



## Top 10 Threats to People with Disabilities Under The Graham-Cassidy Bill

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Republican Senators Lindsey Graham (S.C.), Bill Cassidy (La.), Dean Heller (Nev.) and Ron Johnson (Wis.) released [a bill](#) (hereinafter “Graham-Cassidy”) on Sept. 14 to repeal the ACA and eliminate the current financing structure of Medicaid. This bill is extremely similar to the failed [Better Care Reconciliation Act](#) (BCRA 2.0), but has the potential to harm individuals with disabilities even more. This fact sheet addresses how the Graham-Cassidy bill threatens to significantly reduce coverage for people with disabilities, violate their [right to live in the community](#), and undermine decades of [state and federal initiatives](#) to rebalance Medicaid spending towards community-based care. Graham-Cassidy does this by:

- 1. Implementing a Per Capita Cap (PCC).** For more than 50 years, Medicaid has efficiently provided health care to low income individuals and families through a unique federal-state partnership. The federal government contributes a guaranteed amount of each dollar a state spends on Medicaid, with lower income states receiving a larger share of federal funds for each dollar spent. Graham-Cassidy imposes per capita caps, which limit the total federal contribution to states based on a state’s historical expenditures, inflated at a rate that is projected to be less than the yearly growth of Medicaid health care costs.<sup>1</sup> These Medicaid caps divorce funding from states’ actual expenditures, replacing a funding guarantee with an artificial cap, and forcing states to massively cut health care. Under Graham-Cassidy’s per capita caps, funding for state Medicaid programs will shrink over time, resulting in states cutting coverage and services for all beneficiaries. And starting in 2025, states would be limited to an even lower growth rate than in the initial PCC years. Furthermore, Graham-Cassidy imposes a penalty on states that spend above the national average, penalizing states that have residents with greater needs, more optional benefits, or a higher cost of living. This will put immense pressure on states to cut services and eligibility, leaving many individuals with disabilities without vital services.
- 2. Discriminating Against Individuals with Pre-Existing Conditions.** Despite Graham-Cassidy’s [claim](#) that the bill “protects patients with pre-existing conditions,” the proposed bill does the opposite. A provision converts Medicaid

expansion and marketplace subsidies into a new block grant, yet gives states permission to allow any insurance policy paid for or subsidized by the block grant (no matter how small the subsidy) to charge individuals with pre-existing conditions unaffordable premiums. This effectively excludes individuals with disabilities from plans, as many disabilities are, by definition, pre-existing conditions.

3. **Threatening Home and Community Based Services.** As Graham-Cassidy would impose [deep cuts](#) to Medicaid, states will have to make difficult choices in their budgets between absorbing costs, cutting non-health related state services (such as education) or cutting Medicaid. Some of the services most at risk for cuts are Medicaid-funded Home and Community Based Services (HCBS), including personal care services, employment supports, residential supports, and specialized therapies. [HCBS are cost-efficient](#) when compared to institutional care, but HCBS are [optional](#) for states to provide while institutional care, like nursing facilities, is often mandatory. Severe federal Medicaid cuts put HCBS services directly in the crosshairs of state budget cuts.
4. **Lengthening Waitlists.** Many HCBS services are delivered via Medicaid waivers. Waivers let [states limit](#) the number of people getting services and set special income limits to provide eligibility above regular Medicaid eligibility limits. Unlike regular Medicaid, states can set up a “waitlist” for some waivers. Thus individuals who meet the waiver program requirements may still have to wait for services until one of a limited number of slots becomes available. In fact, over [half a million](#) individuals are already on these waiting lists. Graham-Cassidy would cut Medicaid by [hundreds of billions](#), likely leading to even longer waitlists as states struggle to provide required services to eligible individuals before providing optional waiver services.
5. **Repealing Incentives for States to Increase Home and Community-Based Attendant Supports.** Graham-Cassidy takes direct aim at the “Community First Choice Option” (CFC), which provides states enhanced federal funding for home and community-based services and supports under State Medicaid Plans. CFC services assist individuals with Activities of Daily Living (ADLs) and habilitative services. Graham-Cassidy repeals the 6% enhanced funding to cover these services, which CBO predicts will reduce federal supports to participating states by [\\$19 billion](#). Instead, Graham-Cassidy proposes \$8 billion in demonstration funds, lasting just four years and limited to 15 states, with a preference for more rural states. A limited, short-term demonstration program is no substitute for the CFC option.
6. **Explicitly Incentivizing Institutional Care.** Medicaid traditionally does not fund services in large (more than 16 beds) psychiatric facilities for adults under age 65, such as state long-term hospitals, but it does fund community-based rehabilitation services. In this way, Medicaid’s structure encourages states to limit

