



**Statement Submitted for the Record**

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**Hearing to Consider the Graham-Cassidy-Heller-Johnson Proposal**

**U.S. Senate Finance Committee**

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The National Women’s Law Center (“Center”) has worked for 45 years to advance and protect equality and opportunity for women and girls in every aspect of their lives, including health care and economic security. The National Women’s Law Center submits this statement in strong opposition to the Graham-Cassidy-Heller-Johnson (“Graham-Cassidy”) proposal to repeal the Affordable Care Act (ACA).

If passed, the Graham-Cassidy proposal would threaten women’s health, take away women’s access to health services and coverage, and jeopardize the economic security of women and families. By gutting federal support, ending the Medicaid program as we know it, permitting insurance practices that discriminate against women, imposing restrictions that effectively eliminate abortion coverage, and barring Medicaid funding to Planned Parenthood health centers, the Graham-Cassidy proposal would undo progress women have made since the ACA was passed, and leave women without access to the affordable and quality health care and coverage that they need.

*The Graham-Cassidy Proposal Would Gut Federal Funding for Health Care, Leaving Women without Critical Coverage*

The Graham-Cassidy proposal would fundamentally change federal financing of health coverage. It would eliminate federal funding for the ACA’s tax credits and cost sharing reductions and the Medicaid expansion starting in 2020, and replace it with a smaller block grant to the states that would disappear in 2026. This block grant would be inadequate, with states receiving less money than they would under the ACA and, according to the Center for Budget Policy Priorities, would “cause many millions of people to lose coverage.”<sup>1</sup> This radical restructuring would be especially devastating to women.

Due to the restructuring, women would lose health insurance coverage that they have recently gained thanks to the ACA. According to the most recent Census data, the Center calculates that more than 89.4 million women have health insurance, with an additional 7.2 million women gaining health insurance from 2013-2016. This coverage contains protections that, among other things, ensure women are not charged more than men for the same coverage, are not treated as a pre-existing condition, and have coverage for essential and preventive health care needs, like maternity care, birth control, and well-woman visits. The Graham-Cassidy proposal would take this important coverage away from women.

By eliminating the ACA’s tax credits and cost sharing reductions, the Graham-Cassidy proposal would also put affordable health coverage out of reach for the millions of women who rely on federal financial assistance to afford coverage. According to the Center’s calculations, as of

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<sup>1</sup> Jacob Leibenluft, et al., *Like Other ACA Repeal Proposals, Cassidy-Graham Plan Would Add Millions to Uninsured, Destabilize Individual Market* (Sept. 20, 2017), available at <https://www.cbpp.org/research/health/like-other-aca-repeal-proposals-cassidy-graham-plan-would-add-millions-to-uninsured>.

2014, over 9 million women who would otherwise have gone without affordable health insurance were eligible to benefit from the ACA's tax credits, including a high number of women of color. Separately, the cost sharing reductions help to reduce copayments, deductibles, and other out-of-pocket costs for marketplace enrollees. More than 5.6 million people, or almost 60 percent of ACA marketplace enrollees, received cost sharing reductions in 2016, and on average, cost sharing reductions help to reduce individuals' out-of-pocket costs by roughly \$1,100 per person.<sup>2</sup> These reductions are significant for women who, according to data both pre-and post-ACA, are more likely to forego health care because of costs, including increased out-of-pocket costs. Eliminating the federal assistance to purchase health insurance, as the Graham-Cassidy proposal does, would only compound existing barriers to purchasing health coverage for women, who are more likely to live in poverty than men, earn less than men, and are more likely to work in low-wage jobs with less ability to absorb extra costs. These cost barriers are particularly prohibitive for women of color who are more likely to live in poverty than whites and who were more likely to be uninsured pre-ACA due to costs.

Elimination of the Medicaid expansion would be especially devastating for women. According to the Center's calculations, states expanding Medicaid have seen the largest increases in Medicaid enrollment of women ages 18-64 between 2013-2015. Medicaid expansion has been particularly important for low-income, childless women who were not eligible for Medicaid before expansion. Without coverage, low-income women are more likely to go without health care because of cost, are less likely to have a regular source of care, and utilize preventive services at lower rates than low-income women with health insurance.

*The Graham-Cassidy Proposal Would End Medicaid As We Know It, Posing Particular Harm to Women Struggling to Make Ends Meet*

In addition to ending funding for the Medicaid expansion, the Graham-Cassidy proposal makes radical changes to the Medicaid program, which would end the program as we know it and pose particular harm to women who are already struggling to make ends meet.

