ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

U.S. Senate
Washington, D.C. 20510

July 25, 2017

Dear Senator:

On behalf of Consumers Union, the public policy arm of nonprofit Consumer Reports, we write to express our strong opposition to the updated Better Care Reconciliation Act (BCRA). The tweaks to this new version of the bill do not change its fundamentally flawed approach[1] and will result in tens of millions of consumers losing coverage, the end of protections for people with pre-existing conditions, and devastating cuts to Medicaid. We implore you to oppose this harmful bill and vote against the motion to proceed. Given the bill's foundational flaws, there is no amendment, one-time payoff, Medicaid wrap-around program,or carve-out for specific populations or states that can make this legislation beneficial for consumers.

Instead of extending healthcare coverage and making it more affordable for families, this legislation does just the opposite: 22 million Americans will lose coverage by 2026 and millions of consumers will face significantly higher out-of-pocket costs.[2] According to an analysis by the Brookings Institution, those with lower incomes would suffer severe hardship due to rising costs, regardless of their age and family type. The adverse impacts would be most felt by older enrollees. For example, the average annual costs for a 64-year-old couple earning a combined income of $28,000 would rise from 13 percent of their income under the Affordable Care Act (ACA) to 70 percent of their income under the BCRA.[3]

According to the nonpartisan Congressional Budget Office (CBO), by 2026, deductibles for individual market plans will rise dramatically under BCRA. For example, a single consumer would face a deductible of $13,000.[4] This is more than half the income of consumers living at 175 percent of the federal poverty level.[5] It is also fifteen times more than the $800 deductible that same person would face under the ACA.[6] At the same time, plans would not offer any benefits outside the deductible as many do now. As a result, the CBO projects that few

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[1] For details, see Consumers Union fact sheet: *The BCRA Reduces Healthcare Coverage and Financial Security for Millions of Americans*, (posted June 27, 2017). Available at http://consumersunion.org/wp-content/uploads/2017/06/Fact-Sheet-BCRA-Harm-6-27-17.pdf.

[2] Congressional Budget Office, *H.R. 1628, the Better Care Reconciliation Act of 2017: An Amendment in the Nature of a Substitute of 2017* (July 20, 2017) at p.1. Available at https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/52941-hr1628bcra.pdf

[3] Adler, Loren and Ginsburg, Paul, *How BCRA 2.0 Would Impact Enrollee Costs, According to Your Age and Income*, Brookings Institution, July 20, 2017.

[4] This is above the projected legal limit of $10,900 for out-of-pocket spending for 2026. Congressional Budget Office, *H.R. 1628, the Better Care Reconciliation Act of 2017: An Amendment in the Nature of a Substitute of 2017* (July 20, 2017) at p.9. Available at https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/52941-hr1628bcra.pdf

[5] For a single individual, 175% of the federal poverty level is an annual income of $20,790; HHS Release Notice Concerning 2017 Federal Poverty Guidelines, https://liheapch.acf.hhs.gov/news/july16/FPG.htm.

[6] Jost, Timothy, Health Affairs, *The Latest CBO Score of The Better Care Reconciliation Act Leaves 22 Million Uninsured by 2026* (Updated), July 20, 2017

lower-income people would opt to buy coverage — not because they do not want coverage, but because they would not be able to afford to pay for care with the inadequate insurance they could buy. This bill would effectively leave millions priced out of the market and unable to afford healthcare.

The provisions under BCRA that allow waivers of Essential Health Benefits (EHBs)[7] and expand the reach of catastrophic insurance products[8] are likely to destabilize the market and make health insurance unaffordable and out-of-reach for those who need it most. For example, health policy experts and health actuaries predict that where states elect to change or eliminate EHBs, consumers without chronic health conditions may opt out of plans that have pharmacy coverage, causing costs for the remaining pool to spiral upwards.[9] In that scenario, consumers with chronic conditions who cannot afford plans with robust prescription benefits may have difficulty affording their medications, resulting in substantially higher cost hospitalization and other medical interventions.[10] The same holds true for other benefit categories, such as maternity care. Allowing all consumers to enroll in catastrophic insurance products also means, almost by definition, that the consumers that use the least healthcare are likely to gravitate away from comprehensive insurance products and into products that offer the least coverage. Each of these provisions on their own increase the likelihood that the cost of comprehensive coverage for those who want or need it will rapidly rise as healthier enrollees opt out. Taken together, these provisions put basic coverage out of the reach of many, either because comprehensive coverage is unaffordable or not sold at all.

