U.S. Senate

Washington, D.C. 20510

July 14, 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]](#footnote-1)and will result in millions of consumers losing coverage, the end of protections for people with pre-existing conditions, and devastating cuts to Medicaid. We strongly urge you to oppose this harmful legislation.

Instead of making healthcare more affordable for families, this legislation will lead to millions of Americans losing coverage, jeopardizing their health and financial well-being. The new provision to let insurers sell plans that do not meet the minimum standards set by the Essential Health Benefits (EHBs) provision of the Affordable Care Act (ACA), as long as they sell a comprehensive plan as well, will destabilize the market and make health insurance unaffordable and out-of-reach for those who need it most. Younger and healthier consumers will flock to cheap, bare-bones plans that offer little coverage, while people with pre-existing conditions or families who are planning to have a baby, for example, who need more comprehensive coverage, will need to purchase traditional plans. The market for traditional plans will become laden with consumers who need more care, causing premiums to spiral upward into a de facto high-risk pool. [[2]](#footnote-2) Additionally, the new provision allowing consumers to use tax credits to purchase catastrophic coverage only further incentivizes healthy people to purchase bare-bones plans.

The long-term state stability and innovation program, which allocates $132 billion over eight years to stabilize the individual market or protect high-risk or low-income individuals, is not nearly enough funding to accomplish the stated purposes. For example, research shows that upwards of $1 trillion over ten years [[3]](#footnote-3), [[4]](#footnote-4) would be required to effectively bring down costs for high-risk individuals alone. 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.

The BCRA also threatens millions of consumers who rely on Medicaid for their healthcare, by capping funding for Medicaid. As a recent Consumer Reports article, “[Who’s on Medicaid Might Surprise You](http://www.consumerreports.org/medicaid/whos-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.[[5]](#footnote-5), [[6]](#footnote-6) 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.[[7]](#footnote-7),[[8]](#footnote-8) Many adult, non-disabled enrollees in Medicaid work full-time or more in low-wage jobs that do not provide other coverage.[[9]](#footnote-9) And for those adults who struggle to work when debilitating disease, such as MS, makes working full time 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.[[10]](#footnote-10),[[11]](#footnote-11) 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 care or nursing homes 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 parents.

Carve-outs for certain populations, such as medically complex children, or waivers from the cap for public health emergencies do not change the fact that this bill would end Medicaid as we know it and force states to make untenable choices, such as weighing whether to skimp on services for those battling addiction or to cut benefits for senior Medicaid enrollees. The $45 billion fund allotted by the updated bill to address the opioid epidemic is not nearly enough to effectively deal with an addiction crisis of this magnitude across many states. Moreover, opioids are only the current, highly visible healthcare crisis. It is hard to predict the next epidemic, outbreak, or other costly healthcare need, but there is little doubt that one will occur during the next decade.

Restructuring Medicaid will not eliminate or reduce the medical need or the cost of care; rather, it would shift billions of dollars of healthcare costs onto states and consumers. 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.[[12]](#footnote-12) Not only will state budgets and services be undermined, but once Medicaid adopts a capped formula structure, nothing prevents additional federal funding cuts in the future. 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 has proceeded with this legislation. There were no public hearings and no testimony from expert witnesses and stakeholder groups. Even after an earlier version of this bill was set aside because of overwhelming concerns, stakeholders with the most to lose continued to be shut out of the conversation and the process. A measure that so fundamentally touches the life of every American — and accounts for one-fifth of our economy — deserves a full and public debate.

The framework of this legislation is fundamentally flawed and carve-outs for specific populations or services, or special deals for states, cannot mitigate the serious harm it would cause for millions of American. We urge you to prioritize the health and financial well-being of consumers, to oppose the BCRA, and to pursue bipartisan legislation to fix and improve insurance marketplaces where needed.

Sincerely,



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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>. [↑](#footnote-ref-1)
2. Kaiser Family Foundation, “Uneven Playing Field: Applying Different Rules to Competing Health Plans,” July 2017;

   <http://www.kff.org/health-reform/issue-brief/uneven-playing-field-applying-different-rules-to-competing-health-plans/> [↑](#footnote-ref-2)
3. Tax Policy Center, An Updated Analysis of the 2008 Presidential Candidates’ Tax Plans: Revised August 15, 2008, Revised August 15, 2008, Updated September 12, 2008. [↑](#footnote-ref-3)
4. 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>. [↑](#footnote-ref-4)
5. 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/> [↑](#footnote-ref-5)
6. 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/> [↑](#footnote-ref-6)
7. Center on Budget and Policy Priorities; <http://www.cbpp.org/research/health/medicaid-helps-schools-help-children>. [↑](#footnote-ref-7)
8. NHELP, <http://www.healthlaw.org/blog/575-school-districts-hit-hard-under-proposed-medicaid-cuts>. [↑](#footnote-ref-8)
9. Kaiser Family Foundation, “Understanding the Intersection of Medicaid and Work,” February 2017; <http://www.kff.org/medicaid/issue-brief/understanding-the-intersection-of-medicaid-and-work/> [↑](#footnote-ref-9)
10. 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/> [↑](#footnote-ref-10)
11. 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/> [↑](#footnote-ref-11)
12. 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. [↑](#footnote-ref-12)