disabilityrights WISCONSIN
Protection and advocacy for people with disabilities.

Disability Rights Wisconsin Opposes the American Health Care Act (AHCA)

Disability Rights Wisconsin is Wisconsin's designated Protection and Advocacy system for people with disabilities and mental illness. In addition to our Protection and Advocacy function, Disability Rights Wisconsin provides legal support to all county-based Disability Benefit Specialists, staffs the Medicare Part D Disability Helpline, and serves as the ombudsman for Wisconsin's Medicaid Waiver adult long term care programs, Family Care and IRIS. Our advocates interact daily with participants who rely on these programs to live a healthy and full life in the community. We have significant expertise in the Medicaid, Medicare, and the Home and Community Based Services (HCBS) Waiver programs. Thus, we are in a unique position to analyze the impact the current effort to repeal and replace the Affordable Care Act and to fundamentally alter the nature of the Medicaid program contained in that effort would have on people with disabilities in Wisconsin

We strongly oppose the current proposal and the likely devastating impact it will have on people with disabilities.

Medicaid in Wisconsin

Seventeen percent (17%) of Wisconsinites receive health and long term care through Medicaid. Yet seventy percent (70%) of Medicaid expenditures in Wisconsin support the elderly and people with disabilities. Wisconsin has a rapidly aging population and the number of Wisconsinites living in poverty increased by 22 percent between 2010 to 2014 to the highest level in thirty years.[i]

People with disabilities rely heavily on the Medicaid program for their acute, primary, and long term care health services. Home and Community Based Services (HCBS) Waiver programs allow people with disabilities to remain in their home communities and thrive in society. At least 70% of adults in the HCBS Waiver program and 100% of children in the HCBS Waiver Program have either physical disabilities, developmental disabilities, and/or mental illness. Even under the current funding system, people with disabilities have faced long waiting lists for these services. Yet, Wisconsin is now on the cusp of finally ending those waiting lists for both adult and children's Waiver programs and moving toward statewide implementation of its long term managed care programs.

Medicaid Per Capita/Block Grant Proposal

We are particularly alarmed that children and adults with disabilities, including older and elderly adults, in Wisconsin will be most affected by Medicaid reductions and the shift to per capita or block grant financing proposed in the American Health Care Act.

Cutting the federal Medicaid budget by $800 billion and locking in historically low per capita spending will reduce and not increase flexibility for Wisconsin government. With less money, Wisconsin will have fewer options. Wisconsin will be disproportionately disadvantaged – punished – for the significant progress it has already made in moving to community based

services and saving taxpayer funding. The CBO originally estimated that approximately 14 million people would lose eligibility for Medicaid if the AHCA was enacted. The changes to the original bill being proposed this week will do nothing to reduce that number. Indeed, they will likely increase it, since allowing states a "block grant" option will reduce the federal commitment even more than what was contained in the original AHCA.

One consequence of this proposal in Wisconsin is that waitlists for our innovative and cost effective Home and Community Based Services Waivers (Family Care, IRIS, Children's Long Term Support) will almost certainly return. Indeed, due to drastic reductions in available federal funding, Wisconsin may also be forced to implement waitlists for acute and primary health care services, something we have never experienced because basic Medicaid has always been an entitlement.

Retroactive Medicaid Coverage

The ACHA eliminates retroactive Medicaid coverage. Under current law, people can obtain the benefits of Medicaid in the three months prior to applying for it if they would have qualified for it during those three months. This retroactive coverage protects individuals from medical expenses they incurred before they apply for Medicaid. An individual may not be able to apply for Medicaid immediately due to hospitalization, a disability, or a catastrophic incident. Retroactive coverage provides critical coverage to ensure that providers can get reimbursed for their costs and low-income individuals avoid facing severe medical debt or bankruptcy due to these medical expenses. AHCA repeals this coverage for all Medicaid beneficiaries effective October 1, 2017. The retroactive coverage requirement recognizes that people experiencing health emergencies are in a uniquely poor position to deal with the Medicaid infrastructure. In a real sense, repeal of this protection punishes residents for getting sick or hurt.

DRW's Medicaid Recommendation

One third of Medicaid expenditures in Wisconsin support people with disabilities and the elderly to live in their own homes, thrive in the community, and maintain their health.[ii] This social compact has saved health care costs and greatly improved the quality of life for hundreds of thousands of Wisconsinites. Changes to the Medicaid program that affect this compact have no place in any effort to repeal and replace the Affordable Care Act.

DRW strongly opposes the Medicaid per capita cap/block grant proposal. The traditional funding mechanism (state/federal partnership) has served people with disabilities well in Wisconsin. The per capita proposal does nothing to advance or improve the health or long term care of people with disabilities and the block grant proposal will certainly cause harm to children.

