



AMERICA'S ESSENTIAL HOSPITALS

March 8, 2017

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Walden, Chairman Brady, Congressman Pallone, and Congressman Neal:

On behalf of America's Essential Hospitals, the leading association and champion for hospitals and health systems dedicated to high-quality care for all, including low-income and other disadvantaged people, I write to provide our perspective on the reconciliation legislation to be considered this week before the committees on Energy and Commerce and Ways and Means. The nation's nearly 300 essential hospitals serve as the bedrock of the health care safety net in their communities. On average, about half of their patients either are uninsured or covered by Medicaid.

We are pleased you have demonstrated a commitment to working with America's Essential Hospitals and other stakeholders to discuss and refine details of the legislation. However, with fewer than two full days between public release of the bills and consideration in the committees, we are disappointed we have not been given sufficient time to analyze and model the impact of the bills. We are further discouraged that your committees appear to be ready to mark up the bills without the benefit of a score from the Congressional Budget Office. **With legislation affecting the health care of nearly one in three people in the country, we believe it would be ill-advised for your committees to consider the legislation without a nonpartisan estimate of both the costs and coverage implications of the bills.**

Last month, America's Essential Hospitals approved principles on repealing and replacing the Affordable Care Act (ACA) and on entitlement reform (attached). These are among our principles:

- Reform proposals should ensure individuals eligible for health care coverage continue to receive guaranteed access to coverage.
- Any reform must recognize the counter-cyclical nature of Medicaid and avoid shifting higher costs onto states, local governments, and providers.
- Any new proposal must preserve the safety net's ability to provide essential community services to every patient, including the remaining uninsured and underinsured.

The legislation before the committee clearly seeks to meet the third principle. First, Sec. 113 would repeal the damaging cuts to Medicaid disproportionate share hospital (DSH) payments under the Affordable Care Act, beginning in 2020. While Congress has wisely chosen to delay these cuts—which amount to \$42 billion over the next 10 years—essential hospitals have continued to live under the cloud of a future DSH cliff. This legislation ultimately removes that cloud and would help essential hospitals meet their missions. We are disappointed that the bill would allow the initial cuts to go into effect for two years for states that expanded Medicaid under the ACA. **We urge the committee to fully eliminate the cuts for all states.**

Second, the legislation provides for the continuance of funding for non-DSH supplemental payments, including payments for delivery system reform pools and uncompensated care pools, only as part of each state's per-capita allotments. We are very concerned that the value of this funding will decrease over time as per-capita caps fail to keep up with the cost of care.

In addition, Sec. 115 provides safety-net funding for non-expansion states. While the details on how this funding would ultimately be used to support providers, the provision might help our hospitals in non-expansion states to continue to provide high-quality care to all patients. Unfortunately, this funding is limited and would end in 2022.

While we appreciate these provisions and look forward to working with the committee on strengthening them, we are concerned that the legislation would fail to meet the first two principles noted above and would, on balance, harm our hospitals and patients.

Among the provisions of the Energy and Commerce draft we believe would harm health care for our patients, are these:

Sec. 112 – This provision would effectively end the ACA's enhanced federal match for new Medicaid beneficiaries as part of that law's Medicaid expansion. More than 12 million people have achieved coverage under that expansion. While the bill would allow states to continue to cover those people under a standard federal match, we are concerned that many will choose not to do so. In short, this provision will almost certainly mean many people currently covered will lack coverage in the future.

Sec. 121 – This provision would fundamentally alter the relationship between states and the federal government in administering Medicaid by establishing per-capita caps in federal spending. The provision provides an annual growth rate tied to the medical component of the consumer price index for urban consumers (medical CPI-U). Without the benefit of a CBO score, we do not yet know the full financial or coverage impact of this provision. Nevertheless, we are concerned that this provision does nothing to reduce

the actual cost of care to Medicaid enrollees, and simply shifts additional costs on to states, providers, and patients—none of which can afford it. Ultimately, states might be forced to reduce their Medicaid burden by reducing already below-cost provider reimbursement, reducing optional benefits, and, finally, removing vulnerable people from the Medicaid rolls. We believe this provision could damage the ability of essential hospitals to provide high-quality care to all patients and will demonstrably hurt patients, including the most vulnerable people in our country.

Sec. 111 – This provision removes the ability of hospitals to provide presumptive eligibility to people who are likely to be eligible for the Medicaid program when they are admitted to the hospital. Further, **Sec. 114(b)** would repeal the requirement that states provide three-month retroactive Medicaid coverage for people admitted to the hospital who were eligible for, but not enrolled in, the Medicaid program upon admission. The net effect of these two provisions would be to reduce the number of people covered by Medicaid and further drive up uncompensated care costs at our hospitals.

The Ways and Means legislation establishes advanceable, refundable tax credits to people not covered by their employers to purchase health care coverage on the individual market. Once again, the lack of a nonpartisan estimate constrains our ability to properly assess this provision's impact on health care costs and coverage. We are concerned that the size of the tax credits—just \$2,000 to \$4,000, depending on age—appear to be substantially below the actual costs of purchasing a comprehensive health care plan. We believe that, without additional support, millions of people might be unable to afford coverage, driving up the ranks of the uninsured and increasing uncompensated care at our hospitals.

For these reasons, America's Essential Hospitals cannot support the legislation to be considered by the committee. **While we will continue to work in good faith with members of the committee to improve the legislation, we urge you to withdraw it. We ask that you refrain from further action until you have received a score and coverage estimates from the Congressional Budget Office. Further, we ask that you work with us and other stakeholders to draft legislation that meets the principles we outlined above and honors commitments by congressional leaders to ensure all people have access to affordable health care.**

Sincerely,

/S/

Bruce Siegel, MD, MPH

President and CEO

cc: Rep. Paul Ryan, Speaker, U.S. House of Representatives
Rep. Nancy Pelosi, Minority Leader, U.S. House of Representatives
Rep. Michael Burgess, Chair, Subcommittee on Health, Energy and Commerce Committee
Rep. Gene Green, Ranking Member, Subcommittee on Health, Energy and Commerce Committee
Sen. Mitch McConnell, Majority Leader, U.S. Senate
Sen. Chuck Schumer, Minority Leader, U.S. Senate
Sen. Orrin Hatch, Chair, Committee on Finance
Sen. Ron Wyden, Ranking Member, Committee on Finance