The Arc of Alabama: Federal Policy Update

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Continued Threats to Medicaid

Medicaid

- The largest insurer in the country today
- 73 million individuals are covered
- Up from 4 million individuals when began in 1965 with a total cost of $900 million, a result of

  — High poverty rates

  — Erosion in employer based group plans for lower wage workers

  — Aging population

  — Longer life spans for persons with disabilities

  — **People with disabilities and senior citizens account for about 48% of the total Medicaid budget and about 21% of the beneficiaries;**

- Projected to serve 77.5 million individuals in 2024 at a total cost of $920.5 billion, with federal share of 61%

Medicaid – Current Threats

Medicaid Restructuring

- Currently: States receive Federal Medicaid matching funds as an "entitlement" for services provided under the state plan or approved waivers. The federal match is based on a formula - poorer states receive a higher federal match.
    - restructuring is a permanent change to Medicaid program
- Restructuring proposals would eliminate the automatic matching funds to the states. Depending on the nature of the restructuring, many federal requirements could be eliminated.
    - Block grants
    - Per capita caps*

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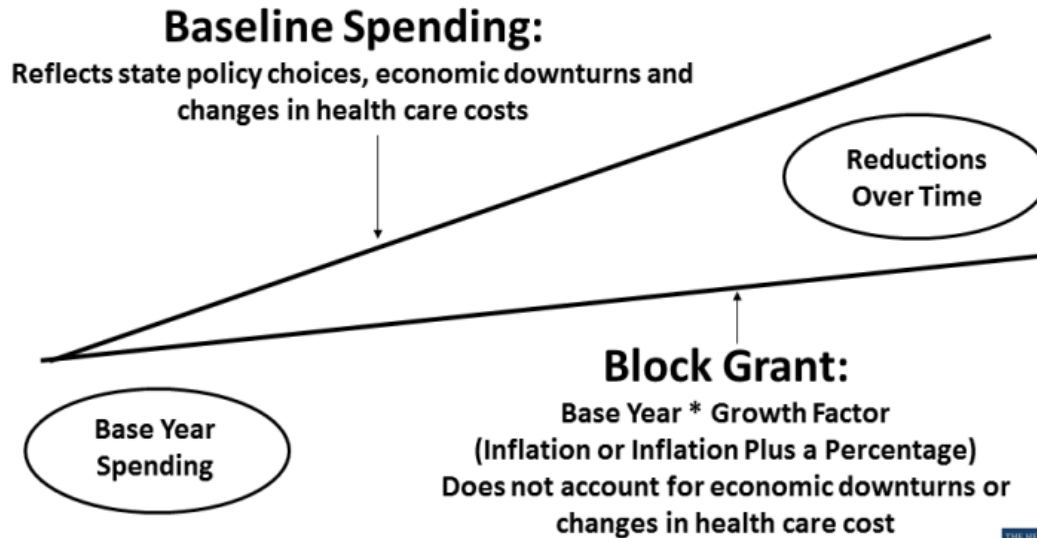
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Block Granting

Figure 2

Under a block grant, reductions in federal spending are obtained by setting caps below expected spending.

Baseline Spending:
Reflects state policy choices, economic downturns and changes in health care costs

Reductions Over Time

Base Year Spending

Block Grant:
Base Year * Growth Factor
(Inflation or Inflation Plus a Percentage)
Does not account for economic downturns or changes in health care cost

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Per Capita Caps

Figure 3

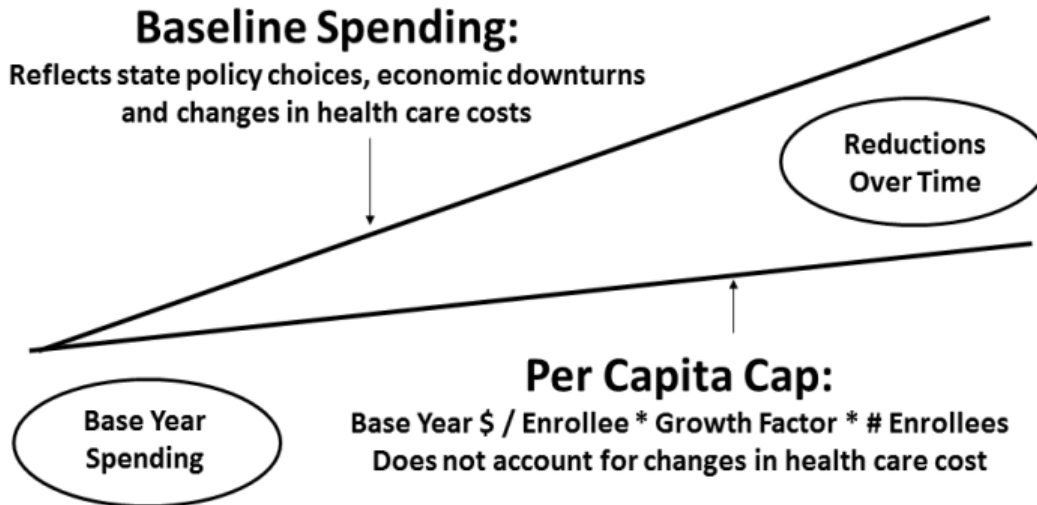**Under a per capita cap, reductions in federal spending are obtained by setting caps below expected spending.**

Baseline Spending:
Reflects state policy choices, economic downturns and changes in health care costs

Reductions Over Time

Base Year Spending

Per Capita Cap:
Base Year $ / Enrollee * Growth Factor * # Enrollees
Does not account for changes in health care cost

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Figure 1

A block grant or per capita cap would be a fundamental change to Medicaid financing.