Market stability would also be on shaky ground if the individual and employer mandates are repealed. According to the CBO and The Joint Commission on Taxation, eliminating the "individual mandate penalty would tend to reduce insurance coverage less among older and less healthy people than among younger and healthier people. Thus, the agencies estimate that repealing that penalty, taken by itself, would increase premiums in the nongroup market." Similarly, the CBO, in its most recent analysis, predicted that fewer consumers would receive employer-sponsored insurance.[11]

The long-term state stability and innovation program, which allocates $132 billion over eight years for at least four separate purposes under the umbrella of stabilizing the individual market and protecting high-risk or low-income individuals, is not nearly enough funding to accomplish these multiple stated purposes. For example, the cost to adequately fund a high-risk pool alone — without even addressing the other stated purposes — would require upwards of $178 billion

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[7] For details on why maintaining the Essential Health Benefits standards is crucial for consumers, see the Consumers Union fact sheet, Essential Health Benefits Protects consumers (posted April 21, 2017), available at http://consumersunion.org/research/essential-health-benefits-protect-consumers/.

[8] Section 208 of the H.R. 1628, the Better Care Reconciliation Act of 2017: An Amendment in the Nature of a Substitute of 2017.

[9] Health Affairs, The Future of Essential Health Benefits, February 14, 2017. See also: AIS Health, Health Plan Week, March 6, 2017.

[10] Urban Institute, Instead of ACA Repeal and Replace, Fix It, January 2017.

[11] Congressional Budget Office, *H.R. 1628, the Better Care Reconciliation Act of 2017: An Amendment in the Nature of a Substitute of 2017* (July 20, 2017) at p.11.

per year[12] in order to effectively bring down costs for high-risk individuals. This is more than ten-times the amount under consideration, and far larger than what is likely to be politically or fiscally feasible. Consumers with greater healthcare needs, who wind up in a higher-cost risk pool with underfunded assistance, will effectively lose the pre-existing protections they gained under the ACA, and will be priced out of the comprehensive coverage they need.

Also, by capping funding for Medicaid, BCRA threatens millions of consumers who rely on Medicaid for their healthcare. As a recent Consumer Reports article, "Who's on Medicaid Might Surprise You" highlights, Medicaid beneficiaries come from all walks of life; their backgrounds are diverse and the adverse impacts of restructuring and capping Medicaid would be universally felt. Half of Medicaid enrollees are children, many of them with special needs.[13] Families of children with rare genetic diseases or other special needs depend on Medicaid funding to cover school-based services such as speech and occupational therapy, services that make an enormous difference in their development.[14] For those adults who struggle to work when debilitating disease, such as multiple sclerosis, makes full-time work impossible, Medicaid is often a life-saving help.

Moreover, Medicaid pays for two out of three nursing home beds and is the primary funder of long-term care and support services for the aged.[15] For many seniors, Medicaid is the difference between aging in dignity and not being able to afford quality care or a place to live. If grandparents lose access to long-term or nursing home care because of Medicaid cuts, working families who already struggle to pay for childcare and save for college will also struggle to pay for housing and supportive care for their aging parents.

