

May 23, 2017

Dear Senator Hatch:

The Bazelon Center for Mental Health Law writes in response to your request for stakeholder input on healthcare reform following the passage of the American Health Care Act (AHCA). We appreciate the opportunity to comment since changes to the healthcare system will have a huge impact on the lives of people with mental illnesses. The Bazelon Center is a national non-profit legal advocacy organization that promotes equal opportunity for individuals with mental disabilities in all aspects of life, including health care, community living, housing, education, employment, voting, and other areas.

We recommend that the Finance Committee and other relevant Senate committees continue this healthcare reform discussion in a transparent manner, including public committee hearings, open comment periods on discussion drafts, and multi-stakeholder meetings. Changes to the healthcare system impact not only an enormous part of the United States economy, but the lives of millions of Americans with mental illnesses, who rely on the healthcare system for their health, functioning, independence, and wellbeing. An open, transparent process would allow people with mental illnesses to be a part of the debate that will impact their lives so seriously.

We also recommend and urge the Finance Committee and the Senate reject proposals, including those in the AHCA, to change the financing structure of and to drastically cut Medicaid. Since its initial passage over 50 years ago, Medicaid has paid for the healthcare services that people with disabilities, seniors, and children need with guaranteed federal funding that reflects the cost of care. Medicaid provides crucial services for people with mental illnesses, helping children with mental health needs learn and succeed in schools¹ and assisting adults with mental illnesses to live in the community and work.

Medicaid is the largest payer for mental health services in the United States and the only payer for the most effective, evidence-based interventions for people with serious mental illnesses. The Medicaid Expansion expanded access to these services to millions more Americans—28% of the Medicaid Expansion population have a behavioral health conditions.² The repeal of the Medicaid Expansion and the proposal to apply a per capita cap to federal spending on Medicaid proposed in the AHCA threaten the decades of progress we have made to ensure that people with mental illnesses have access to the services they need to live in the community. Changing the financing

¹ For example, in Utah, federal Medicaid funding in schools totaled \$21,801,456, funding which not only covered primary and preventative services in school-based medical centers, but also services described in a child's special education plan under the Individuals with Disabilities Education Act (IDEA). 2017 CMS-64 data compilation.

² Dept. of Health and Human Services, Judith Dey et al, Benefits of Medicaid Expansion for Behavioral Health (Mar. 28, 2016), available at <https://aspe.hhs.gov/sites/default/files/pdf/190506/BHMedicaidExpansion.pdf>.

structure of Medicaid and decoupling it from the actual cost of services will cut federal funding and force states to ration needed and necessary care, including intensive mental health services, special education services, and many other services unavailable through private insurance. As the Congressional Budget Office analysis said, millions of low-income Americans with disabilities will lose coverage and services.

We cannot emphasize enough how these changes will impact the promise of the Americans with Disabilities Act (ADA) and the lives of people with mental illness and other disabilities. Medicaid, as you know, is the only provider of many long term services and supports on which people with disabilities rely to live in the community. The ADA's promise of societal inclusion is only possible if people with psychiatric and other disabilities have access to long term services and supports which allow them to live in the community. There is long bipartisan support for this exact access--beginning with the Medicaid rehabilitative services option through the creation of the Money Follows the Person and other programs in the Deficit Reduction Act of 2005. Capping and cutting Medicaid places these services at extreme risk of elimination and people with disabilities facing losing decades of progress towards inclusion. We cannot abandon the promise of the ADA—healthcare reform should push us toward, rather than away from, full inclusion of people with disabilities.

In addition, we recommend and urge that the Senate maintain and strengthen the protections for people with mental illnesses in the Affordable Care Act (ACA). The AHCA proposed allowing states to waive critical health insurance protections that help people with preexisting conditions and people who need access to essential health benefits, including mental health and substance use disorder benefits. The AHCA also repealed protections that ensured that people on Medicaid had access to mental health and substance use disorder services. We share the concerns of the Consortium for Citizens with Disabilities related to the continuous coverage proposal, the changes to the structure of the tax credits, and other issues detailed in the attached letter from March 2017.³

We remain extremely concerned that the cumulative effect of the private insurance and Medicaid proposals in the AHCA will leave people with mental illness without care and without choices, caught between limited or unavailable Medicaid services, unaffordable private insurance, and limited high-risk pools. We urge the Senate to reject these proposals and work to ensure that all adults and children with mental health needs have access to the services they need.

Sincerely,



Jennifer Mathis
Director of Policy and Legal Advocacy

³ The letter is available on the CCD website here: http://www.c-c-d.org/fichiers/Letter-on-AHCA_3-16-17.pdf.