Senate Health Bill: Better Care Reconciliation Act

(introduced in Congress June 22, 2017)

Impact on Oregonians

A report from the Department of Consumer and Business Services and Oregon Health Authority

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DEPARTMENT OF CONSUMER & BUSINESS SERVICES

Oregon Health Authority

Executive summary

Introduction

This report analyzes the U.S. Senate's Better Care Reconciliation Act (BCRA) and its potential impact on health care for Oregonians. This analysis supplements our previous analysis of the House health bill: the American Health Care Act (AHCA), which passed the House in early May 2017. That analysis is titled American Health Care Act: Impact on Oregonians.

To a large extent, the major provisions of the Senate bill conform to the contours of the AHCA. The Senate bill eliminates the individual mandate, reduces tax credits designed to lower premium costs, phases out enhanced funding for Medicaid expansion over seven years, converts Medicaid funding to per-capita caps, relaxes Essential Health Benefit (EHB) requirements, and delivers sizable tax reductions to the highest earners in America.

There also are significant differences. In this analysis, we will focus on key variations between the AHCA and the Senate bill by summarizing the challenges and opportunities the Senate bill poses for people, health care providers, hospitals, and policymakers in Oregon.

Estimated coverage losses in Oregon

Year	Medicaid	Individual	Group	Total
2018	NA	70,000	40,000	110,000
2019	NA	80,000	20,000	100,000
2020	NA	90,000	10,000	100,000
2021	350,000*	80,000	10,000	440,000
2026	350,000*	70,000	Less than 5,000	420,000

Source: OHA and DCBS analysis of Congressional Budget Office report

*The Oregon Health Authority expects to lose up to 350,000 Oregon Health Plan members between 2021 and 2026, as the federal matching funds for the expansion population decrease.

The Senate bill would have a significant impact on Oregonians

Like the AHCA, the Senate bill is a budget reconciliation bill. It prioritizes budget and tax reductions over rates of health coverage, health outcomes, or health care quality for consumers.

In total, the Senate bill would result in approximately the same number of Oregonians losing health coverage as the AHCA. The Senate bill would have greater impact on the state budget through steeper federal funding cuts. It would reduce subsidies Oregonians currently receive for plans on the Oregon Health Insurance Marketplace.

- **Oregon's uninsured rate could triple by as early as 2021:** Like the AHCA, more than 440,000 Oregonians would be at risk to lose health coverage as a result of the Senate bill. Reductions in coverage would occur over a longer time period than the House bill, due to a slower phase-out of Medicaid expansion (if the state cannot make up for the loss of federal funds).
- **To prevent Medicaid coverage losses, Oregon's budget would face a $6.2 billion cost shift from 2020 to 2026:** By enacting potentially steeper Medicaid reductions than the House bill and phasing out Medicaid expansion, the Senate plan would expose the state to annual costs that would reach a high of $1.8 billion in 2026 to sustain current coverage and benefit levels. Alternately, Oregon

would be forced to cut coverage and benefits for individuals and families on the Oregon Health Plan (though some cost shifts would be unavoidable).

- **Oregon's economy would lose approximately 23,000 jobs:** The Senate bill would eliminate approximately 23,000 health care jobs by 2026 due to its Medicaid funding reductions, Medicaid expansion phase-out, and reduced federal provider tax reimbursement.

Impact on premiums and out-of-pocket health care costs for Oregonians: Although the Senate bill's approach to premium subsidies differs from the AHCA, the net effect will be similar: lower costs for young adults and increasing costs for older adults and low-income enrollees. The Senate bill funds cost-sharing subsidies through 2019, then eliminates them.

The Senate bill's Medicaid expansion phase-out will impair Oregon's efforts to stop the opioid epidemic: Oregon has one of the highest rates of prescription opioid use in the nation. The Senate bill contains $2 billion in funding nationwide in 2018 to stem the opioid crisis. Eliminating Medicaid expansion, however, would put access to treatment for people addicted to prescription opioids at risk for low-income working Oregonians.

- In 2016, 42,564 Oregonians received substance abuse treatment services through OHP as a result of Medicaid expansion.

The Senate bill benefits some Oregonians and offers the state increased flexibility: It would reduce costs for young Oregonians and cut taxes for Oregon's highest-earners. It would reduce administrative requirements for the state and offer greater flexibility from federal rules.

