



July 27, 2020

MEMORANDUM

TO: Senate Republican Caucus

FROM: Pete Sepp, President, National Taxpayers Union

RE: Protecting Patients and Taxpayers from a Government Takeover of Health Insurance

Introduction – The Threat

The “Phase 4” COVID-19 relief and recovery package will present some of the greatest challenges yet to the American health care and health insurance system. While previous legislation responding to coronavirus has entailed some expansion of government spending and light-touch regulation around health and safety because of the uniqueness and severity of the current ongoing crisis, the pressure has been mounting, especially in the House of Representatives, for radical policy prescriptions that would amount to a government takeover of health care.

National Taxpayers Union (NTU) has consistently held that COVID-19 should not be used to usurp the private insurance market and expand struggling Medicaid and Medicare programs – or even worse, to implement a single-payer system. There are far better policy options than proposals such as these, but unless fiscal conservatives unite and stand up for private health care coverage they could very well find themselves quickly outflanked in the current, rarefied political atmosphere.

We hope the following recommendations will be helpful to you as you release the Senate Republican Phase 4 package and begin the process to send final legislation to the President’s desk.

Prevent Additional, Active Expansions of Medicaid Rolls

Whatever differences they may have on particular next steps with Phase 4 relief, fiscal conservatives must work together to prevent millions of Americans from being dumped into Medicaid—at a time when federal and state budgets are already squeezed. Taxpayers cannot afford an explosion in state Medicaid budgets, much less another costly federal commitment to subsidizing a program that already provides suboptimal care.

Yet, the reality remains that millions of Americans who have lost their jobs or have been furloughed could likewise lose the health coverage that was available through their employer. Allowing federal policy to consign them to Medicaid should be a non-starter. As Obamacare’s Medicaid expansions in the states have shown, once the infrastructure of a government-run health program is established, constructing a market-based, patient-centric alternative becomes far more difficult.

Shore Up Private COBRA Coverage

But how can the unthinkable be avoided now? Fiscal conservatives need to employ all available tax, fiscal, and regulatory tools in a thoughtful manner to shore up private coverage. One option – perhaps the most expeditious one – is to utilize the existing COBRA framework, which allows those who have lost their jobs to stay on their employer-provided health coverage. This would allow many Americans and their families to keep their current job-based health insurance through temporary, targeted COBRA support, in the form of a

tax credit or, less desirably, a payment program. While this not an ideal policy, there is nothing “ideal” about the current economic and health care crisis and it is far superior to massive expansions of government programs.

A rule from the Department of Labor finalized in May only increases the urgency for Congressional clarification of COBRA’s status during the COVID-19 crisis. As NTU’s Executive Vice President Brandon Arnold explains it in an [analysis](#) for the *Washington Examiner*:

The rule would let displaced workers sign up for COBRA coverage through their previous employer and access the benefits of coverage throughout the duration of the coronavirus pandemic — even if they don’t pay premiums. Their coverage could last for 90 days after the President lifts the national emergency designation. Once that period ends, individuals are supposed to pay all outstanding premiums, but it’s not clear if there are any repercussions for not doing so. Many people, especially those who received no healthcare services during the pandemic, will be reluctant to pay this hefty bill, which could amount to tens of thousands of dollars.

Mr. Arnold also notes the fiscal repercussions from this rule could be enormous – employers or insurers could be left with the bills instead of individuals, or the federal government could step in with a costly rescue, exacerbating an already tenuous fiscal situation. Other adverse impacts include adverse selection (because it is so expensive, many of the unhealthiest patients could retroactively join COBRA) as well as a disincentive to rejoin the workforce (the prospect of potentially “free” insurance by staying unemployed would be enticing).

Congress should thoughtfully design a more limited and carefully timed support program that can serve as a pathway that leads back to employment as the economy hopefully opens up in coming months. The first step is to reject the 100 percent COBRA subsidy proposed in legislation advocated by House Democratic Leadership (please see our views on this proposal [here](#)). The second step is to consider a remedy that clarifies payment responsibilities for extended COBRA coverage, provides for an affordable participation amount from the patient, targets the assistance to those who need it most, and pursues a fiscally disciplined course with a well-defined time limit.

Create Pandemic Health Accounts and Other Supporting Pillars of Market-Based Health Care

Yet, Congress must pursue other steps to ensure that during the relief and recovery phases of the COVID-19 response, private coverage is not only preserved but expanded. Chief among these is the NTU-developed proposal from April to create Pandemic Health Accounts (PHAs). NTU Policy and Government Affairs Manager Andrew Lautz most recently explained the operational concept of PHAs in a July 23 [analysis](#):

These accounts would function similarly to Health Savings Accounts (HSAs) and would be pre-funded with a one-time deposit through the IRS. Unlike HSAs, the funds in PHAs could be used to cover health insurance premiums. We propose a PHA benefit amount of roughly \$2,000 for individuals and \$6,000 for joint or family accounts. This is intended to help individuals afford two to three months of a COBRA premium, four to five months of a marketplace plan, or six-plus months of short-term limited duration insurance (STLDI) coverage.

Given this inherent flexibility, PHAs can effectively complement or supplement any other provision (such as COBRA support). Thus, PHAs should be an integral part of Congress’s next effort to provide health security and patient choice in the COVID-19 environment.

There are additional policy options to address America’s health care needs that Congress ought to consider now. Among them is allowing Americans to [roll over](#) unused Flexible Spending Account (FSA) balances

into 2021. Furthermore, [untethering ownership](#) of Health Savings Accounts from strict federal requirements for the purchase High Deductible Health Plans could give additional latitude to Americans who want to plan for their own future care but may not have the means at hand to do so under current rules. This sensible legislation has been introduced by Senator Cruz in your chamber. Further details on other practical alternatives to more government control over health care are available in an [NTU Issue Brief](#) authored by Andrew Lautz.

Conclusion – Protect Patients and Taxpayers, Defend Private Insurance

Ultimately, reforms such as these could become the foundation for a more nimble, patient-centric health care structure that can best serve Americans during COVID-19 and beyond. At the same time, it is also important to recognize that these policies would be much more difficult to implement over the long term if new schemes were enacted to move millions of Americans onto Medicaid or worse, a single-payer system.

For example, a number of Democratic House Members recently introduced the “Medicare Crisis Program Act,” which would immediately enroll millions of newly uninsured Americans in Medicare as well as aggressively expand Medicaid. The bill now has 44 sponsors and cosponsors. Permanently expanding Affordable Care Act plans, whether through loosening eligibility thresholds or boosting premium tax credits, tightens government control over the health care system in a different way, but still a costly one: by the Congressional Budget Office’s estimate, \$212 billion over 10 years.

As NTU has stated previously in a letter to Congress signed by 31 right of center groups, “we all agree that any solution should be targeted, fiscally responsible, limited in scope and duration, and should focus on keeping individuals and families linked to private health insurance.”

Today that means supporting the recommendations outlined above, which are focused on keeping individuals and their families in their private health insurance coverage. To this vital end, NTU looks forward to working with Congress in developing pragmatic solutions for the Phase 4 package that benefit patients as well as taxpayers.