



CONSORTIUM FOR CITIZENS WITH DISABILITIES

Dear Member of Congress:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) and other national organizations write in response to the American Health Care Act. Despite the extremely limited time for review, we have serious concerns about many parts of this legislation and urge members to oppose it.

1) Per Capita Caps and Repeal of the Medicaid Expansion

The Congressional Budget Office estimates that several major provisions affecting Medicaid would decrease direct spending by \$880 billion over the 2017-2026 period.¹ Dramatic reductions in federal support for Medicaid will force states to cut services and/or eligibility that puts the health and wellbeing of people with disabilities at significant risk. In fact, people with disabilities are particularly at risk because so many waiver and home- and community-based services are optional Medicaid services and will likely be the first services cut when states are addressing budgetary shortfalls. The health, functioning, independence, and wellbeing of 10 million enrollees living with disabilities and, often, their families, depends on funding the services that Medicaid provides. Likewise, Medicaid Expansion provides coverage for millions of people with disabilities and their caregivers who previously fell into healthcare coverage gaps. For many people with disabilities, being able to access timely, needed care is a life or death matter. The drastic cuts to Medicaid that will result from per capita caps and the ultimate elimination of Medicaid Expansion will endanger millions. We oppose these provisions.

2) Community First Choice

¹ CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, AMERICAN HEALTH CARE ACT 6 (Mar. 13, 2017) available at https://www.cbo.gov/sites/default/files/115th-congress-2017-2018/costestimate/americanhealthcareact_0.pdf.

The AHCA includes a repeal of the increased Federal Medical Assistance Percentage for the 1915(k), known as the Community First Choice (CFC) option. CFC allows individuals with disabilities to receive needed supports to remain at home, with states receiving extra Medicaid federal matching funds to cover the services. This program, like many other disability home- and community-based programs, allows states the flexibility to innovate their programs and rebalance resources from expensive institutional care into cost-effective community services. Eight states have adopted the Community First Choice option: California, Connecticut, Maryland, Montana, New York, Oregon, Texas, and Washington. The states of Arkansas, Colorado, Minnesota, and Wisconsin have applied or are considering Community First Choice. We strongly support the Community First Choice option and oppose this provision.

3) Essential Health Benefits in Medicaid

The AHCA eliminates a requirement that applies the Essential Health Benefits (EHBs) to the Medicaid expansion, including crucial services for people with disabilities. EHBs include maternity and newborn care, mental health and substance use disorder services, prescription drugs, rehabilitative and habilitative services and devices, preventative and wellness services and chronic disease management, and pediatric services. Requiring coverage of these benefits ensures everyone can access the services they need, including important services for people with disabilities, such as habilitative and rehabilitative services, mental health services, and prescription drugs. We oppose this provision.

4) Tax Credits

The AHCA replaces the ACA's tax credits that help people pay for health care coverage with much more limited tax credits, maxing out at \$4,000 per year for individuals over the age of 60. While the ACA tax credits reflect the cost of actual coverage and ensured that people only paid a percentage of their income, the replacement tax credits do not have this flexibility, and it is unlikely these limited credits will be sufficient to cover the costs facing families. This is especially true in high cost areas--such as in Alaska, North Carolina, Oklahoma, Alabama, Nebraska, Wyoming, West Virginia, Tennessee, Arizona, South Dakota, and Montana, where tax credits would decrease by \$3,000 or more²--and for people who pay more in premiums—such as older adults. For older adults, the repeal of the ACA tax credit would be compounded by Sec. 135, which allows for older adults to be charged more in premiums.

² CENTER ON BUDGET AND POLICY PRIORITIES, AVIVA ARON-DINE AND TARA STRAW, HOUSE TAX CREDITS WOULD MAKE HEALTH INSURANCE FAR LESS AFFORDABLE IN HIGH-COST STATES (Mar. 9, 2017) available at <http://www.cbpp.org/research/health/house-tax-credits-would-make-health-insurance-far-less-affordable-in-high-cost>.

