Block Grants: Talking Points

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On January 30, the Department of Health and Human Services (HHS) released a new Medicaid guidance inviting states to submit Section 1115 applications for block grants. Any such block grant would be devastating for states and unfair to federal taxpayers. Block grants will slash the amount of federal funding available to states for health care, leaving state taxpayers on the hook and residents at risk of losing care. At the same time, there would be insufficient accountability for how the federal taxpayers' dollars are being spent in the state. This fact sheet includes key points about the new guidance, and another fact sheet includes background on block grants.

Key Points About the Block Grant Guidance

The Trump Administration lacks the authority to implement block grants. The Administration is attempting to implement block grants using Section 1115 authority. Section 1115 is a limited authority that does not authorize the Administration to change Medicaid's long-standing financing structure set out by Congress. Section 1115 also cannot be used to authorize a block grant waiver that would reduce, not help furnish, access to Medicaid coverage.

Section 1115 also requires an experiment, but there is no experiment here. We know the results of block grants. In two programs where Congress has established block grant funding, coverage has gone down. One of the states interested in Medicaid block grants actually exploited its block grant in another program to reduce coverage for poor families at the same time it transferred millions of unspent program dollars to a state fund.

Courts have already struck down other recent Medicaid waivers from the Administration attempting to similarly reduce coverage. HHS has attempted to use the same authority to implement numerous other harmful waivers that reduce coverage -- such as work requirements and premiums -- and this has been confirmed illegal in multiple court cases.

The Administration is attempting to usurp the role of Congress. Under the Constitution, Congress writes the law. Congress wrote Medicaid law with no block grants. The day after it took office, the Administration announced its plans to "explode" the ACA and the Medicaid

expansion. Federal officials have stated that they don't like the way Medicaid operates and vowed to "flip" it with this guidance document. Only Congress can change Medicaid's funding structure.

Congress has repeatedly said "no" to Medicaid block grants. In 2017, the Administration pushed efforts to change Medicaid -- but Congress rejected those proposals. In 2018, the Administration began attempting to circumvent Congress by trying to pass work requirements through section 1115. Now that the courts have stopped work requirements, the Administration is trying to rewrite Medicaid law by pursuing block grants through section 1115. The Administration pursued legislative changes in 2017 because it knows these changes require legislative action, but nonetheless continues to try to use and abuse its executive authority to ignore the law.

HHS cannot force states to implement a block grant, and no reasonable state would do so. The new guidance invites states to implement a block grant, but HHS cannot force states to do so. This is important because block grants are extremely disfavorable to state budgets, and only an irresponsible state leader would act against the interest of his or her state residents. A block grant would slash a state's federal funding (discussed below), harm rural communities, worsen the opioid epidemic, and decrease health coverage.

HHS will also approve other harmful and illegal waivers with the block grant. Along with the block grant, HHS has offered states numerous other waivers reducing coverage and state accountability. Some of these waivers will reduce coverage -- for example, CMS will allow states to charge unlawful premiums and cost-sharing to people living in poverty. Other waivers will reduce accountability for states, allowing them to implement policies that reduce coverage without oversight.

States already have significant "flexibility" in their Medicaid programs. States already have a wide range of options in how they structure their Medicaid programs. For example, they can choose among optional populations and services, they have flexibility in whether and how to use cost-sharing, they can design and implement preferred drug lists, and can implement a wide-range of delivery systems through numerous legal pathways. States can and do make extensive use of this flexibility, such that no two state Medicaid programs look remotely alike.

Block grants will devastate a health insurance program that has been incredibly successful. Medicaid provides vital health coverage to over 70 million individuals in the United States, and this coverage has been shown to improve their health, financial security, and productivity. Research has showed that Medicaid expansion coverage has increased access to preventive care in expansion states. In addition, Medicaid is also the most cost-effective way to provide health care.