Impact on state budget for the 2017-2019 biennium: The Senate bill would not have a significant impact on Oregon during the 2017-2019 biennium, because Medicaid cuts, the phase-out of Medicaid expansion, and reduced federal reimbursement for provider taxes would begin to take effect in 2020. However, there are also some effects that start sooner:

- **Cuts to vital public health services:** The Senate bill eliminates the Prevention and Public Health Fund, effective in 2018. This $10 million fund helps local communities address unexpected health emergencies such as the Zika virus, provides immunization to children, and helps prevent teen suicide and chronic diseases.
- **Repeal of individual mandate:** The Senate bill eliminates the requirement to have insurance, replacing it with a six-month waiting period for those who go without coverage for a period of time.
- **Tax credits and abortion coverage:** Premium tax credits may not be used for anyone purchasing a health benefit plan that offers abortion coverage in 2018. This would affect most health plans offered in the Oregon Marketplace.
- **Planned Parenthood clinics** are defunded when the bill is enacted.

What's at stake: Oregon's health gains and cost savings

Every Oregonian has a stake in the federal health reform debate. Whether Oregonians have health coverage through an employer, the Marketplace, or OHP – or remain uninsured – they have been directly or indirectly affected by Oregon's innovative health reforms. These reforms would be dramatically changed by the Senate bill.

- **Since 2013, Oregon expanded coverage and stabilized markets:** Approximately 375,000 Oregonians are newly insured since 2012 and Oregon's uninsured rate has dropped from 17 percent to 5 percent. Today, 95 percent of Oregon residents have health insurance or OHP coverage. OHP covers as many as 35 percent of residents in rural Oregon counties.
  - Oregon has stabilized the insurance market, ensuring Oregonians have choice.
  - In 2016, Oregonians who purchased coverage through the Marketplace received an average premium subsidy of $349 per month, with residents in central and eastern Oregon receiving higher amounts (for example, an average of $519 per month in Baker County).
- **Oregon's reforms under the Affordable Care Act improve health:** Oregon's coordinated care system has reduced unnecessary emergency department use by 50 percent and improved health outcomes for OHP members.
  - According to a recent study published in the New England Journal of Medicine, Oregon's Medicaid expansion reduced mortality, produced gains in patients reporting better health, improved diagnosis and treatment for diabetes, and led to "substantial improvements in depression." (From Somers, Gawande and Baiker, *New England Journal of Medicine*, June 21, 2017.)
- **Oregon's reforms produce cost savings:** Oregon's Medicaid reforms have saved state and federal taxpayers $1.3 billion since 2013 and held Medicaid cost growth to 3.4 percent for most groups, lower than the national average of 5.4 percent.
- **Comprehensive plans and benefits:** If Oregonians buy their plan on their own or get a plan through their employer, all plans are required to cover essential benefits, such as preventive care, birth control, and mental health services.

Impact of the Senate bill on individuals and families in Oregon

How the Senate bill would affect Oregonians who receive health coverage through the commercial market

Senate bill proposal: Eliminate the tax penalty for individuals and large employers who do not have insurance; implement six-month waiting period for those with a break in coverage.

The Senate bill immediately eliminates the requirement for individuals to have health coverage, as well as the requirement for large employers to offer health insurance to employees. Starting in 2019, individuals who have a break in continuous insurance coverage for 63 days or more in the prior year will be subject to a six-month waiting period before coverage begins.

Impact on Oregonians: Repealing the requirement to have insurance will remove an important incentive for healthy individuals to enroll, especially those who will pay more under the new plan. Keeping Affordable Care Act

Impact of Better Care Reconciliation Act tax credit changes on average Oregonians

The examples below compare the cost of plans on the individual market for Oregonians under current law with the cost if the BCRA becomes law. The examples are based on 2017 premiums and cost sharing for a standard silver plan purchased on the Marketplace. These examples do not include any yearly rate increases that may occur. In general, young and high-income enrollees would see reduced costs and older, low-income enrollees would see increased costs. Unsubsidized premiums under BCRA are not adjusted for changed age bands. Assumes consumer buys same base standard silver plan under ACA and BCRA.

Example: A single-member household, 21 years old, earning 232 percent FPL, living in Portland

	ACA	BCRA
Income at 232% FPL	$28,000	$28,000
Annual tax credit (subsidy)	$766	$1,838
Annual premium without subsidy	$3,336	$3,336
Annual premium with tax credit	$2,570	$1,498
Member pays for 3 primary care visits	$105	$105
Member responsibility	**$2,675**	**$1,603**

Example: A single-member household, 40 years old, earning 351 percent FPL, living in Bend

	ACA	BCRA
Income at 351% FPL	$42,331	$42,331
Annual tax credit (subsidy)	$1,368	No subsidy
Annual premium without subsidy	$5,480	$5,480
Annual premium with tax credit	$4,112	$5,480
Member pays for 3 primary care visits	$105	$105
Member responsibility	**$4,217**	**$5,585**