The Affordable Care Act

Many Wisconsinites with disabilities, particularly individuals with disabilities and mental illness who are employed in the workforce, have benefitted from the opportunity to purchase affordable health insurance through the Affordable Care Act (ACA). Among people who are working,

adults with disabilities are significantly less likely to have a job that offers health insurance compared to those without disabilities. In 2016, 239,034 Wisconsinites enrolled in ACA marketplace coverage.

The current AHCA proposal will substantially impair the "affordability" of that coverage, which will, in turn fatally undermine good parts of the ACA that the proposal retains: protection for people with preexisting conditions, extended child coverage, and the ten essential health benefits.

Under the ACHA, tax credits will range from $167 to $333 per month, depending upon age. The credits offered will almost certainly be insufficient to allow people to purchase comparable insurance coverage on the open market. For example, the cost for a 61-year-old former DRW employee to maintain coverage through COBRA, would be $850 per month, plus the cost of all copays and deductibles – more than $10,000 per year.

At the same time, the "bandwith" protection against exorbitant premiums for older Wisconsinites is widened from 3:1 to 5:1, meaning that the premium for an older person's policy can now be 5 times greater than the premium for the youngest policyholder. Thus, while the tax credit to older people is only twice the amount for the youngest policyholders, the premium charged can now be five times higher, greatly increasing the affordability gap.

Premiums for new plans will likely be higher for another reason. The proposed law, rather than requiring all persons to have insurance, penalizes them only when they seek insurance after a period of noncoverage. Those who chose not to obtain coverage are likely to purchase it when their health declines and they need to pay for health care. For people who have more than a 63-day lapse of coverage in the previous twelve months, there is a temporary 30% surcharge to their premium. This is a far weaker incentive to maintain coverage by a healthy young person than is the annual tax currently imposed by the ACA. Assuming fewer healthy younger people purchase insurance, the pool of insured people will be older, sicker, and more expensive to insure.

People with long term disabilities are already in the group of citizens who need and access care through the ACA. By encouraging younger and healthier citizens to not become insured (which is the incentive in the proposal), the base cost of policies will increase significantly, making them unaffordable to people with disabilities, especially as those people age.

Finally, while the proposal retains the maximum out of pocket limitation ($7,150 for individual and $14,300 for a family) it removes the subsidy low income people received to help pay those costs.[iii] Such an insurance plan would be beneficial for a catastrophic health event, not for maintenance of regular health. The AHCA does offer states a time-limited "Patient and State Stability Fund" that a state *could* use to help offset out of pocket costs to individuals, but there is no guarantee a state would use the funding for this purpose, or that the fund would be sufficient to offset out of pocket costs to an extent that the insurance would become reasonably affordable.

The CBO's initially estimated that some 14 million people will lose coverage in 2018 if this proposal becomes law. In Wisconsin, this translates into190,600. The changes to the original bill being proposed this week will do nothing to reduce that number. The changes will, however,

further balloon the federal deficit associated with the proposal because they move up the repeal dates for taxes meant to support the ACA.

At the last minute, the AHCA bill managers have added a provision which would eliminate the "essential health benefits" that private plans would be required to cover. Retention of the 10 essential health benefits was one of the positive aspects of the AHCA proposal. Stripping the bill of this requirement (which allows plans to cease coverage of mental health benefits, among others) will be extremely damaging to people with disabilities.

DRW's Affordable Health Care Act Recommendation

DRW strongly opposes any proposal to dilute the protections now afforded people with disabilities through the Affordable Care Act.

Cost Savings of the American Health Care Act Are Illusory

The CBO cost savings associated with this proposal are based on the federal government's severe reduction of Medicaid payments, as well as lower premium support for privately purchased insurance. While the federal government might realize savings from this proposal, states and medical providers will not. The lack of access to primary healthcare and community supports will lead to increased costs for crisis, inpatient, and institutional care. States will need higher taxes on citizens and medical providers will face the costs of uncompensated care. People will not stop getting sick and experiencing disability simply because they cannot afford health care or insurance. Alternatives for sustaining Medicaid include waivers, which provide states with the flexibility to innovate, reducing use of institutional setting, and increasing options for cost effective community supports.

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[i] University of Wisconsin-Madison Applied Population Laboratory, "Significant Changes in Wisconsin Poverty: Comparisons of the Census Bureau's American Community Survey 2010-2014 and 2005-2009 5-Year Estimates," (December 9, 2015).

[ii] Wisconsin Legislative Fiscal Bureau, "Medical Assistance and Related Programs" (January, 2017), p.5 (aggregating MCO, SSI-Managed Care HMO, Long Term Waiver programs and MA Home Care expenditures).

[iii] Cost Sharing Reduction Subsidies (CSR) lower out-of-pocket costs, based on income, for Silver plans bought on the Health Insurance Marketplace.