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## **HATCH OUTLINES NEED FOR COMPREHENSIVE MEDICAID REFORM**

*In Speech Today, Utah Senator Says, “I reject the President’s inside-the-beltway approach to providing health care for a country as large and diverse as ours. Instead of centralizing power in the nation’s capital, we should empower the states to run their Medicaid programs in a manner consistent with the needs and the values of their citizens.”*

WASHINGTON – In a speech at the Heritage Foundation today, U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, outlined why Medicaid reform must happen given the financial burden it’s placing on state and federal budgets and the poor quality of care it offers patients. On Monday, Republican Governors sent Hatch and Chairman Upton a letter outlining a series of principles that should guide reform. Hatch believes that the highly successful, bipartisan welfare reform of 1996 - where states led the way to provide the best solutions for a broken program - should be the model to modernize Medicaid.

“Medicaid has served as an important safety net for more than 45 years, but in order to continue serving the most vulnerable in our society, it is absolutely essential that we modernize this program,” said Hatch. “The bottom line is that those who are the biggest advocates for Medicaid, and most criticize conservatives for seeking to reform the program, are happy to consign America’s poorest and sickest patients to a health care gulag.”

Hatch continued, “I reject the President’s inside-the-beltway approach to providing health care for a country as large and diverse as ours. Instead of centralizing power in the nation’s capital, we should empower the states to run their Medicaid programs in a manner consistent with the needs and the values of their citizens. In the coming months, I look forward to working closely with the governors to develop specific solutions. We have a great deal of work to do to turn the governors’ principles into federal law, but we are ready for the challenge.”

### **Below are Hatch’s remarks as prepared for delivery:**

Thank you Mike for that kind introduction. I always appreciate the invitation to participate in Heritage Foundation events. For decades, folks like yourself, and Ed Meese, and Bob Moffitt, and Stuart Butler — not to mention Dr. Feulner — have been at the vanguard of conservative policy. It is hard to think of a conservative policy achievement that does not have your imprint on it, and for that leadership I am grateful.

Unfortunately, the need for your leadership is always growing.

It is nice to be on offense, but since President Obama's inauguration, we have too often found ourselves on defense, holding the line for limited government and free markets. The debate over health care reform is a case in point.

Along with many other groups, Heritage had spent years working through the nuances of health care policy, identifying the root causes of access problems and recommending solutions consistent with our constitutional commitment to personal liberty.

And then what happened?

President Obama, having salted the earth during the campaign, took all of the innovative work that had been done and tossed it in the garbage. Instead of reforming a bankrupt system, he decided to double down on it. For all of the 2,000-plus pages of ObamaCare — and believe me, it is no picnic getting through that bill — it really is a pretty simple scheme.

Spend \$2.6 trillion on new coverage entitlements, and pretend to pay for it by raiding already bankrupt entitlements and raising taxes by half a trillion dollars. While they may have expanded coverage, they did nothing to address the fundamental problem facing our nation's health care system — the cost of health care. We know how this book is going to end. If you put government on the hook for expanded coverage, without reducing the cost of coverage, the cost to taxpayers is going to go up.

Democratic Governor Phil Bredesen has it right. This is his assessment of ObamaCare. “What a stunning disappointment. The health care ‘reform’ we finally wrote into law isn't transformational. It provides health insurance for a great many more people, but doesn't directly attack any of the deep structural problems of health care.”

Nowhere is the impact of this deadly combination of expanding coverage and expanding costs more insidious than in Medicaid. Medicaid is not only a federal entitlement that was massively expanded through ObamaCare, but it is an entitlement that states are responsible for. By exploding Medicaid populations and denying the states the ability to effectively manage those populations, ObamaCare is a direct assault on our Founding Fathers' Constitution of limited federal powers and reserved states' rights.

The bottom line is that we need to repeal this terrible law in its entirety. But addressing Medicaid is a reasonable place to start for conservatives who want to restore the fiscal integrity of the states and to undo the damage done by this administration to the nation's health care system.

Medicaid has served as an important safety net for more than 45 years, but in order to continue serving the most vulnerable in our society, it is absolutely essential that we modernize this program.

One of Medicaid's biggest problems is mission creep. In its first year, fewer than five million individuals used Medicaid services. Today, nearly one in four Americans is on Medicaid and half those newly covered by ObamaCare will be on Medicaid. This is simply unsustainable. Medicaid was intended to be a safety net program for the poor. But it has turned into substitute health insurance for nearly one-quarter of the population. Not only can the states and the federal government not afford such a massive program, but as currently structured it provides nowhere near the level of care that it should. In short, an ever expanding Medicaid program is devastating for the nation's and the states' finances, and by spreading itself so thin it fails to provide adequate care for those who need it.