Example: A single-member household, 60 years old, earning 306 percent FPL, living in Medford

	ACA	BCRA
Income at 306% FPL	$36,904	$36,904
Annual tax credit (subsidy)	$7,766	$5,746
Annual premium without subsidy	$12,489	$12,489
Annual premium with tax credit	$4,723	$6,743
Member pays for 3 primary care visits	$105	$105
Member responsibility	**$4,828**	**$6,848**

Example: A single-member household, 45 years old with Type 2 diabetes, earning 150 percent FPL, living in Pendleton

	ACA	BCRA
Income at 150% FPL	$18,090	$18,090
Annual premium without subsidy	$6,645	$6,645
Annual premium with tax credit	$771	$1,947
Member pays for 3 primary care visits	$45	$105
Member pays to manage Type 2 diabetes	$1,640	$2,470
Annual member estimated costs	**$2,456**	**$4,522**

reforms, such as guaranteed access to coverage and a ban on medical underwriting, while repealing the mandate could further destabilize the individual market and will create more uncertainty about who will enroll. This uncertainty will increase rates and could cause insurers to limit plan offerings or decide not to participate in some or all areas of the state. This would disproportionately affect rural Oregonians.

Senate bill proposal: Base premium subsidies on age and income.

Currently, subsidies are available to help pay premiums for Oregonians who make less than 400 percent of the federal poverty level (FPL): $48,240 a year for an individual and $98,400 a year for a family of four. Subsidies are based on income and the cost of the second-lowest cost silver plan offered on the Oregon Health Insurance Marketplace.

The Senate bill makes several changes to the way premium subsidies are calculated:

- **Changing the income threshold:** In the Senate bill, premium subsidies are available to consumers who make less than 350 percent of the federal poverty level: $42,210 for an individual and $86,100 for a family of four.
- **Adding an age component:** Younger people will be eligible for higher subsidies, and older people will be required to spend a higher percentage, up to 16.2 percent, of their income on premiums.
- **Changing the base plan:** Under the Affordable Care Act, the tax credit is determined by comparing the cost of a silver plan to a percentage of income. The Senate bill pegs the tax credit amount to the cost of a bronze plan, which will reduce the subsidy for more people.

Impact on Oregonians: With the proposed decrease in the income threshold, fewer Oregonians who buy coverage on the Marketplace could access tax credits. The other changes will make coverage more affordable for some Oregonians (specifically young adults), but more expensive for others. The examples above illustrate the impact on Oregonians of various ages and income levels.

Senate bill proposal: Restrict coverage for reproductive health. The Senate bill prevents the use of federal tax credits for plans that cover abortions.

Impact on Oregonians: Nearly all Oregon individual plans currently provide abortion coverage, and it would be challenging for carriers to develop stand alone plans or another option to ensure women had access to that coverage.

The Senate bill also freezes Planned Parenthood funding for a year, which would provide barriers to accessing cancer screenings, contraception, preventive benefits, family planning, and abortion services provided at 12 sites around the state.

How much an OHP member on Medicaid expansion would pay for an individual market plan
Example: A single-member household, 40 years old, earning 101 percent of FPL, living in Pendleton

The Senate bill offers tax credits based on age and income to help people purchase insurance. At proposed levels, these tax credits would increase costs for the typical Medicaid expansion enrollee.

In this example:

- The member's total responsibility is 32 percent of her income.
- The member's silver plan would offer less coverage and higher costs than her Oregon Health Plan coverage.

	OHP	BCRA
Income at 101% FPL	$12,181	$12,181
Annual tax credit	Medicaid coverage at $0	$4,536
Annual premium without subsidy	Medicaid coverage at $0	$5,880
Annual premium with tax credit	Medicaid coverage at $0	$1,344
Member pays for 3 primary care visits	$0	$105
Member pays for one emergency department visit	$0	$2,500
Member responsibility*	**$0**	**$1,449 + $2,500 deductible**

*The member's total responsibility ($3,949) is equal to almost one-third of her income (32 percent).

Senate bill proposal: Eliminate rebates when insurers spend less on medical care.

Under the Affordable Care Act, health insurers are required to send enrollees a rebate each year if they spend less than 85 percent of premiums collected for large group plans on medical care or 80 percent for individual and small group plans.

The Senate bill terminates the requirement to meet those benchmarks and provide rebates effective with plan years beginning Jan. 1, 2019. There may be some flexibility for states to implement this requirement rather than the federal government.

