

March 1, 2017

The Honorable Paul Ryan
Speaker, U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader, U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Leader, U.S. Senate
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader, U.S. Senate
Washington, DC 20510

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McConnell, and Minority Leader Schumer:

On March 1, the Education and the Workforce Committee will hold a full committee hearing to discuss two bills, the Self-Insurance Protection Act and the Preserving Employee Wellness Program Act. While the hearing today will be focused on these bills, they are part of the larger conversation going on regarding the importance of ensuring that every person is able to purchase affordable quality healthcare either through their employer or individual marketplaces, and the importance of ensuring that every person has access to important preventative care, such as wellness programs. Persons with disabilities should not be discriminated against in accessing any form of acute or long-term healthcare.

The Association of University Centers on Disabilities (AUCD), the National Disability Rights Network (NDRN), and National Association of Councils on Developmental Disabilities (NACDD) are the three national Developmental Disabilities (DD) Network partners that represent the entities authorized in the DD Act and whose members annually advocate for and provide hundreds of thousands of clinical services and home and community based supports to people with disabilities and their families. We write today as the DD Network partners to express our serious concerns with the Preserving Employee Wellness Program Act and the proposed changes to the ACA and Medicaid in the policy brief distributed by the House Republican leadership on Thursday, February 16th and the Republican Governors Policy Committee documents from February 24th.

While we take no position in this letter for or against the Self-Insurance Protection Act, our organizations have strong concerns with The Preserving Employee Wellness Program Act which declares that a workplace wellness program (which offers rewards to participants based on health status) does not violate the Americans with Disabilities Act (ADA) or the Genetic Information Nondiscrimination Act (Title I and II) *if* the program complies with Public Health Service Act requirements. This legislation claims that the collection of information about a family member's manifested disease or disorder is not considered an unlawful acquisition of genetic information with respect to another family member participating in a workplace wellness program. The bill ultimately shifts costs to the workers and also declares that providing incentives or rewards would not violate the ADA because there would be exemption from oversight by the Equal Employment Opportunity Commission (EEOC).

AUCD, NDRN, and NACDD is concerned with this legislation as it would bypass certain protections within the ADA, which could result in workplace discrimination based on health status. Further, we are concerned that this legislation would allow employers to penalize workers for not providing medical and genetic information, which could also leave them vulnerable to discrimination. Without oversight by the EEOC, it sets a dangerous precedent that health plans can be exempted from civil rights statutes.

We would also like to take this opportunity to express our serious concerns with proposals to block grant or institute per capita caps on the Medicaid program. The changes proposed in the documents referenced above will likely result in constraints that will harm people with disabilities and those who support and serve them.

We are specifically concerned with the proposals around per capita caps with block grants. The proposed per capita allotment to be paid to states for each person eligible for Medicaid will threaten the long-standing guarantee to provide health care and support services to people with disabilities which include providing services and supports that allow persons with disabilities to become and maintain employment. Block grants would similarly cap the amount of money each state receives without allowing for adjustments when there are changes to health care costs, population growth, or in response to economic downturns, or natural disasters. In 2014, there were almost 600,000 people with disabilities waiting for home and community based services from Medicaid. With the introduction of per capita allotments to states, it is only likely this number will increase. We have only to look at the [cuts to Medicaid Texas](#) made last year to see the reduction in services for those with disabilities.

We urge all Members of Congress to work together toward a health care system, including the critical Medicaid system, that will ensure people with disabilities have access to health care and support services as well as not face discrimination accessing health care or employment on the basis of their disability. Health care coverage that does not include durable medical equipment; rehabilitative, habilitative, and mental health services; and preventative services, such as wellness programs, will greatly harm the health and well-being of people with disabilities. Proposals to block grant or place per capita caps on Medicaid will limit those important services and supports, and ultimately harm people with disabilities.

We look forward to working with the House leadership and all Members as Congress considers revisions to the ACA and Medicaid. For more information please contact: Kim Musheno (kmusheno@aucd.org), Eric Buehlmann (eric.buehlmann@ndrn.org), and Cindy Smith (csmith@nacdd.org)

AUCD represents over 130 university based disability centers and programs conducting research, education, and innovative programming on disability issues across the life course. Our work focuses on ensuring equality of opportunity, inclusion, independent living, and economic self-sufficiency for people with disabilities and their families. AUCD has member programs in every state and territory and works in over 40 countries worldwide.

NDRN is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) systems for individuals with disabilities. The P&A and CAP systems were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories. Collectively, the P&A and CAP Network is the largest provider of legally based advocacy services to people with disabilities in the United States.

NACDD is the national association for the 56 Councils on Developmental Disabilities (DD Councils) across the United States and its territories. The DD Councils receive federal funding to support programs that promote self-determination, integration and inclusion for all people in the United States with developmental disabilities.

More Information

Sincerely,

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