Threats to Women's Reproductive Health Under the American Health Care Act[1]

On May 4, the House of Representatives passed the American Health Care Act (AHCA), a bill aimed at repealing the Affordable Care Act (ACA) and eliminating the current financing structure of Medicaid. The Congressional Budget Office (CBO) estimates that the bill would result in 14 million additional uninsured individuals in 2018, with the number rising to 23 million in 2026.[2] This fact sheet addresses how the House-passed version of AHCA would threaten women's access to reproductive health services.[3]

1. Slashes Medicaid Funding for Reproductive Health Services by Implementing a Per Capita Cap

Medicaid is a critical source of reproductive health services for low-income women, covering nearly half of all births in the United States and three quarters of all publicly funded family planning services.[4] Since 1965, Medicaid has operated as a federal-state partnership where states receive, on average, 64 percent of the costs of providing Medicaid from the federal government.[5] The federal share is based on actual costs of services. AHCA eliminates the open-ended federal funding and caps the federal contribution based on a state's 2016 expenditures inflated at a rate projected to be less than the growth of Medicaid health care costs.[6] As a result, federal funding would significantly shrink over time.[7] In response, states would likely be forced to cut coverage and services for all Medicaid beneficiaries, including the 13 million women of reproductive age enrolled in Medicaid.[8] In response to federal funding cuts, states could also reduce Medicaid eligibility, for example by lowering the income eligibility levels for pregnant women in optional eligibility categories.[9] The result would be that Medicaid would cover fewer low-income women and provide fewer reproductive health services to those who remain enrolled.

2. Reduces Access to Health Care for Low Income Women by Ending Medicaid Expansion[10]

The expansion of Medicaid enacted in the ACA has provided a significant source of coverage for millions of women, and has been critical to improving both maternal and child health outcomes by providing access to comprehensive health care services, including preconception services, for women who will or who are planning to conceive. AHCA effectively repeals the Medicaid expansion on January 1, 2020 by eliminating enhanced federal funding for states to newly enroll expansion adults (the enhanced funding reimbursed states for at least 90 percent of their costs for these enrollees). States could continue to receive the enhanced match after January 1, 2020, but only for enrollees enrolled as of that date who do not lose coverage for more than one month. States can also continue to enroll new individuals in this group after January 1, 2020 but only at regular federal contribution rates. It also requires those in the Medicaid expansion population to submit eligibility renewal paperwork every six months just to stay on Medicaid, beginning October 1, 2017. These provisions would effectively repeal the expansion coverage -- CBO estimates only 5 percent will be left in this group receiving the enhanced match by 2024 and those additional states would not expand due to the reduced funding.

3. Prevents Women on Medicaid from Obtaining Services at Planned Parenthood

AHCA would prevent Planned Parenthood from participating in the Medicaid program for one year. This would mean many Medicaid enrollees would no longer be able to receive Medicaid-covered services from the trusted provider of their choice. Excluding Planned Parenthood from the Medicaid program reduces access to essential preventive care, such as family planning services, contraception, tests and treatment for sexually transmitted infections, and breast and cervical cancer screenings. Other safety-net providers such as community health centers do not have the capacity to serve all of the Medicaid enrollees who could no longer receive care at Planned Parenthood. As a result, in some areas of the country low-income individuals would lose access to these critical reproductive health services.

4. Makes Private Coverage for Women Less Affordable

Nearly 7 million women and girls selected a private insurance marketplace plan during the 2016 open enrollment period.[11] The majority relied on the ACA's federal subsidies to help make the coverage more affordable. AHCA repeals the ACA's income-based advanced premium tax credits and cost-sharing subsidies, replacing them with flat age-based tax credits and no cost-sharing assistance. The AHCA tax credits would give health consumers an average of $1,700 less in help with premiums starting on 2020.[12] Lower-income and older individuals would be particularly hard hit, as would individuals in high-cost states since AHCA's age-based tax credits are not adjusted based on geographic variations and allow higher premiums for older adults than did the ACA.[13] Beginning with special enrollment periods during the 2018 plan year, and expanding to all enrollments for the 2019 plan year, anyone who experiences a break in coverage for 63 consecutive days or longer during the preceding 12 months will be subject to a premium surcharge of 30 percent when they return to the individual market, a devastating financial hit for individuals who would already be receiving less assistance to purchase health coverage. These provisions make it more difficult for women to afford high-quality and continuous comprehensive care that meets all their needs, including their reproductive health care needs.

5. Restricts Access to Abortion Care in Private Plans

AHCA has an abortion restriction that prohibits individuals from using federal tax credits to purchase a private individual health insurance plan that includes abortion coverage. This would likely cause insurance companies to stop offering individual plans that include abortion coverage, thereby putting abortion access further out of reach for women in the private market. The restriction also has implications beyond marketplace coverage, since starting on January 1, 2020, AHCA's tax credits can be applied to any eligible individual health insurance policy, whether or not it is sold on the marketplace. The same abortion restriction applies. This restriction is of particular concern for states that broadly require abortion coverage in all or most of their private plans, such as California and New York, since the restriction likely either forces these states to change their policies on abortion coverage, or prevents virtually all individuals in those states from taking advantage of the federal tax credits.

