



Testimony before the U.S. Senate Committee on Finance

**Hearing to Consider the Graham-Cassidy-Heller-Johnson
Proposal**

Presented by:

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Good morning Chairman Hatch, Ranking Member Wyden, and members of the U.S. Senate Committee on Finance. Thank you for the opportunity to be here today to speak about a proposal that would have a breathtaking impact on residents of the Commonwealth of Pennsylvania.

I appreciate the invitation to share my perspective, as acting secretary for the Pennsylvania Department of Human Services and former Pennsylvania Insurance Commissioner, on how the Graham-Cassidy-Heller-Johnson Proposal would impact Pennsylvania. However, I must express disappointment that Congress is again considering rushing through a major reform of our healthcare system, rather than pursuing a bipartisan, consensus-driven effort to enact targeted reforms to stabilize our markets and ensure the Affordable Care Act (ACA) works better for everyone going forward. I had the opportunity to testify a few weeks ago before the Senate Health, Education, Labor and Pensions (HELP) committee about just that topic. I was so optimistic after that hearing because, for the first time in this debate, it appeared senators from both sides of the aisle were genuinely interested in focusing on the problem (the need to stabilize the individual market) and finding a solution to that problem, rather than using the problems in the individual market as an excuse to reduce federal funding and consumer protections. And now I find myself here again talking about a proposal that would make draconian cuts to federal healthcare funding and force Governors across the country to make the most gut-wrenching decisions they could possibly face.

Governor Wolf and I share the goal of ensuring that Pennsylvanians have access to affordable, high quality health care services so that they can lead healthy and productive lives. And I believe that is a goal we all share. I'm proud to say that the Commonwealth has been diligently working toward that goal, and has made significant progress thanks in large part to the ACA.

Before the ACA, sick people often couldn't get health insurance due to a pre-existing condition. If they were able to get coverage, they often paid significantly more for it than someone without a pre-existing condition. In some cases, these individuals would be offered a policy, but it would not include coverage for their pre-existing condition. Individuals with chronic medical issues or anyone who underwent a costly procedure like a transplant could face annual and lifetime limits that were often financially devastating. Women would see higher coverage costs than men and perhaps not have contraception or maternity care covered. Other critical services like mental

health and substance use disorder treatment services and prescription drugs were often difficult if not impossible to find coverage for. Most importantly, more than 10 percent of Pennsylvanians and 16 percent of Americans nationwide went uninsured.

Since the ACA's passage, the national uninsured rate has fallen to 8.6 percent and Pennsylvania's uninsured rate has dropped to 5.6 percent – the lowest it's ever been. More than 1.1 million Pennsylvanians have accessed coverage only available because of the ACA, and that coverage is much more comprehensive than what was previously available. There are 12.7 million Pennsylvanians, and more than 40% of them - 5.4 million – with pre-existing conditions cannot be denied health insurance coverage due to the ACA. Approximately 4.5 million Pennsylvanians no longer have to worry about large bills due to annual or lifetime limits on benefits, and 6.1 million Pennsylvanians benefit from access to free preventive care services. More than 175,000 Pennsylvanians have also been able to access substance use disorder treatment services through their exchange and Medicaid expansion coverage. This is critical as our commonwealth and other states around the country strive to combat the overwhelming impact of the opioid crisis.

The narrative I continue to hear from Republicans in Washington is that the ACA is imploding and that unless Congress takes action, it will in fact implode. While the ACA has not been perfect, it is critical that we level set and talk about the issues that exist and the people those issues are really impacting. The ACA has had minimal impact to the Medicare program and has enhanced the already very successful Medicaid program by expanding access to millions more around the country. Further, since the passage of the ACA, the employer markets where small and large businesses purchase insurance products for their employees have been stable and even seen costs grow at a slower pace than before the ACA. The individual market, where we see problems, is a very small market relative to these others, covering only about 5 percent of Pennsylvanians. It is also a very important market, because it is where individuals and families who do not have access to coverage through their employer or public programs go to purchase insurance. But, this is also the market that is heavily subsidized through the ACA. About 80 percent of Pennsylvanians who receive their coverage through the exchange receive tax credits to help pay their premiums. In fact, the U.S. Department of Health and Human Services estimated that 3 in 4 returning marketplace consumers could find a plan for less than \$100 per month in 2017. And, because of the way the tax credits are structured based on income, these