Medicaid's budget burdens are a significant problem. It is no exaggeration to say that Medicaid threatens to bankrupt both the federal budget and the vast majority of state budgets. Over the next ten years, Washington alone will spend \$4.6 trillion on Medicaid. Think of that for a minute. Our publicly held debt is already \$14 trillion. We are talking right now about significant spending reductions that amount to between \$2 trillion and \$3 trillion. Yet, we are set to spend \$4.6 trillion on this one program alone.

When Admiral Mullen said that the greatest threat to our national security is our debt, he probably had a copy of the Social Security Act open and turned to the Medicaid program. The levels of Medicaid spending are not just a budget issue. They are also a governance issue, depriving lawmakers and governors of the flexibility to provide much needed services to their citizens. With Medicaid spending now consuming nearly a quarter of state government budgets, this program routinely crowds out other critical priorities such as education and law enforcement.

States need to enact their own pro-growth agendas, keeping taxes low to spur job growth, but Medicaid obligations are strangling these efforts. Unfortunately, liberal Medicaid advocates and their Democratic allies do not seem to care. They put on their blinders and pretend as though there is no problem with Medicaid's financing and that any reductions in spending or meaningful reforms are assaults on the poor. It is worth reminding these professional advocates just how much waste, fraud, and abuse there is in the Medicaid program.

Anyone who doubts that we can save money in Medicaid should Google *Medicaid and Financial Planning*. There's an entire consulting industry out there teaching people how to game the system and get Medicaid to pay for long term care services. People can own a \$750,000 house and still qualify for Medicaid these days.

Medicaid is a massive target for waste, fraud, and abuse. By CMS' own estimates, tens of billions of dollars are lost to fraud, waste and abuse each year. Medicaid's improper payment rate averages nearly 10 percent, and when you are talking about a \$400 billion a year program that's a lot of money.

These are not hypotheticals.

One state's Auditor General found that Medicaid was paying claims on behalf of 1,705 dead people. And a GAO report determined that beneficiaries were improperly obtaining addictive drugs at a cost of \$65 million to taxpayers.

So Medicaid is like every other government program. There is fat to be cut. The only difference between this and other programs is how well marbled Medicaid is.

I want to make one more point, however.

Irrespective of one's views on the merits of the Medicaid program as a matter of principle or constitutional soundness, it should at the very least be able to measure up as a program that achieves its objectives.

In other words, does Medicaid even do what it sets out to do? I think that the answer is clear that too often it does not. In too many instances, Medicaid fails the patients that it purports to serve.

Scott Gottlieb's recent piece on this subject in the *Wall Street Journal* is jarring, and every bleeding heart who attacks conservatives for failure to support the poor should have to answer for Medicaid's abysmal record in treating its impoverished beneficiaries.

According to this article, Medicaid patients and people lacking any health insurance were both 50 percent more likely to die when compared with privately insured patients. They were 80 percent more likely than those with private insurance to have tumors that spread to at least one lymph node.

A 2010 study of major surgical operations found that Medicaid patients had the longest length of stay in the hospital, the most total hospital costs, and the highest risk of death. Even according to government data, Medicaid patients are more likely to end up in the emergency room than privately insured and even uninsured patients.

Gottlieb concludes that being on Medicaid is actually worse than having no health care coverage at all. And I cannot say that I disagree.

Nor can I say that I am surprised. What about our experience with top down government-run programs suggests that it would lead to top flight medical care?

The bottom line is that those who are the biggest advocates for Medicaid, and are the quickest to criticize conservatives for seeking to reform the program, are happy to consign America's poorest and sickest patients to a health care gulag.

The single greatest reason for this failure of the Medicaid program is a Washington bureaucracy that has tied the states' hands, preventing them from making meaningful changes and reforms.

President Obama took this programmatic jalopy and crashed it into a bridge abutment. Instead of reforming this program and putting it on sound financial footing, he made matters worse by continuing to hamstring the states.

Instead of trying to fix Medicaid's problems, he exacerbated all of the program's worst features. This administration has demonstrated an alarming pattern of usurping states' authority to manage their Medicaid programs in ways that best meet the needs of their citizens.

First, the so-called stimulus package restricted states from managing their program eligibility through an onerous mandate called the Maintenance of Effort or M-O-E.

States — unlike Washington — which too often just prints money to pay for out-of-control spending, actually have to make tough budget decisions every year. And the states are facing the worst budget crisis since the Great Depression with a collective \$175 billion shortfall.

Washington's micromanagement of state Medicaid programs makes it incredibly difficult for the states to balance their budgets and provide for those who are most in need. Because of the overly generous benefit programs that Washington forces on the states, they are unable to target health services to those most in need of assistance. Because of these M-O-E restrictions, Governors are unable to undertake common-sense reforms that root out program waste, fraud, and abuse.