6. Allows States to Waive Protections for People with Pre-Existing Conditions

AHCA allows states to seek waivers from enforcing some of the ACA's key protections for people with pre-existing conditions. States would once again be allowed to discriminate against people with pre-existing conditions by charging them higher premiums and putting them into high-risk pools, which in the past have proven to be more expensive and provide people with less comprehensive coverage.[14] Prior to passage of the ACA's protection for people with pre-existing

conditions, insurers regularly denied coverage to women or charged them higher premiums based on having had breast cancer or cesarean sections, having received medical treatment due to domestic violence, or even for being pregnant.[15] Elimination of this ACA protection could prevent pregnant women and women with chronic and other pre-existing conditions from obtaining affordable health insurance, or health insurance at all.

7. Allows States to Waive Essential Health Benefits Requirements Which Guarantee Coverage for Maternity and Newborn Care

AHCA further allows states to seek waivers from the ACA's requirement that all plans in the individual and small group markets cover ten specified essential health benefits (EHBs). Among these EHBs are maternity and newborn services. A waiver of this requirement would mean that plans would no longer be required to cover this care. Before ACA, when no such requirement existed, only 12 percent of individual health plans covered maternity care, resulting in high out-of-pocket costs for pregnant women.[16] Elimination of the essential health benefits requirement would once again leave many women without adequate maternity care, and would effectively allow plans to practice gender discrimination by requiring women to pay more for plans that did include maternity care.

ENDNOTES

[1] We use the term "women" throughout this fact sheet. However, our intent is to use an inclusive definition of women to include trans women, genderqueer women, and gender nonconforming individuals who are significantly female-identified.

[2] Congressional Budget Office, Cost Estimate for H.R. 1628 American Health Care Act of 2017 at 16 (May 24, 2017), https://www.cbo.gov/publication/52752.

[3] The bill was originally introduced on March 6 but subsequently amended twice before its passage in the House on May 4. For more information on the effect of the AHCA, see "Top 10 Changes to Medicaid Under House Republicans' ACA Repeal Bill."

[4] Anne Rossier Markus et al., Medicaid Covered Births, 2008 Through 2010, in the Context of the Implementation of Health Reform, 23-5 WOMEN'S HEALTH ISSUES e273, e275 (2013), http://www.whijournal.com/article/S1049-3867%2813%2900055-8/pdf; ADAM SONFIELD & RACHEL BENSON GOLD, GUTTMACHER INSTITUTE, PUBLIC FUNDING FOR FAMILY PLANNING, STERILIZATION, AND ABORTION SERVICES, FY 1980-2010, at 8 (2012), https://www.guttmacher.org/pubs/Public-Funding-FP-2010.pdf.

[5] KAISER FAMILY FOUNDATION, FEDERAL AND STATE SHARE OF MEDICAID SPENDING (Jan. 2017), http://kff.org/medicaid/state-indicator/federalstate-share-of-spending.

[6] Congressional Budget Office, Cost Estimate for the American Health Care Act at 10-11 (March 13, 2017), http://www.cbo.gov/publication/52486.

[7] The CBO estimates that over the next ten years, federal Medicaid funding would be slashed by $834 billion. Congressional Budget Office, *supra* note 2 at 13.

[8] GUTTMACHER INSTITUTE, UNINSURED RATE AMONG WOMEN OF REPRODUCTIVE AGE HAS FALLEN MORE THAN ONE-THIRD UNDER THE AFFORDABLE CARE ACT (Nov. 2016), https://www.guttmacher.org/article/2016/11/uninsured-rate-among-women-reproductive-age-has-fallen-more-one-third-under.

[9] States are required to cover pregnant women up to at least 133 percent of the poverty level, and in some states the upper limit is even higher. However, many states have voluntarily set eligibility limits for pregnant women at much higher levels. For a chart of the current state income limits for Medicaid coverage for pregnant women, alongside the minimum income eligibility level below which the state cannot drop, see AMY CHEN & MARISA SPALDING, NATIONAL HEALTH LAW PROGRAM, STATE CREATION OF SPECIAL ENROLLMENT PERIODS FOR PREGNANCY at Appendix A (Jan. 2017), http://www.healthlaw.org/issues/reproductive-health/pregnancy/state-creation-of-sep-for-pregnancy.

[10] For more information on the Medicaid expansion and the AHCA, see MARA YOUDELMAN, NATIONAL HEALTH LAW PROGRAM, MEDICAID EXPANSION AND THE REPUBLICANS' ACA REPEAL BILL (Mar. 2017), http://www.healthlaw.org/publications/browse-all-publications/medicaid-expansion-and-republicans-aca-repeal-bill.

[11] U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, HEALTH INSURANCE MARKETPLACES 2016 OPEN ENROLLMENT PERIOD: FINAL ENROLLMENT REPORT (March 2016) https://aspe.hhs.gov/system/files/pdf/187866/Finalenrollment2016.pdf.

[12] CYNTHIA COX ET AL., KAISER FAMILY FOUNDATION, HOW AFFORDABLE CARE ACT REPEAL AND REPLACE PLANS MIGHT SHIFT HEALTH

INSURANCE TAX CREDITS (March 1, 2017), http://kff.org/health-reform/issue-brief/howaffordable-care-act-repeal-and-replace-plans-might-shift-health-insurance-tax-credits.

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

[14] EDWIN PARK, CENTER ON BUDGET AND POLICY PRIORITIES, TRUMP, HOUSE GOP HIGH-RISK POOL PROPOSALS A FAILED APPROACH (Nov. 2016), http://www.cbpp.org/blog/trump-house-gop-high-risk-pool-proposals-a-failed-approach.

[15] NATIONAL WOMEN'S LAW CENTER, WOMEN AND THE HEALTH CARE LAW IN THE UNITED STATES (May 2013), https://nwlc.org/wp-content/uploads/2015/08/us_healthstateprofiles.pdf.

[16] *Id.*