Narrow carve-outs from the Medicaid cap, such as the exception for children with medically complex health issues and waivers for public health emergencies, do not change the fact that this bill would end Medicaid as we know it and force states to choose between skimping on services for those battling addiction or cutting benefits for senior Medicaid enrollees. It is impossible to accurately predict all future public health crises, the need for nursing home and long-term care for seniors, and the needs of disabled children and their families, therefore making futile attempts to use carve-outs to solve a funding shortage. For example, the $45 billion fund allotted by the updated bill to address the opioid epidemic is not nearly enough to effectively deal with an

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[12] Hall, Jean P., Why a National High-Risk Insurance Pool Is Not a Workable Alternative to the Marketplace, The Commonwealth Fund, Dec. 2014, http://www.commonwealthfund.org/~/media/files/publications/issue-brief/2014/dec/1792_hall_highrisk_pools.pdf?la=en. Additionally, for more on high risk pools, see Consumers Union fact sheet: Creation of High-Risk Pools Would Imperil the Most Vulnerable Consumers. Available at http://consumersunion.org/wp-content/uploads/2017/03/High-Risk-Pool-Fact-Sheet-FINAL.pdf.

[13] Kaiser Family Foundation, "10 Things to Know about Medicaid: Setting the Facts Straight," http://www.kff.org/medicaid/issue-brief/10-things-to-know-about-medicaid-setting-the-facts-straight/; Kaiser Family Foundation, "Medicaid and Children with Special Health Care Needs," http://www.kff.org/medicaid/issue-brief/medicaid-and-children-with-special-health-care-needs/

[14] Center on Budget and Policy Priorities; http://www.cbpp.org/research/health/medicaid-helps-schools-help-children; NHELP, http://www.healthlaw.org/blog/575-school-districts-hit-hard-under-proposed-medicaid-cuts.

[15] Kaiser Family Foundation, "Medicaid and Long-Term Services and Supports: A Primer," December 2015; http://kff.org/medicaid/report/medicaid-and-long-term-services-and-supports-a-primer/; Kaiser Family Foundation, "Nursing Facilities, Staffing, Residents and Facility Deficiencies, 2009 Through 2014; http://www.kff.org/medicaid/report/nursing-facilities-staffing-residents-and-facility-deficiencies-2009-through-2014/.

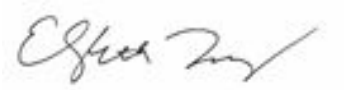
addiction crisis of this magnitude across many states; it is also impossible to predict how long this crisis will last or what the related public health needs will be in the future. Simply put, under a capped financing structure, states will not be able to keep providing the same level of benefits to the same number of beneficiaries unless severe sacrifices are made elsewhere.[16]

Restructuring Medicaid would not eliminate or reduce the medical need or the cost of care; rather, it would shift billions of dollars of healthcare costs onto the shoulders of states and consumers. Additional funding for states, even as much as several hundred billion, does not make up for $800 billion in Medicaid cuts, and will be insufficient to enable consumers to buy and use insurance. Furthermore, once Medicaid adopts a capped formula structure, as opposed to the current fixed federal percentage contribution, nothing prevents future additional federal funding cuts or tightening of the caps. Medicaid funding will be uncertain, making it even more difficult for states to accurately plan for future budgetary needs.

Finally, we are deeply troubled by the non-transparent and rushed manner in which the Senate is currently proceeding with this legislation. The public deserves a complete score from the CBO on the entirety of the legislation that the Senate will consider, including significant amendments, to understand the coverage and financial impacts. A partial score or the use of a score from a source other than the CBO is wholly inadequate for such an important decision. A measure that so fundamentally touches the life of every American — and accounts for one-sixth of our economy — deserves a full and public debate with sufficient time for the public and Members to review and understand the full implications.

We urge you to prioritize the health and financial well-being of consumers, to oppose a repeal of the ACA and any version of BCRA, and to instead pursue bipartisan legislation to stabilize insurance marketplaces where needed and contain the rising costs of care and coverage.

Sincerely,



Elizabeth Imholz
Special Projects Director

Victoria Burack
Health Policy Analyst

[16] It is estimated that these caps will cut federal funding to Medicaid by $116 billion over ten years, on top of the expansion cuts. Center on Budget and Policy Priorities. *House Republican Health Plan Shifts $370 Billion in Medicaid Costs to States*. March 8, 2017.