ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

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

September 18, 2017

Dear Senator:

On behalf of Consumers Union, the policy and mobilization division of nonprofit Consumer Reports, we write to express our strong opposition to the recently proposed Graham-Cassidy-Heller-Johnson bill. This bill is an even harsher version of the previous failed proposals that were rejected by the majority of Americans and by the Senate itself. By turning Affordable Care Act (ACA) subsidies and Medicaid expansion dollars into block grants to states, with dramatically reduced funding, the bill would eliminate consumers' certainty that, no matter where in this country they live, their access to care and coverage is constant and assured. The proposal also fundamentally alters the Medicaid financing structure by drastically cutting funding and shifting billions of dollars of healthcare costs onto states and consumers.

The health insurance markets are in turmoil in the wake of continuous attempts to repeal the ACA and threats to stop funding cost-sharing reduction payments and enrollment outreach. As a result, consumers will quickly experience the fallout unless this effort to repeal the ACA is rejected. Consumers Union urges you, instead, to support the ongoing bipartisan efforts to stabilize and strengthen the insurance markets.

The Graham-Cassidy bill would severely cut major existing coverage and consumer protections, leaving those with pre-existing conditions especially vulnerable

This bill creates an illusion that states will be able to adopt individual healthcare reform when, in reality, it will strip away consumer protection guarantees, especially for vulnerable Americans, and tie the hands of states by drastically reducing funding. The bill would allow states to eliminate or modify key consumer protections, disregarding the fact that the need for access to affordable, high-quality, healthcare and coverage is the same no matter where in the U.S. a consumer lives. As a result, consumers with identical demographics and health status, but who live in different states, would have different access to life-saving care based only on lines drawn on a map. This difference could be a matter of life and death.

Under the proposed waiver provision of the block grant funding, states could waive the ACA's prohibitions on insurance companies charging people higher premiums based on their health status, age, or other factors (except sex or membership in a constitutionally protected class). States could also elect to eliminate or alter the requisite "essential health benefits" (EHBs). The EHB categories represent a commitment to making healthcare accessible and affordable for all consumers, removing the hidden exclusions in policies that pre-dated the ACA. Similarly, annual and lifetime caps, which are credited for reducing the rate of medical bankruptcy filings,[1] could

[1] For more on this, see Consumer Reports, How the Affordable Care Act Drove Down Personal Bankruptcy," May 2, 2017.

be eliminated under this proposal. Actions that reverse that commitment to provide access to care will undoubtedly harm millions of consumers by, for example, leaving those with pre-existing medical conditions without coverage for specific needed services. Such consumers would likely find themselves unable to afford insurance that covers the care they know they need, and leave them underinsured for care they did not realize they would need. (For more on how essential health benefits protect consumers from inadequate insurance, see our fact sheet.)

Even those states that are inclined to retain core elements of the ACA would be hard-pressed to do so when faced with massive federal funding cuts and the reality that funding will not be linked to the rapid rise in the cost of healthcare. The allocation formula for block-granted funds in this bill means that those states that expanded Medicaid and had the most success enrolling low- and moderate-income consumers would be hit hardest. In 2026, it is expected that the twenty states facing the largest funding cuts (35-60 percent reductions), would be: Alaska, California, Connecticut, Delaware, the District of Columbia, Hawaii, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New York, North Dakota, Oregon, Rhode Island, Vermont, and Washington.[2] Governors, insurance commissioners, and state legislators would be forced to make decisions of Solomonic proportions, for example pitting the interests of lower- and middle-income consumers against each other in the states' decision of whether to keep Medicaid expansion or maintain premium tax subsidies.

Even absent a CBO score, the impact of the Graham-Cassidy bill on consumers is clear: rather than extending healthcare coverage and making it more affordable for families, this legislation would do just the opposite. The severe cuts in federal funding it provides would force states to take extreme measures such as capping enrollment; curbing benefits; allowing products with unaffordable premiums, deductibles, or other cost-sharing; and shifting funds from providing coverage to other purposes. These changes would put coverage out of reach for many low- and moderate-income consumers. When a CBO score is eventually released, we expect it will estimate a similar impact as they did for the earlier Better Care Reconciliation Act (BCRA): 15 million uninsured by 2018 and premiums up by 20 percent within a one-year period.[3]

Furthermore, because the block grant funding would be temporary, the Graham-Cassidy bill effectively repeals the ACA in 2027 with no replacement. In the past, the Congressional Budget Office (CBO) estimated a repeal without replacement would leave 32 million consumers uninsured and lead individual markets to collapse across the country.[4]

Senate leaders on two committees are working to craft a bipartisan solution to stabilize the individual market, and we have commended those efforts. By contrast, this bill would cause devastating instability in short order by eliminating the individual mandate and eliminating the