lower-income consumers do not feel the full impact of premium increases. Further, more than half of consumers who enroll in the exchanges are eligible for cost-sharing reductions, additional financial assistance to low-income consumers that helps them pay for their out-of-pocket costs like deductibles and co-pays. However, the people who this market may not be serving well are those that are not eligible for financial assistance, which is about 1-2 percent of Pennsylvanians. In a perfect world, I would like to see the income level for subsidies increased to help this 1-2 percent, but if that is not possible I think there are still ways to improve affordability and their experience moving forward.

I also want to be clear that we are seeing the individual market stabilize in Pennsylvania. Assuming that the current federal regulatory structure continues, our insurers requested an average increase of 8.8 percent statewide for 2018 plans. When they filed their rate requests, we asked insurers to provide information on what they would need to request if cost-sharing reductions payments were not made or if the individual mandate was not enforced. The differences are stark. If cost-sharing reductions are not paid, they reported they would need to request a statewide average increase of 20.3 percent. If the individual mandate is not enforced, they say they would seek a 23.3 percent increase. If both changes occur, our insurers estimate that they would seek an increase of 36.3 percent. While Pennsylvania has not released final rates, it is critical to recognize that if the increases are higher than that 8.8 percent it is not because the ACA is failing - it is because of the uncertainty and inaction here in Washington DC.

Instead of furthering that uncertainty, I believe we need to build upon the foundation of the health care system we have and make targeted, common sense changes that will improve the ACA and make it work better for the people it is not working perfectly for today. Starting over, or even moving backwards as I believe the Graham-Cassidy-Heller-Johnson proposal will do, will not better serve Pennsylvanians or Americans throughout the nation. With that context, I would like to offer my department's thoughts on the Graham-Cassidy-Heller-Johnson proposal and contrast that proposal with ideas on what a real bipartisan solution that would improve our healthcare system could look like.

The Graham-Cassidy-Heller-Johnson Proposal's Potential Impact on Pennsylvania

As someone with experience as an insurance regulator in two different states and as a federal regulator, I truly believe states are in a better position to make decisions impacting our residents. We know our markets better and we are more nimble and able to respond to issues impacting our consumers. So, when we hear that you want to give us more flexibility as states, we are interested in hearing more.

However, as it stands, I don't believe that this flexibility exists. The proposal's sponsors say that they want to turn power over to states to create their own health care system, and claim to do so by creating a block grant that levels the playing field between expansion and non-expansion states. As I will detail, this creates an insurmountable burden on states that want to maintain their current coverage levels, let alone expand them. For some states, this may be an opportunity to craft a health care system as they see fit, but given how federal funding is projected to decrease over time compared to funding levels if the proposal weren't enacted and the fiscal cliff if the block grant funding ends after 2026, this flexibility is illusory. At some point, all states will be left to fill sizable gaps in their state budgets, and we will likely see legislative crises to make up the funding loss. States may then be forced to either impose significant tax increases, further coverage losses, or both. Is that really the flexibility we need?

Both our internal analysis and independent external analyses conclude that the Graham-Cassidy-Heller-Johnson Proposal would result in the loss of billions of dollars in federal funding. In our internal estimate, assuming average cost growth, Pennsylvania would lose \$30 billion in federal funding over the next decade. Other independent external analyses estimate losses ranging from \$15 billion to \$22.5 billion over that period. Whether the ultimate amount is at the low or high end of that range, we're looking at losses that the state has no way to make up. Pennsylvania is facing a \$2 billion structural deficit in our budget. We don't even have a balanced budget for this current fiscal year, three months into it. And we certainly don't have the ability to cover the loss of billions of dollars in federal funding. This extreme shift in funding will result in a fiscal crisis beyond what Pennsylvania has experienced to date.

These losses are due to a major restructuring of the federal healthcare financing structure. As the National Association of Medicaid Directors put it, this would be the largest intergovernmental transfer of financial responsibility from the federal government to states in our country's history.