The Graham-Cassidy proposal would dismantle the Medicaid program by converting Medicaid's current federal-state partnership, which automatically responds to changing needs, into a per capita cap system. It would allow states to convert their Medicaid programs into either a block grant or per capita cap system. Block grant and per capita cap systems limit and cut federal funding and shift to states the risk of increases in Medicaid costs. Either one would force states to cut Medicaid coverage and benefits – and possibly other services as well.<sup>3</sup> For example, block

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<sup>2</sup> Sarah Lueck, *Center on Budget and Policy Priorities, Interactive map: Cost-Sharing Subsidies at Risk Under House GOP Health Proposal* (Mar. 21, 2017), available at <https://www.cbpp.org/blog/interactive-map-cost-sharing-subsidies-at-risk-under-house-gop-health-proposal>.

<sup>3</sup> For a more detailed analysis of how per capita caps and block grants harm women, see National Women's Law Center, *The Stealth Attack on Women's Health: What Caps on Medicaid Funding Would Mean for Women* (April 2017), available at <https://nwlc.org/wp-content/uploads/2017/04/Medicaid-Per-Capita-Caps.pdf>; See also National

granting Medicaid could give states the ability to reduce the number of people covered by Medicaid by eliminating eligibility for some people now entitled to benefits under law (for example, pregnant women with family incomes below 133% of poverty); denying or delaying services to eligible people by establishing enrollment caps and wait lists; and creating administrative barriers to enrolling and maintaining enrollment. A Medicaid block grant could allow states to reduce Medicaid benefits by eliminating some services that are currently required (for example, family planning services and diagnostic and treatment services for young children); setting limits on the utilization of benefits; and raising the amount that low-income families must pay for such services through premiums, deductibles, and co-payments.

This would be devastating to women, who disproportionately make up the Medicaid population. The Center calculates that in 2016, over 17.4 million women had Medicaid coverage, with over 4.4 million gaining coverage between 2013-2016. These women are now receiving coverage for critical maternity care, family planning services, and long-term care, among other benefits.<sup>4</sup> And this coverage is helping to make women more economically secure, by keeping women and their families from medical debt and bankruptcy, providing coverage not linked to employment so that women can seek positions that offer higher wages or better opportunities, and covering birth control, which allows women to determine whether and when to start a family, expanding their educational and career opportunities. Medicaid payments to providers also directly support women's jobs.<sup>5</sup> With its radical changes that would throw women off Medicaid coverage and change the program, the Graham-Cassidy proposal threatens the health and economic security of low-income women and families across the country.

Moreover, the Graham-Cassidy proposal allows states to condition Medicaid coverage upon punitive work requirements. A work requirement is unprecedented in Medicaid; it goes against the objective of the Medicaid program, which is to provide health coverage to low-income people who cannot otherwise, afford it, which helps them attain or retain the capacity for independence and self-care. A work requirement contravenes these objectives by jeopardizing the vital coverage that provides enrollees with the care they need to obtain or maintain employment. Women are especially likely to lose health care coverage under a Medicaid work requirement, because they are more likely than men to face particular barriers to employment such as being the sole caregiver of children or aging parents.<sup>6</sup> Work requirements are particularly

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Women's Law Center, *The Stealth Attack on Women's Health: The Harmful Effects Block Granting Safety Net Programs Would Have on Women* (Apr. 2017), available at <https://nwlc.org/wp-content/uploads/2017/04/Medicaid-Block-Grants.pdf>.

<sup>4</sup> Although Medicaid covers a range of services women need, it is important to note that federal law restricts federal Medicaid coverage of abortion except if the pregnancy is the result of rape or incest, or if the woman's life is in danger.

<sup>5</sup> National Women's Law Center, *Medicaid is Vital for Women's Jobs in Every Community*, (June 2017), available at <https://nwlc.org/wp-content/uploads/2017/06/Medicaid-Jobs-Report.pdf>.

<sup>6</sup> For a more detailed analysis of how work requirements imposed on Medicaid enrollees would harm women, see National Women's Law Center, *The Stealth Attack On Women's Health: Medicaid Work Requirements Would Reduce Access to Care for Women Without Increasing Employment* (May 2017), available at

indefensible given that they have proven not to work when applied to other programs, and because they are based on the false narrative that Medicaid enrollees do not work and are taking advantage of the program's benefits, which belies reality and is predicated on over-invoked racialized stereotypes of enrollees that ignore the lived experiences of all low-income people across racial lines.