Impact on Oregonians: Savings incurred by insurers in areas such as pharmacy costs would not necessarily be passed on to consumers.

How the Senate bill affects Oregonians who receive coverage through the Oregon Health Plan

Oregon joined 32 other states (including Washington D.C.) in expanding Medicaid eligibility to individuals and families with incomes up to 138 percent of the federal poverty level (FPL). Today, approximately 350,000 people receive OHP coverage through Medicaid expansion.

- Under the Senate bill, more than 350,000 Oregonians could lose OHP coverage as soon as federal payment reductions begin in 2021.

Senate bill proposal: End enhanced federal funding for Medicaid expansion by 2024.

The Senate bill allows states to provide Medicaid coverage to the expansion population at the federal match rate of 90 percent in current law until 2020. After that, the federal funding rate decreases to:

- 85 percent in calendar year 2021.

- 80 percent in calendar year 2022.
- 75 percent in calendar year 2023.
- Traditional Federal Medicaid Assistance Percentage (currently 64 percent for Oregon) in calendar year 2024.

The Senate bill allows states to continue Medicaid expansion past the Dec. 31, 2019, cut-off proposed by the AHCA, but ratchets down federal funding for new and current Medicaid expansion enrollees. Beginning in 2021, the AHCA "grandfathered" the enhanced federal match rate for enrollees who maintained coverage.

The Senate bill repeals "hospital presumptive eligibility," which allows income-eligible people to receive retroactive Medicaid coverage after a hospitalization, for Medicaid expansion adults as of Jan. 1, 2020.

Impact on Oregonians: Oregon could access enhanced Medicaid expansion funding at the same federal match rate as in the Affordable Care Act until the start of calendar year 2021. Starting in 2021, the reduced federal funding would begin to shift costs to the state. At this time, Oregon would face substantial new state costs to make up for the gradual loss of federal funds, forcing the state to do one of the following:

- **Backfill more than $2.5 billion to offset federal reductions through 2026** (see section "Impact on state budget and Oregon taxpayers" for analysis of these cost shifts).
- **Eliminate OHP eligibility and/or benefits for Oregonians on Medicaid expansion**, forcing approximately 350,000 people to lose OHP coverage.

Oregonians covered by Medicaid expansion may not earn enough to afford health coverage: Approximately 47 percent of Oregonians who received OHP coverage under the Affordable Care Act are employed. The cost of living is equal to or exceeds income levels at 138 percent of poverty for families, couples, and single adults in Bend, Pendleton, and Portland. With the loss of OHP coverage, former OHP expansion members would look to the Health Insurance Marketplace and individual plans for coverage. In many cases, they may not have the resources to purchase commercial health coverage or pay deductibles and co-pays.

Senate bill proposal: Allocate $2 billion to states in fiscal year 2018 to combat opioid abuse.

Impact on Oregonians: In Oregon, more drug poisoning deaths result from prescription opioids than any other drug, including alcohol, heroin, and methamphetamine. While Oregon could benefit from additional federal grant funds to fight opioid abuse, this level of funding would be more than offset by the long-term impact of cuts to Medicaid and Medicaid expansion. In 2016, 42,564 Oregonians on OHP through Medicaid expansion received substance abuse treatment services. Eliminating Medicaid expansion puts access to prescription opioid and other drug treatment services at risk for low-income working Oregonians.

Senate bill proposal: Eliminate enhanced federal matching funds for K Plan.

The Senate bill retains the services and eligibility available in section 1915(k) of the Social Security Act, but eliminates a 6-percentage-point increase in the federal match rate for states that implement an ACA-created option referred to as the Community First Choice option. This option is often referred to as the K Plan. Through the enhanced matching rate, Congress wanted to incentivize states to provide long-term services and supports in home- and community-based settings in lieu of more costly and restrictive institutional settings.

Impact on Oregonians: The elimination of the extra funding would reduce the federal match rate for these services to Oregon's regular Federal Medical Assistance Percentages, which is currently about 64 percent. To simply maintain existing services, Oregon would need to contribute an extra $150 million annually for the costs of these services. Without new state funds, Oregon may have to revert to delivering these services through more targeted waivers that allow the state to limit enrollment and benefits available. Furthermore, the nature of Medicaid's federal matching rate means that failing to backfill the $150 million would actually cost Oregon more than $400 million in lost federal funding annually.

Impact on state budget and Oregon taxpayers

The Senate bill not only repeals the Affordable Care Act's expansion of coverage, it **profoundly changes and reduces the federal government's role in funding safety net health coverage**. In the short term, the Senate bill's impact on Medicaid is mixed, but significantly harsher than the AHCA in the long run.