Eighty one percent of enrollees in the Marketplace rely on subsidies; if the AHCA is passed, many of these individuals will be unable to afford health insurance. In addition, the more expensive health insurance becomes, healthy individuals will put off purchasing it, undermining, rather than reinforcing, the stability of the risk pool. The market will be further undermined if, as the bill proposes, the Individual Mandate is repealed and individuals are incentivized to not purchase health insurance until they have a medical emergency. The individual market requires a robust risk pool to remain stable and the combination of these provisions with the continuous coverage provisions below create a serious risk that the market will completely collapse. Therefore, we oppose these provisions.

5) Repeal of the Individual Mandate and Continuous Coverage

The AHCA repeals the Individual Mandate by zeroing out the penalty. The mandate is designed to ensure that we have the largest risk pool possible, so that healthcare costs are shared broadly. We understand the provision in the Energy and Commerce bill penalizes those who do not maintain continuous coverage is meant to replace the mandate. We have serious concerns about the effectiveness of this replacement. The continuous coverage requirements in the Energy and Commerce bill monetarily penalize anyone who experiences a short-term financial hardship and can no longer afford healthcare coverage, such as a job loss with unaffordable COBRA payments or a move to part-time employment due to healthcare needs. Significant financial hardships and economic challenges are often inherently associated with being an individual with a disability or a family member of an individual with a disability. These challenges mean that continuous healthcare coverage requirements could have a disproportionate impact on people with disabilities. Since, for many people with disabilities, being able to access timely needed care is a life or death matter, these continuous coverage requirements are extremely concerning.

We are equally concerned that the continuous coverage penalty will gradually exclude those who cannot afford coverage, shrinking the risk pool and eventually leading to a similar situation to before the Affordable Care Act was enacted, when many individuals with disabilities or chronic conditions were excluded from the insurance market. We oppose repeal of the individual mandate and the continuous coverage provision.

6) Cost Sharing

The AHCA repeals the cost-sharing protections that the ACA put in place to help people below 250 percent FPL afford their healthcare. Cost sharing has been shown to impact how people seek both essential and nonessential care equally,³ which means putting off preventative care that

³ Judith H. Hibbard et al., *Does Enrollment in a CDHP Stimulate Cost-Effective Utilization?*, 65 Med. Care Res. Rev. 437 (2008); ROBERT H. BROOK ET AL., RAND CORP., THE HEALTH INSURANCE EXPERIMENT: A CLASSIC

could reduce or prevent expensive treatments later. These protections also particularly helped those with significant health care needs, such as people with disabilities, who would face additional cost sharing. Reduced cost sharing helps increase adherence to medications and access to preventative services, which are both associated with better health outcomes down the road, including fewer hospitalizations and emergency department visits. Repealing these cost sharing protections in conjunction with reducing the tax credits that help people afford premiums is a huge financial hit to low-income individuals and families, making it less likely that they will be able to afford any kind of healthcare. We oppose the repeal of these protections.

7) Patient and State Stability Fund

The AHCA creates a Patient and State Stability Fund, allocating \$15 billion for the next two years and \$10 billion per year from 2020 to 2026, to be shared between the fifty states and the District of Columbia—amounting to \$80 billion over the next 9 years. The fund is designed to help states with many different challenges, including creating high risk pools, providing various forms of reinsurance, prevention, and assisting with cost sharing. People with disabilities and pre-existing conditions utilized High Risk Pools before the Affordable Care Act was passed. Almost every high-risk pools had substantial barriers to enrollment, often excluding coverage, for months, of the very pre-existing conditions which lead people to enroll in pool. Even with these limitations, states lost substantial amounts of money on these limited pools: in 2011, net losses for 35 state high-risk pools combined were over \$1.2 billion, or \$5,510 per enrollee, on average.⁴ High Risk Pools are not an effective substitute for a health insurance market that incorporates everyone, with or without a pre-existing condition, into the general risk pool. In addition, the Patient and State Stability Fund's \$80 billion does not come close to addressing the loss of \$312 billion in premium and cost-sharing subsidies over that same time.⁵ This loss of funding means people will be unable to afford insurance premiums and, even if they can afford the premiums, higher cost-sharing will mean they cannot access the care they need. This is especially true for people with disabilities who have higher than average care utilization. We do not support replacing the tax credits and protections currently in the ACA.