*The Graham-Cassidy Proposal Would Allow Plans to Reinstate Practices that Discriminated Against Women*

The latest version of the Graham-Cassidy proposal would allow states to modify rules for plans funded through the block grants created by the proposal. This could include changing the requirement that plans provide coverage of the ACA's ten essential health benefits, which include coverage that women need like prescription drug coverage, mental health care, and maternity and newborn care. This would allow plans to once again refuse to offer the critical benefits that women need. For example, as the Center documented, prior to the ACA, only 12 percent of the most popular plans on the private insurance market offered maternity coverage.<sup>7</sup> Lack of coverage for maternity care left women shouldering costs ranging from over \$30,000 for vaginal births to over \$50,000 for caesarian births.<sup>8</sup> These high costs can be impossible for women to pay out-of-pocket and may result in women foregoing needed prenatal care and suffering compromised health outcomes, including maternal and infant mortality, which is already alarming high among black women.

In addition, the latest version of the Graham-Cassidy proposal would allow states to modify the rules for coverage of women's preventive services. This historic provision of the ACA requires plans to provide women – without cost-sharing – coverage for an evidence-based set of women's preventive services, including birth control, breastfeeding supports and supplies, and well-woman visits.<sup>9</sup> In passing this provision, Congress intended to remedy gaps in preventive services requirements, and recognized that the failure to cover women's preventive health services meant that women paid more in out-of-pocket costs than men for basic and necessary preventive care and in some instances were unable to obtain this care at all because of cost barriers. According to the Center's calculations, over 62.4 million women now have this

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<https://nwlc.org/resources/the-stealth-attack-on-womens-health-medicaid-work-requirements-would-reduce-access-to-care-for-women-without-increasing-employment/>.

<sup>7</sup> National Women's Law Center, *Turning to Fairness: Insurance Discrimination Against Women Today and the Affordable Care Act* (Mar. 2012), available at [https://nwlc.org/wp-content/uploads/2015/08/nwlc\\_2012\\_turningtofairness\\_report.pdf](https://nwlc.org/wp-content/uploads/2015/08/nwlc_2012_turningtofairness_report.pdf).

<sup>8</sup> Truven Health Analytics, *The Cost of Having a Baby in the United States* (Jan. 2013), available at <http://transform.childbirthconnection.org/wp-content/uploads/2013/01/Cost-of-Having-a-Baby1.pdf>.

<sup>9</sup> The list of women's preventive services was reaffirmed as recently as December 2016 by a panel of experts convened by the American College of Obstetricians and Gynecologists, as part of the Women's Preventive Services Initiative. Women's Preventive Services Initiative, *Recommendations for Preventive Services for Women: Final Report to the U.S. Department of Health and Human Services, HEALTH RES & SERVS.S ADMIN.* (HRSA), WASHINGTON, D.C.: AM. COLL. OF OBSTETRICIANS AND GYNECOLOGISTS (Dec. 2016).

coverage, which has been critical to women's health and economic security. For example, no-cost coverage of birth control has enabled women to access the birth control method that is most appropriate for them when they need it without cost being an obstacle.<sup>10</sup> It has also furthered women's economic security; one study found that the provision helped women to save \$1.4 billion in one year on the birth control pill alone.<sup>11</sup> Allowing states to get rid of this requirement, as the Graham-Cassidy proposal would do, will send women back to a day when cost-sharing and lack of coverage determined whether they had the care they need, with long-term effects on the health and economic security of women, children, and families across the country.

The proposal also threatens the health and economic security of the estimated 65 million women with pre-existing conditions by allowing states to set their own rules, including allowing health insurance issuers to charge higher premiums based on health status. This means that although health insurance coverage may be theoretically available to a woman with a pre-existing condition, the insurance company could price the premium in such a way that she is effectively denied coverage. Prior to the ACA, the Center published extensive research documenting insurance practices of charging women more for coverage because of "pre-existing conditions" unique to them, such as undergoing a Cesarean delivery.<sup>12</sup> The Graham-Cassidy proposal would allow insurance companies to reinstate this discriminatory practice. No woman should again be charged more because she has had a prior pregnancy or Cesarean delivery, because she received fertility treatment, had breast or cervical cancer, is a survivor of domestic violence, or because she had medical treatment following a sexual assault.