This proposal would dismantle the Medicaid expansion of the ACA, which has resulted in the coverage of more than 715,000 newly eligible Pennsylvanians, and the individual market subsidies, which reduce health insurance costs for hundreds of thousands of Pennsylvanians who purchase commercial coverage on their own, typically because they are self-employed or do not get health insurance through their employer. Medicaid expansion and individual market subsidy funding would be replaced with a block grant using a formula that appears to disadvantage states like Pennsylvania that have acted responsibly to expand Medicaid and increase healthcare coverage. Based upon an analysis from the Kaiser Family Foundation, we estimate Pennsylvania would receive 20 percent less in federal dollars under the proposed block grant for the Medicaid expansion population, compared to the amount projected under the ACA for the Medicaid expansion population over the next decade.

Not only does the Graham-Cassidy-Heller-Johnson Proposal drastically and dangerously restructure federal financing for the Medicaid expansion and individual market populations, it also fundamentally changes the federal financing structure for what are known as “traditional” Medicaid-eligible populations: low-income adults and elderly, children, pregnant women, and individuals with disabilities. Currently, the federal and state government share the cost of providing coverage for these populations, with the federal government covering a set percentage of their cost of care. These are our most vulnerable populations, yet this proposal would set a per capita cap on federal funding for these individuals, and that federal funding would increase at a rate below actual cost growth, resulting in plummeting federal funding over the years as actual costs outpace the federal cap. Children are especially hard hit by this proposal - Avalere Health projects that, nationally, federal Medicaid funding for kids would be slashed by more than 10 percent in the next decade and more than 30 percent by 2036. I struggle to see how a proposal that cuts coverage for kids, who are our future, could ever be in the best interest of Pennsylvanians.

I want to make sure you understand just how critical Medicaid is to Pennsylvanians. Medicaid serves 2.8 million Pennsylvanians, or 22 percent of the commonwealth’s population. This includes 1.2 million children, nearly 250,000 seniors, 565,000 individuals who receive outpatient mental health services, and 215,000 individuals relying on substance use disorder treatment. In 2015, Medicaid paid for over 58,000 births in the commonwealth – nearly 40 percent of Pennsylvania’s total births.

These statistics show how important Medicaid is to our population, but let me share with you a personal story of Medicaid's impact. Debra S., age 60, and her husband, Wayne S., age 61, have four grown children and six more they have adopted or care for through foster arrangements. All but two of the adopted children have significant developmental disabilities. Four of the six adopted children's birth mothers suffered from a substance use disorder, reflecting the growing national opioid epidemic. Medicaid makes it possible for most of Debra and Wayne's children to live at home rather than in an institution - covering everything from prescription drugs to home nursing visits to the nutritional drink for their adopted son's tube feedings.

These federal funding cuts would force Governors across the country to make impossible decisions. We would be tasked with replacing these federal funds or be forced to cut services, reduce provider payments, or eliminate coverage for some of our most vulnerable citizens. Who should receive health care – Debra and Wayne's children? A young adult struggling with an opioid addiction who needs our help to receive recovery services? A mom fighting breast cancer? A senior who has worked hard all his life and needs access to quality health care to age with dignity? These are decisions that no Governor should have to make, and Pennsylvania is not interested in the “state flexibility” to make decisions about who deserves health care and who must go without.

This proposal also chips away at a number of the ACA's protections for people in the individual market, by resurrecting several proposals in legislation floated over the summer, including a repeal of the individual mandate, which would do nothing but exacerbate the stability issues we currently face. The bill also does not include funding for cost-sharing reduction payments. The ACA's “three-legged stool” in the individual market – the individual mandate, non-discrimination requirements for people with pre-existing conditions, and subsidies and cost-sharing reductions – was designed to help insurers balance the added risk of individuals with pre-existing conditions while avoiding the risk of adverse selection where people only enter the market when they are sick and need care. The proposal's proponents may point to proposed funding to stabilize the individual market as a sweetener to keep insurers from raising rates or exiting the market due to the mandate repeal, but I fear that will not be enough to prevent rate increases and additional insurer market exits.