The result of these M-O-E requirements is nothing short of Washington induced state fiscal crises. My close friend Utah Governor Gary Herbert has said, “[n]ot a state in this nation is immune to tough budget decisions, and sometimes Washington makes it even harder. Utah must seriously weigh the real costs of Medicaid, one of the largest and most expensive programs we have....Unfortunately, federal mandates tie our hands. Utah has zero flexibility to respond to economic conditions, or the option to scale the program back in a way that reflects local values and priorities.”

Governor Herbert — and many other governors across the nation — have repeatedly asked Washington to repeal these onerous Medicaid M-O-E mandates. And I have recently introduced legislation, the *State Flexibility Act*, to do exactly what the governors have asked.

The *State Flexibility Act* fully repeals these burdensome Medicaid M-O-E regulations. It starts to put states back in control, empowering them to prioritize and balance their budgets, while simultaneously lowering federal entitlement spending. This legislation will save American taxpayers \$2.8 billion over just the first five years.

Regardless of political affiliation, I am confident that this bill has the potential to garner strong, bipartisan support in Congress and represents a strong first step toward achieving comprehensive Medicaid reform. Still, this legislation is just a first step towards achieving comprehensive Medicaid reform, and we have much more work to do.

In April, the Obama Administration proposed a new regulation out of C-M-S that will force states to ask Washington's permission whenever they want to lower spending on reimbursement rates to providers.

After first taking away states' ability to manage their Medicaid enrollment, now the Obama Administration is trying to completely tie states' hands when it comes to setting rates. These regulations will straightjacket the states and make it virtually impossible for them to lower their Medicaid spending.

Now the Obama Administration is also trying to impose its pro-abortion agenda on the states. In May, the State of Indiana passed a law to restrict taxpayer dollars from going to abortion facilities, but the Obama Administration is trying to stop Indiana from implementing that law. Some media reports even indicate that the Obama Administration is considering cutting the entirety of Indiana's federal Medicaid match over this issue.

Last week, I sent a letter to the Obama Administration along with 27 other United States Senators explaining that the State of Indiana is clearly within its rights to implement its law. Indiana's law effectively closes a loophole that has allowed taxpayer dollars to support operational costs for abortions; and furthermore, their law ensures full compliance with the longstanding federal policy of the Hyde Amendment.

Indiana's proposal should not only be approved by the federal government; I believe it serves as an important model for every state. More broadly, I support the right of states to administer their Medicaid programs in a manner consistent with the values of their citizens.

As if these attacks from the Obama Administration aren't enough, the Supreme Court will be hearing a case this fall known as Maxwell-Jolly that could give a completely unprecedented private right of action over Medicaid. If the Supreme Court decides the case in the same way that the liberal Ninth Circuit in California did, the litigation costs for states will exponentially increase.

Each of these examples is unique, but they all share a common theme. Each is an effort by Washington to micromanage the states when it comes to Medicaid. As Ranking Member of the Senate Finance Committee, I'm fighting back hard against the Obama Administration on each of these issues.

We have our work cut out for us.

In 2017, state governments will be forced to spend new money on expanded Medicaid populations, and by 2020, the states will fully shoulder their share for these new populations. The non-partisan Congressional Budget Office originally estimated ObamaCare's Medicaid expansions at a \$60 billion cost to the states through 2021. I authored a joint Congressional Committee Report with House Energy and Commerce Chairman Fred Upton that was the first to comprehensively examine state government estimates of the costs of ObamaCare for state Medicaid programs.

States use these estimates in managing their budgets; this report therefore gives the clearest picture to date of the health care law's new Medicaid costs to state taxpayers. This report conservatively estimates that ObamaCare will cost state taxpayers *at least* \$118.04 billion through 2023. The state-by-state findings of this report indicate just how unrealistic ObamaCare's Medicaid mandates are for the states. In just one state, the Medicaid program will be forced to spend \$27 billion more than the program's entire annual budget today.

Though this picture is grim, there is a better way for Medicaid.

I reject the President's inside-the-beltway approach to providing health care for a country as large and diverse as ours. Instead of centralizing power in the nation's capital, we should empower the states to run their Medicaid programs in a manner consistent with the needs and the values of their citizens.

The welfare reform of the 1990s — the most successful conservative reform of an entitlement program, and one that you are very familiar with in this building — can serve as a model for Medicaid reform. Solutions for sustainable welfare reform came from the states — not just Washington. Our goal is to empower the states to design and implement innovative Medicaid solutions. Our nation's governors have run Medicaid programs and are in the best position to help Congress in fixing Medicaid.