- **Cost shift to Oregon budget and taxpayers:** The Senate bill's steeper reductions in Medicaid funding would force Oregon and other states to either slash Medicaid coverage, benefits, and provider payments or absorb a massive shift in costs that Oregon projects will total nearly $1.8 billion annually by 2026. **In total, from 2020 through 2026, the bill would shift more than $6.2 billion in new costs to Oregon.**
  - Oregon could avoid some of these cost shifts by eliminating coverage for the Medicaid expansion population or other state-level policy decisions. However, some cost shifts from the federal government to the state would be an unavoidable result of changes in the way the Senate bill would cap federal spending, limit federal exposure to inflationary increases, and impose other federal funding restrictions.

Under the Senate bill, Medicaid would be changed in the following ways:

Senate bill proposal: Phase out enhanced federal funding for Medicaid expansion: As described above (see "How the Senate bill affects Oregonians who receive coverage through the Oregon Health Plan"), the Senate bill would phase out enhanced federal match rates for Medicaid expansion over six years starting in 2021.

Impact on Oregonians: Oregon taxpayers and the state budget would need to bear more than $750 million annually by 2026 due to the Senate bill's withdrawal of enhance federal funding for Medicaid expansion. The alternative is to eliminate coverage for the expansion population and/or reduce benefits.

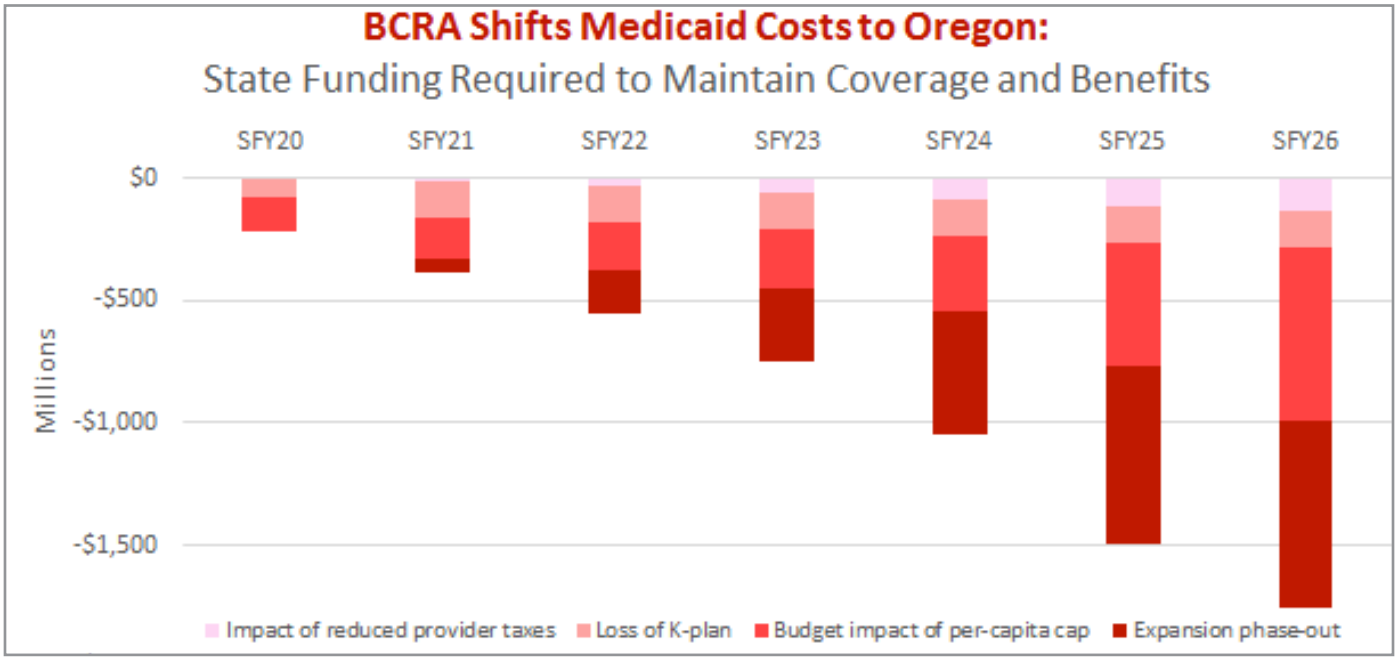
Medicaid is a state-federal partnership that provides health coverage to people who meet various income, age, and health-based requirements. The Oregon Health Plan (OHP) is the main component of Oregon's Medicaid program. Today, OHP is the largest health plan in the state and covers more than 1 million Oregonians – more than 1 in 4 state residents. Counties in southern, central, and eastern Oregon depend most on OHP coverage. In most rural counties more than 1 in 3 residents are OHP members.