8) Prevention and Public Health Fund

The AHCA ends the Prevention and Public Health Fund in 2018. The fund provides crucial financial support for public health services and other services that assist people with disabilities. According to analysis by the Trust For America's Health, the U.S. Centers for Disease Control

RAND STUDY SPEAKS TO THE CURRENT HEALTH CARE REFORM DEBATE (2006) available at http://www.rand.org/pubs/research_briefs/RB9174.html.

⁴ KAISER FAMILY FOUNDATION, KAREN POLLITZ, HIGH-RISK POOLS FOR UNINSURABLE INDIVIDUALS (Feb. 22, 2017) available at <http://kff.org/health-reform/issue-brief/high-risk-pools-for-uninsurable-individuals/>

⁵ CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, *supra* note 1, at 6-7 (finding that tax credits and cost-sharing protections over the time would total \$673 billion, while the new tax credits would only total \$361 billion).

and Prevention (CDC) would lose 12 percent of its annual budget if the Prevention and Public Health Fund is repealed and States would end up losing more than \$3 billion over the next five years from grants and programs supported by the Prevention Fund. We oppose this provision.

9) Age Banding

The AHCA also allows health insurance companies to charge older adults 5 times or more the premiums paid by younger individuals. We oppose this provision.

10) Transparency and Process

We also wish to express our concern with the lack of transparency regarding this legislation. Healthcare is a matter of life, death, and independence for millions of Americans with disabilities. Releasing this bill and then marking it up only 36 hours later without a score from the Congressional Budget Office and without additional analysis and public discussion means that people with disabilities and their families have not had adequate opportunity to weigh in on changes that would dramatically impact their lives. It is essential that the American people be given the opportunity to comment. Congress has a longstanding history of deliberating policy proposals through transparent processes, including public hearings, open comment periods on discussion drafts, multi-stakeholder meetings and more. We urge you to incorporate these processes into your consideration of this bill.

Sincerely,

American Association of People with Disabilities
Advance CLASS
American Music Therapy Association
American Association on Health and Disability
American Medical Rehabilitation Providers Association
American Network of Community Options and Resources
American Therapeutic Recreation Association
Association of University Centers on Disabilities
Autistic Self Advocacy Network
Autism Society of America
Bazelon Center for Mental Health Law
Brain Injury Association of America
Center for Public Representation
Christopher & Dana Reeve Foundation
Community Legal Services
Council for Exceptional Children

Disability Rights Education & Defense Fund
Easterseals
Epilepsy Foundation
Justice in Aging
Lutheran Services in America Disability Network
National Alliance on Mental Illness
National Association for the Advancement of Orthotics and Prosthetics
National Association of Councils on Developmental Disabilities
National Association of State Head Injury Administrators
National Committee to Preserve Social Security and Medicare
National Council on Independent Living
National Disability Institute
National Disability Rights Network
National Health Law Program
National Multiple Sclerosis Society
National Respite Coalition
Parent to Parent USA
Paralyzed Veterans of America
Special Needs Alliance
TASH
The Advocacy Institute
The Arc of the United States
United Cerebral Palsy
United Spinal Association

CCD Allies

ADA Legacy Project
AIDS Institute
American Academy of Nursing
Center for Autism and Related Disorders
Center for Medicare Advocacy
Coalition on Positive Health Empowerment
Diabetes Hands Foundation
Diabetes Patient Advocacy Coalition
Disability Power and Pride
Disability Rights Center
Lakeshore Foundation
Lupus and Allied Diseases Association, Inc.

Medicare Rights Center
National Organization of Nurses with Disabilities
National Viral Hepatitis Roundtable
Parent Project Muscular Dystrophy
Society For Participatory Medicine
National Viral Hepatitis Roundtable
Not Dead Yet
Sibling Leadership Network
The Diabetes Collective
Spina Bifida Association
VHL Alliance