I would also add that the history of welfare reform can keep us optimistic even when we are sloggng through fights over Medicaid reform. When we began the fight for welfare reform, we were told that our work-first approach and end to the welfare entitlement would be devastating to the poor. Today, after the positive results from welfare reform, that original conservative position is virtually unassailable.

So I am ready for the onslaught from the left, but as Richard Weaver put it, *ideas have consequences*, and I am confident that thoughtful conservative reforms to the Medicaid system will not only prevail, but will have a positive impact on the program's finances and on the quality of care.

Here are just a few of the examples that conservatives can look to when they are reforming Medicaid. Rhode Island implemented a global cap on Medicaid expenditures back in 2009. The waiver gave the state flexibility from Washington's bureaucracy. Not only did the State improve patient care, by implementing important wellness programs and moving seniors from nursing homes

into community care when appropriate, but the state has saved a significant amount of money by making its program more competitive and efficient.

The State of Indiana implemented an innovative Medicaid model that couples a commercial health care plan (for expenses above \$1,100) with a health care spending account controlled by the Medicaid beneficiary. The accounts are prefunded by the state on an income sliding scale.

The results? A recent survey of program enrollees found that the personal responsibility approach is positively changing health care behaviors: 76 percent of respondents had received an annual physical, six in ten respondents now think differently about where and when they get their health care, and two-thirds of respondents say they are more likely to seek treatment when needed.

Finally, the state of West Virginia has implemented *innovative reforms to promote personal responsibility among Medicaid beneficiaries*. The state established “Healthy Rewards Accounts” to encourage healthy behaviors. To open a reward account, a beneficiary must sign a member rights and responsibility agreement, which says, for example, “I understand that smoking, using drugs illegally, drinking too much alcohol, and being overweight are bad for my health.” The state then awards bonuses to beneficiaries for meeting health goals such as medication regimen compliance.

According to Nancy Adkins, Commissioner of the West Virginia Bureau for Medical Services, “West Virginia is poised to take the lead in moving Medicaid from a welfare mentality to a model which emphasizes personal empowerment and responsibility.”

I could go on about the innovative things that Texas and New York have done in better coordinating care for patients eligible for both Medicare and Medicaid — or the “duals.” Not only have these approaches saved the states money, they have improved care for the patients.

It is important for Congress to encourage, rather than stymie these state-based innovations. Last month, Chairman Upton and I sent each governor a letter asking for feedback on both the challenges states have faced and for their ideas on how to make Medicaid work better.

We have heard many governors — both Democrat and Republican — express the need for Medicaid reform. Former Governor Phil Bredesen has called the Medicaid program “an obsolete and broken system.”

Former Governor Jeb Bush said, “We're left with a broken system that creates barriers for patients, removes incentives for compassionate high-quality health care and encourages fraud and abuse by some vendors who have learned how to gain from the system rather than take care of Florida's most vulnerable citizens.”

Governors have run a Medicaid program and are in the best position to tell Washington how to fix Medicaid. Chairman Upton and I asked for feedback on both the challenges governors have faced

and for their ideas on how to make Medicaid work better. My goal is to empower the states to design and implement innovative Medicaid solutions that work for their states.

This week we received a response from Republican governors. Their letter outlined key principles for Medicaid reform. Some patterns are emerging when we hear from the people on the ground who have the burden of administering the Medicaid programs.

First, governors want to design Medicaid solutions based on the needs, culture, and values of each state. The governors also asked for accountable and transparent financing mechanisms, which might include a block grant, that will save money for both federal and state taxpayers.

Governors want the freedom to make Medicaid more patient-centered, to streamline and simplify eligibility processes, and to provide patients a choice about their coverage plans. And finally, governors need the flexibility to deal with the quality and spending challenges posed by long term care services and with the dual eligible populations.

In the coming months, I look forward to working closely with the governors to develop specific solutions. We have a great deal of work to do to turn the governors' principles into federal law, but we are ready for the challenge.

Furthermore, I look forward to continuing my work with the Heritage Foundation in developing a sustainable Medicaid program that saves money and improves care. Democrats might turn a blind eye to these efforts, but as we careen toward a full-blown debt crisis, we really have no other option.

Congress and the nation's governors can — and we will — develop comprehensive and sustainable Medicaid reform. It is time to fix the Medicaid program. We owe it to taxpayers and to beneficiaries. And we owe it to future generations.

Abraham Lincoln understood that this country must constantly recommit itself to its founding principles of liberty and equal rights. Our national debt and entitlement programs are now a threat to both. Reforming Medicaid will be a solid down payment on broader conservative efforts to rein in the federal government and restore our constitutional system of limited powers and sovereign states.

Thank you.

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