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[2] Center on Budget and Policy Priorities, "Like Other ACA Repeal Bills, Cassidy-Graham Plan Would Add Millions to Uninsured, Destabilize Individual Market," September 13, 2017.
[3] Congressional Budget Office, "H.R. 1628, the Better Care Reconciliation Act of 2017: An Amendment in the Nature of a Substitute," June 26, 2017.
[4] Congressional Budget Office, "H.R. 1628, the Better Care Reconciliation Act of 2017: An Amendment in the Nature of a Substitute of 2017," July 19, 2017.

federal subsidies that make insurance affordable. 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." Given that 8.7 million[5] Americans purchase insurance on the individual market with the support of a federal subsidy, the loss of that subsidy would be immediately and broadly felt.

The Graham-Cassidy bill cuts healthcare and coverage for Medicaid enrollees

By capping funding for Medicaid, the Graham-Cassidy bill 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.[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] 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.[8] For many seniors, Medicaid means 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.

Capped funding also would debilitate states' ability to effectively deal with new and/or escalating public health issues, such as the opioid epidemic currently sweeping the country. Similarly, storms such as Hurricanes Harvey and Irma were unprecedented in magnitude, happened within a short period of time, and had an immediate and lasting healthcare impact on the regions affected. Limiting Medicaid funds would mean that states that experience similar natural disasters will not have the means to heal their communities in crisis. Under a capped

[5] According to Kaiser Family Foundation, the 8,707,757 marketplace enrollees received advanced premium tax credits as of February 2017. Kaiser Family Foundation, "Estimated Total Premium Tax Credits Received by Marketplace Enrollees," February 2017.
[6] Kaiser Family Foundation, "10 Things to Know about Medicaid: Setting the Facts Straight," May 9, 2017; Kaiser Family Foundation, "Medicaid and Children with Special Health Care Needs," July 17, 2017.
[7] Center on Budget and Policy Priorities, "Medicaid Helps Schools Help Children," April 18, 2017; NHELP, School Districts Hit Hard Under Proposed Medicaid Cuts, May 24, 2017.
[8] Kaiser Family Foundation, "Medicaid and Long-Term Services and Supports: A Primer," December 2015; Kaiser Family Foundation, "Nursing Facilities, Staffing, Residents and Facility Deficiencies, 2009 Through 2014, July 11, 2017.

financing structure, states will not be able to continue providing the same level of benefits to the same number of beneficiaries unless severe sacrifices are made elsewhere.[9]

Restructuring Medicaid would not eliminate or reduce medical need or the cost of care; rather, it would shift billions of dollars of healthcare costs onto the shoulders of states and consumers. To cope with substantial federal funding cuts, Graham-Cassidy, like its predecessor bills, offers "tools" for states to contain costs, such as work requirements, which research suggests only adds savings by creating barriers to enrollment and retention of coverage.[10] Similarly, states would have the option to limit enrollment for some populations, cut prescription drug coverage, and institute much more frequent eligibility redeterminations. These so-called tools may indeed bring down the costs to states, but would do so by dropping deserving enrollees from the program and limiting access to healthcare for those still enrolled.

Consumers demand a bipartisan, transparent, legislative approach

The summer of legislative unrest around healthcare reform has created an environment of uncertainty for health insurers, who have had to weigh the risks they are willing to take to continue selling in the individual market and how much of that risk to pass along to consumers in higher premiums. The rate setting period for 2018 is drawing to a close, and insurers and consumers alike need certainty to keep insurers offering affordable coverage. This bill must not derail the productive, bipartisan efforts underway within the Senate. We implore you, instead of pushing again for a measure that would undercut millions of American's access and quality of healthcare, to focus on passing solutions to stabilize and strengthen the insurance markets. Without action from Congress to correct the uncertainty in the market, consumers will have fewer insurance choices, with larger price tags, this Fall.

Finally, we are deeply troubled by the rushed manner in which the authors of this bill, like that of past failed attempts, are proceeding with this legislation. According to one of the co-authors of this bill, it is a "last ditch effort" to repeal the ACA. Americans deserve better. Instead, we support the current bipartisan efforts of the Senate HELP and Finance Committees to produce a tailored, thoughtful remedy that truly serves consumers' needs.

We urge you to prioritize the health and financial well-being of consumers, to oppose this newest iteration of the efforts to repeal the ACA, and to focus on bipartisan legislation to stabilize insurance marketplaces where needed and contain the rising costs of care and coverage.

Sincerely,

[9] 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.
[10] Health Affairs, "Medicaid Work Requirements: Who's At Risk?," April 12, 2017.

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