed to have total monthly income of \$2,917 from July 2015 through June 2016, well above Medicaid's monthly income limit for a single individual. Medicaid thus would terminate that person's coverage.

For the rest of 2015, the marketplace would determine the individual to be eligible for premium tax credits, with an annual income of \$35,000 in 2015. But during the next marketplace open enrollment period, when the individual seeks to renew his or her marketplace coverage for 2016, eligibility for premium tax credits would be based on a projection of his or her income for calendar year 2016, when no further lump-sum payments are expected. Assuming the individual's annual income outside of the legal settlement is still \$10,000, the marketplace would *deny* the individual premium tax credits for 2016 because his or her income would be too low (i.e., below the federal poverty line). The marketplace would then forward the individual's case to the state Medicaid agency. But because the state Medicaid agency would still be counting the individual's monthly income for the first six months of 2016 as \$2,917, the agency would continue to determine the individual as *ineligible for Medicaid* until July 2016.<sup>1</sup> The individual thus would be ineligible for both Medicaid and marketplace subsidies and would likely be uninsured for at least the first half of 2016.

The Pitts bill would thus allow people to fall into this "no man's land," undermining the ACA's intent to provide continuous and seamless coverage to low- and moderate-income people and casting more Americans with low incomes into the ranks of the uninsured, including people beset with serious injuries or disabilities.

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<sup>1</sup> Current regulations require that in the case that an individual is determined to be ineligible for Medicaid but marketplace eligibility rules would find someone ineligible for subsidies because they have income below the poverty line, state Medicaid programs should then apply marketplace rules. 42 CFR §435.603(i). As drafted, however, the bill would likely supersede such regulations.

## Proposal Would Disproportionately Harm Individuals Eligible for Social Security Disability Benefits

As noted, the bill would allow states to count not just large lottery winnings but *all* lump-sum income — including various personal injury awards, retroactive disability and unemployment compensation payments, and the like — as monthly income. This would have a particularly harmful effect on people newly approved for Social Security Disability Insurance (DI) benefits.

It often takes the Social Security Administration a year or more to process disability claims, and most people found eligible for DI consequently are owed back payments. These back payments, which come in a lump-sum amount, can add up to tens of thousands of dollars. Individuals with disabilities may rely on these back payments to pay down debt that they incurred to pay for medical and other expenses while awaiting a determination from the Social Security Administration.

Under the Pitts proposal, Medicaid would count these retroactive DI payments as monthly income for a period of time after they are received, which could make many low-income disabled people ineligible for Medicaid — including some people who would be made ineligible for *both* Medicaid *and* premium tax credits for a number of months. People who receive DI would eventually become eligible for Medicare — but not for two years. Since these are people who have substantial medical needs, denying them coverage for the intervening period could have serious long-term consequences.

## Implementation Would Be Extremely Problematic

Moreover, under health reform, people who apply for subsidized coverage through a marketplace must first be screened for Medicaid eligibility. That screening would become much more difficult under the Pitts bill, as the Federally Facilitated Marketplace (FFM) that operates in 37 states would have to apply *each state's differing rules* on lump-sum payments.

To administer this provision, the FFM, state-based marketplaces, and Medicaid would need to revise the application to ask about lump-sum income, verify it, and separately track amounts and dates of receipt to determine for how long it should be counted in assessing Medicaid eligibility. These additional tasks could result in processing delays.

The provision would also lead to significant churning in eligibility. As the example above illustrates, someone who receives lump-sum income could go from being eligible for Medicaid, to being eligible for marketplace subsidies, to being eligible for neither and becoming uninsured in the course of just one year. Rather than processing eligibility for this person just once over a year-long period, Medicaid and the marketplaces would end up processing this case three times, which would increase the workload of eligibility staff who often are already stretched to capacity and could lead to significant disruptions in care for the affected people.

The FFM, the state-based marketplaces, and state Medicaid agencies also would not be able to efficiently and accurately administer this provision without making system changes that would require significant new investments by the federal government and the states. Without added funds for such investments, more eligible people could end up inaccurately determined to be ineligible.

## **Conclusion**

The Pitts bill is purportedly designed to disqualify from Medicaid people with very large lottery winnings, which is just a tiny handful of a state's residents in any given year. In reality, it would significantly undermine the coordinated eligibility process for Medicaid, CHIP, and the marketplace subsidies and could cause a significant number of low-income people, including many people with disabilities, to be denied coverage altogether for a period of time.