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KEY CHANGES NEEDED IN THE GOVERNORS' MEDICAID PROPOSAL

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The congressional leadership is drafting comprehensive Medicaid reform legislation based on a recent outline proposal endorsed unanimously by the National Governors Association (NGA). But unless the legislation differs sharply from the governors' outline in some critical details, it will be a disaster rather than a reform, preserving some of the worst features of today's Medicaid program while opening the door to another state-led raid on the U.S. Treasury. To avoid this, the legislation must make two crucial changes in the governors' plan: It must limit the categories of Americans guaranteed benefits and, even more important, must not include an open-ended state entitlement to "umbrella" funds.

The outline preamble calls explicitly for an end to the entitlement status of Medicaid and for the establishment of a block grant system of financing. But a close reading of the fine print in the governors' plan shows that the reverse is true. The plan actually sets out a federally defined list of guaranteed benefits for a large "guaranteed population" that would have an entitlement to these benefits. Moreover, the plan does not simply transform Medicaid into a block grant program, with a specific determination of the maximum amount of federal funds each state will receive (at a higher percentage than is typical today); that capitated amount will be only part of the funds flowing to states.

The plan also contains an "umbrella insurance" provision to provide guaranteed additional money to states in the event of unanticipated growth in the eligible population. It states explicitly that "[t]hese funds are an entitlement to states and are not subject to annual appropriations" by Congress. Thus, state officials, who have shown themselves adept in the past at squeezing huge amounts of federal money out of the fine print of federal Medicaid law, would have unencumbered power to raid the federal treasury. Even the liberal Center on Budget and Policy Priorities, which strongly opposes devolution of control to the states, warns that the umbrella mechanism "may create incentives for states to 'game' the system and consequently may result in substantial, unintended federal cost."[1]

1 Richard Kogan and Cindy Mann, *Medicaid Coverage Could Erode Dramatically Under Governors' Proposal*, Center on Budget and Policy Priorities, February 8, 1996.

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Keeping the Status Quo. As drafted, the governors' outline retains a comprehensive list of government benefits for Medicaid's "guaranteed" populations.[2] The groups eligible for this entitlement include:

- ✓ **Pregnant women**, to 133 percent of poverty;
- ✓ **Children to age 6,** to 133 percent of poverty;
- ✓ **Children ages 6 through 12,** to 100 percent of poverty;
- ✓ **Elderly** who meet Supplemental Security Income (SSI) and resource standards; and
- ✓ **Persons with disabilities** as defined by the state in their state plan.

Of the 33.4 million Medicaid recipients in 1993, pregnant women and children living on income up to 133 percent of the government's official poverty level accounted for 71 percent, or 23.7 million, of the eligible population. Generally, these recipients also get cash assistance under other major welfare programs, including Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI). By mandating states to continue coverage for these individuals, as well as those falling into the two other major categories (elderly and disabled), the governors simply retain the mandatory entitlement features of Medicaid for the vast majority of existing beneficiaries —features that have contributed to the explosive financial pressures on the Medicaid system. Given the uncapped status of the insurance umbrella, the governors' plan is not an elimination, nor even a significant scaling back, of the current and costly entitlement feature of Medicaid.

In maintaining a federal definition of which individuals will be guaranteed benefits, the governors seem also to have tied their own hands in reforming their own welfare programs. Since most welfare recipients are categorically entitled to Medicaid benefits, there would remain little incentive for individuals to seek employment with generally more limited insurance through the private sector. Worse, the governors will have neither true flexibility in administering Medicaid nor the ultimate authority in determining how best to provide quality care for their resident poor. It is to help meet the anticipated costs of maintaining federal eligibility and benefits requirements that the governors included an insurance umbrella provision, which will help them shift costs back to the federal taxpayers. That also is the flaw from the federal taxpayer's point of view.

Deficit Dangers. The governors know that the current level of spending growth in Medicaid is unsustainable. While few consider the governors' proposal a step toward fiscal responsibility, the insurance umbrella described in their outline almost certainly would add to the federal deficit. The purpose of the umbrella is understandable: to protect individual states from unanticpated costs due to changes in the growth of their eligible populations. But it is crafted as an uncapped, open-ended entitlement "reserve" fund upon which the states can draw in emergencies, and the outline contains no measures to control federal spending once the provision is triggered. This directly contradicts both the principle and goal of a federal block grant program, and it would allow creative accountants in state government free rein to manipulate eligibility requirements and service levels to shift as much of their costs as possible to categories of people who would qualify for umbrella funds. Past experience with Medicaid shows that they would do so.

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2 Guaranteed benefits for the guaranteed population include inpatient and outpatient hospital services, physician services, prenatal care, nursing facility services, home health care, family planning services and supplies, laboratory and X-ray services, pediatric and family nurse practitioner services, nurse midwife services, and Early and Periodic Screening Diagnosis and Treatment Services (EPSDT). Outline and Testimony of National Governor's Association before the Committee on Commerce, U.S. House of Representatives, February 21, 1996, p. 3.

Rules and Mandates. The nation's governors rightly criticize the red tape of Medicaid mandates with which states must comply in order to get federal matching funds. Moreover, these congressionally imposed requirements hamper state governments' ability to design and implement cost-efficient programs that target medically needy persons. Ironically, the governors' proposal still includes federally defined mandates; even though states would be given much more flexibility, these federally mandated eligibility and benefit requirements would supersede their own authority to decide how best to care for their poor residents.

The costs associated with federal mandates have not gone unnoticed by this Congress, which has sought to tackle the growing financial burden of an unreformed Medicaid program (an effort vetoed by President Clinton). While the overall cost of the program is rising rapidly, the federal share alone is projected to reach approximately $100 billion in FY 1996. Similarly, states are dedicating a growing percentage of their budgets to providing their residents access to health services. According to an analysis prepared for The Heritage Foundation, if no reforms in the Medicaid program are enacted, the states will have to spend $688 billion of their own money between 1995 and 2002 just to maintain the system as it is today.[3]

HOW TO FIX THE GOVERNORS' PLAN

While the governors' proposal calls for much-needed flexibility and a long-overdue block grant approach to financing Medicaid, the NGA's plan itself would not pare back the entitlement feature of Medicaid sufficiently, and the umbrella feature, as currently designed, almost certainly would lead to an uncontrolled hemorrhaging of federal funds.

If the governors' plan is to be turned into legislation that actually reforms Medicaid and introduces sensible spending control at the federal level, two crucial changes are necessary. Without them, the plan should be unacceptable to lawmakers seeking a reform of the costly open-ended entitlement status of today's program. These two essential changes are:

1. **The guaranteed populations and benefits — the entitlement — should be sharply limited,** and focused on politically weak groups traditionally ignored by the states, such as the homeless and those with severe mental illness.
2. **The umbrella should be a budgeted fund appropriated each year, not an entitlement to states.** States do need protection from unanticipated changes that would make them vulnerable under a strict block grant, but this should be in the form of a fund voted on each year and distributed according to a formula devised by Congress to meet specific problems. It should not be a blank check to states.

If Congress is to enact a federal balanced budget over the next seven years, then Medicaid, like other federal programs, will require more, not less, fiscal discipline. In reforming Medicaid, lawmakers must make sure that the precise legislative language does not create a legal loophole for state officials who have acquired expertise in "gaming" the Medicaid program at the expense of federal taxpayers.

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3 William W. Beach, "The Costs to the States of Not Fundamentally Reforming Medicaid," Heritage Foundation *Committee Brief* No. 22, February 8, 1996, p. 3.