Senate bill proposal: Impose per-capita cap funding limits on state Medicaid programs.

Under the Senate bill, states would continue to be required to provide Medicaid coverage for everyone who meets federal eligibility criteria, but the federal government would no longer share the state's open-ended funding responsibilities. Instead, federal Medicaid funding to states would be based on per-capita caps (as in the AHCA). Under these caps, the federal government would set payment limits on the amount states receive per enrollee for specific categories of Medicaid eligibles: children, expansion adults, seniors, blind and disabled people, and low-income adults. (For more on per-capita caps, see Appendix.)

The Senate bill changes the inflation index (the benchmark for increasing payment levels to states as costs rise over time). It would be based on the urban Consumer Price Index (CPI-U) after 2024, instead of the Medical Consumer Price Index, proposed in the AHCA. In the past, the urban Consumer Price Index has not grown as fast as the price of medical care – meaning the amount the federal government pays states is unlikely to keep pace with the medical costs Oregon and other states will have to pay. This will lead to deeper cuts in Medicaid than those proposed in the AHCA.

The Senate bill calculation of the initial 2020 caps is also less generous to Oregon than the AHCA calculation, further increasing the financial impact to the state. The Senate bill contains provisions to redistribute federal



funding among states by increasing caps levels for some states that spend more than 25 percent below the national average levels while reducing caps for states that spend more than 25 percent more than the national average. Initially, the calculation would be made at a statewide level, but would eventually be made for each enrollee category. This means that a state could be subject to reductions in its cap in one category even if overall per-enrollee spending is consistent with national averages.

Impact on Oregonians: Reducing the growth rate of federal caps in 2025 will shift more costs to states, with the costs expected to grow quickly over time. This provision could add nearly $400 million in increased state liability in 2025 and 2026 alone, with the annual impact increasing steadily over time. The revised base-year calculation in the Senate bill also adds more than $1 billion in financial liabilities to the state budget from 2020 to 2026. In total, the Senate bill's per-capita caps could force Oregon to absorb approximately $2.3 billion in cost shifts from the federal government or dramatically scale back Medicaid eligibility and benefits.

Estimating the combined state budget impacts of Medicaid expansion phase-out and the Senate bill's per-capita caps: The chart above shows the scale of federal cost shifts to Oregon between 2018-2026.

Senate bill proposal: Reduce provider tax "safe harbor."

The Senate bill reduces the safe harbor that enables providers to receive Medicaid reimbursement for provider taxes on net patient revenue from the current threshold of 6 percent to 5 percent by 2025. The safe harbor thresholds are reduced 0.2 percentage points each year beginning in 2021.

Impact on Oregonians: This session, the Oregon Legislature approved a $670 million provider tax increase for the 2017-2019 biennium to backfill current reductions in federal funding for Medicaid expansion (protecting coverage for 350,000 Oregonians) and fund a reinsurance program to help stabilize Oregon's commercial market. The Senate bill's reduction in the safe harbor threshold would result in more than a $400 million reduction in provider tax revenues for Oregon from 2021 through 2026. This would further jeopardize Oregon's ability to maintain current levels of health coverage. Beginning in 2025, the annual revenue loss for Oregon exceeds $100 million.

Senate bill proposal: Eliminate Prevention and Public Health Fund.

The Senate bill eliminates the Prevention and Public Health Fund, effective in 2018. This fund helps local communities address unexpected health emergencies such as the Zika virus, provide immunization to children, and help prevent teen suicide and chronic diseases.

Impact on Oregonians: Oregon receives approximately $10 million each year for these vital public health services, which provide funding to emergency and prevention services in counties. Oregon state and local governments would be required to backfill these cuts or eliminate them.

Impact on Oregon's economy

The Senate bill's reduction of federal funding for Oregon will harm the state's economy, as fewer dollars come into the state to fund jobs in the health care industry. Although the economic impacts are relatively small in the short term, over the long term (2025 and beyond), the Senate bill will significantly affect Oregon's economy.

Because the Senate bill phases out enhanced federal funding for the Medicaid expansion population and shifts billions of dollars of liabilities to the state, employment in Oregon's health care industry will decline by approximately 23,000 jobs.

With rising numbers of uninsured Oregonians, hospitals will experience lower revenues as they once again will be burdened with uncompensated care. Since the Affordable Care Act took effect, uncompensated care at Oregon hospitals decreased 58 percent, from $1.29 billion in 2013 to $545 million in 2016.