the use of large, congregate facilities--the trend has been to develop smaller, more community-based facilities instead. Graham-Cassidy could reverse this trend—first by offering funding to states for medium-length stays in these institutions (30 days or less in a six month period), and then mandating that states accepting this funding maintain the same number of licensed beds at psychiatric hospitals owned, operated or contracted by the state. By forcing states to maintain a specific number of “beds,” whether or not the demand exists, this provision creates an incentive for states to fill such beds, even if people can be served in less restrictive, more integrated environments. Not only does this raise Medicaid concerns, but it also creates conflict with the state and provider obligations under [Olmstead](#) to ensure people receive services in the most integrated setting appropriate to their needs.

7. **Eliminating Coverage for Individuals with Disabilities in the Medicaid Expansion.** Experts estimate that [1.3 million](#) individuals covered in the Medicaid expansion have a serious mental health diagnosis. Graham-Cassidy eliminates their coverage, going a step further than prior Senate bills by reducing the FMAP to 0% for any state that wants to cover Medicaid expansion enrollees after 2020. Even if a state wanted to continue covering Medicaid expansion enrollees, it could not get any federal funding and would have to pay 100% of the costs. Graham-Cassidy sets up a new block grant for states to help pay for health coverage for consumers who would have been covered by Medicaid expansion, as well as those who would have received tax credits and cost-sharing reductions. But the block grant funding is set at 17% less than current funding. Medicaid expansion has been associated with [reducing significant unmet mental health care needs](#). By repealing Medicaid expansion, Graham-Cassidy turns back the clock on this progress.
8. **Threatening Pathways to Coverage for Children with Disabilities.** [Nearly all states](#) disregard parental income for children with significant disabilities living at home to provide them Medicaid coverage. This option, called the “Katie Beckett program,” saves parents from the unbearable dilemma of having to place their child in institutional care, where parental income is automatically disregarded, so their child can qualify for Medicaid. The Katie Beckett program allows these children to get the care they need while living at home. However, these children tend to have expensive health needs and the coverage is optional for states. Graham-Cassidy gives states an incentive to reduce Medicaid enrollment and costs. In response, states may severely curtail or eliminate their Katie Beckett programs.
9. **Harming Parents and Home Care Workers.** Juggling doctors’ appointments, therapies, and school meetings may mean parents of children with disabilities cannot work full time. [Medicaid expansion helps low-income parents](#) by making health care available to them, so they can keep themselves healthy and take care of their children. Similarly, the home care workers that actually provide

HCBS for individuals with disabilities often [rely on Medicaid](#) for their own care. [One-in-three home care workers](#) live in households that qualify for Medicaid expansion. Medicaid expansion indirectly supports individuals with disabilities by making health care available to their parents and the workers who provide HCBS. Converting Medicaid expansion into a block grant and competing with other state health care funding needs will likely result in decreased coverage for these parents and home care workers.

- 10. Allowing States to Waive Essential Health Benefits (EHBs), Undermining Mental Health Parity and Permitting Annual and Lifetime Limits.** Currently, insurers in the small group and individual market must provide coverage in at least 10 “essential health benefit” categories. Essential Health Benefits include both [mental health services](#), and [habilitative services](#) – two services of particular importance to the disability community. Graham-Cassidy allows states to waive this requirement. Thus if a state waives EHBs such that mental health benefits are excluded altogether from plans, mental health parity protections are rendered meaningless because mental health parity only applies if plans offer mental health benefits. Similarly, insurers could choose not to provide habilitative services. Even if plans include mental health or habilitative services, the prohibition on lifetime and annual limits only applies to EHBs. If states waive EHB requirements, any insurers that still cover these important services could impose [lifetime and annual limits](#). Habilitation services are likely to be necessary in the long term for [families with children with I/DD](#). Bringing back lifetime and annual limits leaves families with insurance that does not meet their needs.

Graham-Cassidy, like its predecessors, threatens to undermine hard-won battles for home and community-based supports and adequate health care coverage for everyone. Graham-Cassidy is yet another raw deal for people with disabilities, being rushed through Congress without input from the constituents that have the most to lose.

## ENDNOTES

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<sup>1</sup> Graham-Cassidy’s growth rate from the state’s base year through 2019 is the medical component of the Consumer Price Index (CPI-M). For 2019-2025, the growth rate would be CPI-M plus 1% for elderly enrollees and enrollees with disabilities and CPI-M for adults and children. Beginning in 2025, the growth rate would lower to the “regular” CPI which grows even slower than CPI-M and does not include long term care costs.