As I mentioned previously, due to the implementation of the ACA and Medicaid expansion Pennsylvania's uninsured rate is at a historic low of 5.6 percent. If the Graham-Cassidy-Heller-Johnson proposal is adopted, we are confident this positive trend will be reversed and the commonwealth's uninsured rate will skyrocket. While the Congressional Budget Office (CBO) will not have an opportunity to provide a full picture of how this plan will impact insurance rates, many of the provisions in the Graham-Cassidy-Heller-Johnson proposal were previously considered in the bills that failed in the House and Senate. Those bills would have, according to CBO estimates, resulted in anywhere between 23 million and 32 million Americans losing health care coverage by 2026 and take us back to the days when too many residents had to seek treatment in emergency rooms.

I've been thinking a lot over the past few days about what we would do in Pennsylvania if this bill passes and becomes law. And honestly, I struggle to figure out how we would respond. We would have two years to completely revamp our health care system, work with stakeholders to figure out what this new system could look like, develop whatever infrastructure would be needed, make system changes required, pass legislation, get any necessary federal waivers, and a host of other activities. All of this would need to happen apparently without federal funding to support these essential planning activities. The ACA gave states almost four years and a lot of funding to support their work.

And after seven years, the proposed block grant funding disappears and it is unclear from the proposal what if any funding would continue to be available or if the state would be left holding the bag to fund whatever system we put in place. That alone would make it very difficult to put a plan in place in Pennsylvania by 2020. In my experience, state legislatures don't want to develop a major system that relies upon federal dollars without a guarantee of sustainable federal funding support. But let me be clear – providing implementation funding or extending this funding scheme indefinitely into the future would not fix the insurmountable flaw in this bill: the staggering cut in federal funding.

Opportunities for Bipartisan Solutions to Stabilize the Individual Health Insurance Market

As I've mentioned, the real problem we face is the need to stabilize the individual health insurance market. I urge you to resume the work of Senators Alexander and Murray to enact

targeted, bipartisan reforms to stabilize the individual market, using as a model the reforms that Governor Wolf and a group of bipartisan governors have proposed. Their proposal would stabilize the market in the short-term and, through bipartisan compromises, would ensure the long-term health of individual markets around the country. These proposals include guaranteeing federal payment of cost-sharing reductions to compensate insurers for reducing out-of-pocket costs for low and middle-income Americans; adequately funding a reinsurance program to help insurers cover the costs of the sickest enrollees, which would reduce premiums for everyone; and addressing the underlying costs of health care through opportunities like increased cost and quality transparency and a continued drive away from a fee-for-service payment system that incentivizes the increased utilization of healthcare services and towards a value-based payment system that rewards prevention and high-quality care.

Making Changes on a Realistic and Careful Timeline

If any changes are going to come to the ACA, they must be done in a way that does not disrupt care, coverage, and protections for consumers in the interim. Given the conversations taking place in the Senate, I am extremely concerned that this is not the path you are taking.

We have had less than two weeks to analyze this proposal, a bill that would have a dramatic effect on the approximately 3.2 million Pennsylvanians with coverage through Medicaid and the federal exchange. I understand that the Senate is supposed to vote on this bill this week, before receiving a complete CBO analysis of the bill's impacts on coverage rates and premiums.

By rushing through a plan that we do not fully understand and have not fully evaluated, and throwing states into a brief, unfunded, chaotic implementation period to restructure our healthcare system, I fear that you will be jeopardizing the health and financial well-being of the individuals we serve. Washington must keep the needs of consumers at the forefront of their minds as conversations continue, and I truly hope that Congress and the Trump Administration will slow down and take a more deliberative approach than they have thus far. Significant and swift changes to our health care system could have a devastating impact on the people that rely on it every day. This is about Americans accessing and affording care that is vital to their health and well-being. We cannot return to a time when people are forced to accept less coverage at an increased cost, and make tough choices between their finances or their health.

Please do not paper over spending cuts and diminishment of consumer protections using the guise of state flexibility. On behalf of Pennsylvanians, on behalf of our children, seniors, and individual with disabilities - our most vulnerable populations - I implore you to return to the bipartisan process that the Senate was engaging in earlier this month, and craft a compromise bill to stabilize the individual market and improve our current system.

Again, thank you for allowing me to speak with you today. I would be happy to take any questions that you might have.