State flexibility

State flexibility and new funding available

The Senate bill makes several changes that encourage states to implement innovative programs to help stabilize their insurance markets and lower the cost of health care.

Senate bill proposal: Change the requirements and timelines for State Innovation waivers, known as 1332 waivers.

Impact on Oregonians: By expediting the application process, adding funding, increasing the program from a five-year program to an eight-year program, and allowing states to implement programs without enacting a state law, this provision would be easier for Oregon and other states to use the waivers to improve their insurance markets and health care systems.

Senate bill proposal: Creates the Long-Term State Stability and Innovation Fund.

The Senate bill's Long-Term State Stability and Innovation Fund would provide states funds to use for the following:

- Establishing a state high-risk pool.
- Developing individual market premium stabilization programs.
- Paying providers.
- Establishing out-of-pocket cost-reduction programs for the individual market. Out-of-pocket costs are listed as co-payments, co-insurance, and deductibles. (Premiums are not included in the list on the Senate-passed provision.)

A total of $8 billion will be available in 2019, and $14 billion will be available in both 2020 and 2021. In each of those years, $5 billion is allocated for premium stabilization and incentives for individual market participation. Additional funds are available through 2026.

Senate bill proposal: Increase state flexibility in managing Medicaid programs.

- **Option to conduct Medicaid eligibility renewals every six months:** The Senate bill would allow Oregon to continue to follow the current law requirement to review eligibility for the more than 1 million Oregonians enrolled in OHP every 12 months.
- **Flexibility for current state Medicaid waivers:** States, such as Oregon, which have section 1115 Medicaid managed care waivers already approved by the federal government, would no longer have to reapply for waiver renewals every five years. This change would reduce administrative burdens on states.

- **Partial waiver of Institutions for Mental Disease exclusion:** Current Medicaid rules bar states from receiving funds for residential mental health and drug treatment facilities, or Institutions for Mental Disease. The Senate bill allows Medicaid funding for treatment of 30 days or less per episode and for no more than 90 days within a year. This would provide more funding for the Oregon State Hospital and other inpatient behavioral health programs in Oregon.

Impact on 2017-2019 biennium

The Oregon Legislature already has approved a plan to fully fund the Oregon Health Plan and a reinsurance program to lower private insurance premiums through the 2017-2019 biennium. The proposed federal bills will have minimal impact on Oregon in the next two years, because most of the provisions are phased in starting in 2020.

- **The elimination of the requirement to have insurance – the individual mandate – would take effect right away.** Oregon is implementing a reinsurance program starting in 2018 to help offset uncertainty and encourage insurance carriers to stay in the market. The program – funded by a 1.5 percent premium tax on insurers – spreads the cost of high claims across the market so that no one carrier has a disproportionate level of risk. The Department of Consumer and Business Services expects the program to reduce premiums in the individual market by about 5 percent. These savings, however, would be negated by the premium increases resulting from the elimination of the individual mandate.
- The Senate bill **also establishes a short-term assistance program for insurers** who apply for the funds to address coverage and access disruption and provide support for states. Available funding is $15 billion each in calendar years 2018 and 2019 and $10 billion each in calendar years 2020 and 2021.
- The Senate bill **would not affect Medicaid expansion** or **Oregon's provider tax** during the upcoming biennium.

Conclusion

The Senate bill's impact on Oregonians extends beyond ACA repeal

If passed and signed into law, the Senate bill would have far-reaching impact on Oregon and other states. This impact would extend beyond the repeal of specific provisions of the Affordable Care Act and the reversal of the health coverage gains Oregon and other states achieved. By instituting fundamental changes in federal funding for Medicaid, it would require billions of dollars in cuts to Oregon's Medicaid program – the largest health plan in the state – which provides safety net health coverage for children and adults below the poverty line or struggling to stay above it.

Oregon remains committed to providing health coverage for all Oregonians, achieving better health outcomes for state residents and reducing costs in our health system. The implementation of the Affordable Care Act has not been perfect, and Oregon officials recognize more reform is needed to help stabilize markets and start to bend the health care cost curve. Any state or federal health reform effort should be evaluated based on the goals above, as well as the following priorities:

Oregon priorities for reform

- Changes to the Affordable Care Act and Medicaid should maintain, not reverse, levels of health care coverage in Oregon and other states.
- Oregon's health care transformation is a model for federal Medicaid reform. Medicaid cost savings should be achieved by changing health care delivery, not rolling back eligibility, benefits, or funding levels. Oregon has shown that it is possible to improve quality for patients while also reducing costs.
- Federal changes to the Affordable Care Act should stabilize, not disrupt, Oregon's insurance market. Insurers need clarity about upcoming changes and timelines.