	Current Medicaid Program	Block Grant	Per Capita Cap
Coverage	• Guaranteed coverage, no waiting list or caps	• No guarantee (can use wait lists or caps)	• May be guaranteed for certain groups
Federal Funding	• Guaranteed, no cap • Responds to program needs (enrollment and health care costs) • Can fluctuate	• Capped • Not based on enrollment, costs or program needs • Fixed with pre-set growth	• Capped per enrollee • Not based on health care costs and needs • Fixed with pre-set growth per enrollee
State Matching Payments	• Required to draw down federal dollars • Federal spending tied to state spending	• Unclear • Federal spending not tied to state spending beyond cap	• Unclear • Federal spending not tied to state spending beyond per enrollee cap
Core Federal Standards	• Set in law with state flexibility to expand	• Uncertain what the requirements would be to obtain federal funds	

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Impact on Medicaid

- Destabilizes the program
- Governors and state legislatures will have to figure out where to come up with the money to replace the federal share
- Waiting lists will grow
- No change to institutional bias
- Mandatory vs. optional services

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Medicaid and Other Health Care Policy

We are now in a period of small fixes (surprising billing, prescription drugs) and big proposals (Medicare for All)

We are looking forward to 2021 when Medicaid and other programs may again face direct threats of major repeal or fundamental restructuring (per capita caps)

Another court case about the ACA will be argued on July 9th

Legislation Updates

EMPOWER Care Act

Money Follows the Person

Money Follows the Person (MFP) gives states additional federal Medicaid funds to help transition people from institutions to the community

There have been several short term extension bills, but the EMPOWER Care Act (S. 548, H.R. 1342) would extend and improve the MFP program through 2023

We expect it to pass the House shortly and then we will look to the Senate

ABLE Age Act

ABLE Age

- Senator Bob Casey (D-PA), along with Senators Jerry Moran (R-KS), Chris Van Hollen (D-MD), and Pat Roberts (R-KS), reintroduced the **ABLE Age Adjustment Act (S. 651)** on March 5, 2019.

- The bill would make ABLE accounts available to people who become severely disabled prior to their 46th birthday.

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Why?

- **Sustainability:** The National Association of State Treasurers has estimated that there should be 390,000 accounts for these programs to be solvent. As of the end of 2018, there were 34,707. Increasing the maximum age of onset for eligibility will substantially increase the number of eligible individuals and, therefore, the potential sustainability of the program.

- **Equity:** The ABLE Act did not contain an age limit when it was introduced. It was added to minimize the cost of the legislation. As a result, many advocates with disabilities who fought for its passage were not eligible when it was finally signed into law. There is a fairness issue in failing to increase the age limit so that all people in similar situations can use the ABLE program.

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EVV

Electronic Visit Verification

What Is Electronic Visit Verification (EVV)
Electronic Visit Verification (EVV) is a telephone and computer-based system used to verify electronically that a personal attendant provides services for a client.

The 21st Century CURES Act Requires EVV
The 21st Century CURES Act, federal legislation signed into law in December 2016, requires that all states implement EVV for Medicaid-funded personal attendant services. This law outlines the requirements that states must meet, but provides little guidance on how states can fulfill the requirement.

CMS Guidance/Delay Bill

HCBS Rule

Where things Stand?

- 42 other states have received initial approval
- All states that got a letter describing the additional steps it must take to get final approval
- This is an important document for stakeholders to use for comment and input
- •13 states have also received final approval:
- AK, AR, DE, DC, ID, KY, MN, ND, OK, OR, **TN**, WA, & WY

  * As of April 2019

2017 Guidance

- Released this Tuesday, May 9, 2017
- Extends timeline for bringing settings into compliance to March 2022
- Timeline for transition plans remains 2019
- Note on Heightened Scrutiny

New FAQ

Released Friday, March 22, 2019

CMS removed specific examples of settings that would automatically be identified as institutional due to isolation, and will now take the following factors into account when determining whether a setting isolates HCBS beneficiaries from the broader community:

- Due to the design or model of service provision in the setting, individuals have limited, if any, opportunities for interaction in and with the broader community, including with individuals not receiving Medicaid-funded HCBS;
- The setting restricts beneficiary choice to receive services or to engage in activities outside of the setting; or
- The setting is physically located separate and apart from the broader community and does not facilitate beneficiary opportunity to access the broader community and participate in community services, consistent with a beneficiary's person-centered service plan.

States are free to identify additional factors other than those provided by CMS.

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Heightened Scrutiny

- The new guidance also clarifies this process for "heightened scrutiny" allowing a state provides evidence to CMS to demonstrate that a facility or setting meets the HCBS criteria and allow them to continue receiving Medicaid funding.

- Note on Heightened Scrutiny- State Process

Employment

Transition to Competitive Integrated Employment Act

- Eliminates 14c

- Grant funding to states

- Providers can also apply

DSP Turnover

- **The NCI average was 45.5%. (NCI). Almost half the people working with people with I/DD in 2016 left them.**

- **This impacts the whole system, how can we move forward?**

HCBS Infrastructure Act

Supports Implementation of the HCBS Rule

States will have to use demonstration grant funds to work on:

-HCBS Settings Rule Implementation

-Housing

-Employment

-Workforce

-Case Management System

7 year grant program

Universal Healthcare

Institutional Bias

Questions?

Feel free to contact me:

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