- Changes to the Affordable Care Act should preserve the state's ability to serve and protect health insurance policyholders.
- Maintain funding to allow innovation and focus on prevention, including core public health services funded in the Affordable Care Act and community and home-based services for long-term care.

Appendix

Per-capita caps fundamentally alter the state-federal financing partnership that has existed since Medicaid's inception

Per-capita cap proposals in the AHCA and the Senate bill alter the existing financing partnership by capping the amount of federal Medicaid funding states receive for most Medicaid enrollees.

The per-capita nature of the caps, the methodology behind their calculation, and existing restrictions on state Medicaid programs combine to create a broad array of implementation hurdles for Oregon. In particular, the following challenges will be significant:

- **Budget uncertainty:** Because yearly caps will be determined at the end of the year based on the unpredictable medical component of the Consumer Price Index (CPI-M), Oregon faces budget uncertainty each year. The medical component of the CPI can vary substantially from year to year, and even monthly estimates may not give states enough certainty to set internal spending targets.

  This unpredictability could stifle state innovations. Delivery system reforms that require upfront investment, but that could achieve long-run savings, become problematic as states bear all the financial risk for such investments and potentially realize only marginal savings.

- **New federal regulations:** Oregon's efforts to live within new federal caps are hindered by federal rules and regulations that limit states' flexibility in administering Medicaid. For instance, federal rules governing prescription drug pricing and benefit requirements limit states' ability to adequately control their pharmacy costs, while other rules prescribe how much states have to pay some providers including rural facilities and federally qualified health centers. While these restrictions can limit state flexibility now, their combination with per-capita caps would be especially problematic for states to manage.

- **New challenges to control costs at state level:** Per-capita caps also introduce potentially problematic, and, at times, counter-intuitive incentives for states and the people who depend on Medicaid for their health care services. Under current Medicaid financing, states seeking to reduce program costs typically possess three levers:

  1. Decrease the number of enrollees
  2. Decrease the benefits available to enrollees
  3. Decrease payments for services

A per-capita cap changes the effect of these levers.

First, states' ability to reduce Medicaid costs by controlling enrollment becomes more complicated because enrollment changes can also affect per-enrollee costs. For instance, states implementing barriers to enrollment (such as monthly premiums, work requirements, or drug testing) could expect savings as a result of lower Medicaid enrollment. However, these enrollment barriers will likely affect some enrollees differently than others.

In particular, enrollees with little or no health care needs may be more likely to drop coverage until they need to see a doctor, whereas enrollees with extensive health care needs will jump over whatever hurdles the state erects to retain access to health care services. As a result, enrollment barriers could lead to increases in per-enrollee costs, which will create problems for states, even when overall costs decline.

The figure below shows how the total enrollee population's cost could decrease due to reducing the number of enrollees covered, while the per-member cost increases.

On the left side of the figure, there are 10 individuals, seven who use $7,000 of services per person and three who use $1,000 of services per person. Imposing eligibility restrictions that cause four enrollees to fall off coverage could lower the total cost of the program by $10,000. However, because the lower-cost enrollees are more likely to drop coverage, the per-member cost in this example increases by $1,800, or nearly 35 percent. The state would have to fund the increase in per-member cost because the federal funding cap increases only according to CPI-M. In other words, states that impose barriers to enrolling in Medicaid may actually incur more financial liabilities.

The federal government regulates Medicaid programs' benefits package and enrollee access to services, so states' ability to cut costs by decreasing benefits or payments to providers is severely limited.

- **Federal government incentives to reduce health care for high-cost Medicaid members:** States seeking to reduce per-capita costs would be incentivized to increase enrollment of healthier, low-cost individuals while limiting enrollment of high-cost people who utilize more services. These incentives resemble those faced by pre-ACA individual market insurers. At a higher level, these incentives could shift states' focus away from the most vulnerable and costly Medicaid recipients.

The Senate's proposal to redistribute federal funding away from high-cost states toward low-cost states would lead to more implementation challenges and could cause more unintended consequences at the state level.

- First, some differences in health care costs between states may be far outside the control of state Medicaid officials. Penalizing these states could reduce access to care for high-cost enrollees.
- The threat of these redistributions could exacerbate the problematic incentives discussed above as states serving a sicker population could be further punished by reduced federal caps at the same time they are dealing with increased state liabilities associated with serving a sicker population.
- Finally, even states with overall spending in line with national averages could be hurt if spending in just one of the five cap categories is much higher than average, even if spending in the other four is not quite low enough to qualify for extra funding.

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