*The Graham-Cassidy Proposal Effectively Bans Plans from Offering Comprehensive Coverage that Includes Abortion*

The Graham-Cassidy proposal contains a host of abortion restrictions. During the time that the Graham-Cassidy proposal allows the ACA tax credits to exist, the proposal denies tax credits to individuals who choose comprehensive plans that cover abortion and denies the small business tax credit to those businesses that offer comprehensive plans that include abortion. The proposal also prohibits individuals from using money in personal health savings accounts for abortion and bans states from using the newly created block grants to fund plans that cover abortion. These provisions have no other purpose than to ban private insurance companies from covering abortion. Eliminating access to abortion coverage would deny women meaningful access to basic health care and endanger women's health. Provisions like these that deny insurance coverage of

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<sup>10</sup> For more information showing how the birth control benefit is working, see National Women's Law Center, *The Affordable Care Act's Birth Control Benefit: Too Important to Lose*, (May 2017), available at <https://nwlc.org/resources/the-affordable-care-acts-birth-control-benefit-too-important-to-lose/>.

<sup>11</sup> Nora V. Becker and Daniel Polsky, *Women Saw Large Decrease in Out-of-Pocket Spending for Contraceptives After ACA Mandate Removed Cost Sharing*, 34 *Health Affairs* 1204 (Jul. 2015) available at <http://content.healthaffairs.org/content/34/7/1204.abstract>.

<sup>12</sup> National Women's Law Center, *Still Nowhere To Turn: Insurance Companies Treat Women Like A Pre-Existing Condition* (2009), available at <https://nwlc.org/wp-content/uploads/2015/08/stillnowheretoturn.pdf>.

abortion exacerbate the economic instability of women and their families and actually increase the risk that women and their families will be forced into a cycle of poverty. When women are forced to pay for abortion care, studies show many divert funds from necessities like food, electricity, or rent in order to pay for the costs of an abortion. For those women unable to get the care they need, they are more likely to be living in poverty a year later than women who are able to obtain an abortion.<sup>13</sup>

*The Graham-Cassidy Proposal Would Force Medicaid Patients to Give Up a Trusted Provider of Critical Preventive Services*

The Graham-Cassidy proposal bars Medicaid patients from going to Planned Parenthood health centers for care, including cancer screenings, birth control, and treatment for sexually transmitted infections. For decades, Planned Parenthood has been an essential health care provider for women with Medicaid, and more than half of Planned Parenthood patients rely on Medicaid for health coverage.<sup>14</sup> Planned Parenthood health centers are a trusted source of critical family planning services for individuals in a way unmatched by other providers. Taking away patients' ability to access the critical care Planned Parenthood provides would have consequences for women's health, economic security, and lives.<sup>15</sup> The non-partisan Congressional Budget Office (CBO) estimates that if Planned Parenthood is denied federal Medicaid funding, an estimated 390,000 people will completely lose access to preventive health care and 650,000 will face reduced access to preventive care,<sup>16</sup> and "the number of births in the Medicaid program would increase by several thousand" in one year due to reduced access to birth control.<sup>17</sup>

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The Affordable Care Act has changed the landscape for women's health, enabling women to obtain affordable health care and coverage that better meets their needs. The Graham-Cassidy proposal would upend that progress, taking insurance coverage away from women, allowing insurance companies to once again discriminate against women, and jeopardizing women's health, lives, and economic security. Like every other ACA repeal effort that has been introduced

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<sup>13</sup> For more information on the harm of insurance coverage bans on women, see National Women's Law Center, *State Laws Regulating Insurance Coverage of Abortion Have Serious Consequences for Women's Equality, Health, and Economic Stability*, (Aug. 2017), available at <https://nwlc.org/wp-content/uploads/2017/08/50-State-Insurance-Coverage-of-Abortion-1.pdf>.

<sup>14</sup> Planned Parenthood Action Fund, Medicaid and Reproductive Health (last visited May 17, 2017), <https://www.plannedparenthoodaction.org/issues/health-care-equity/medicaid-and-reproductivehealth>.

<sup>15</sup> For a more detailed look of what it would mean to individuals to lose the ACA and Planned Parenthood, see National Women's Law Center, *Double the Trouble: Health Care Access Without the Affordable Care Act or Planned Parenthood* (2017), available at [https://nwlc.org/wp-content/uploads/2017/06/final\\_nwlc\\_DoubleTrouble2017.pdf](https://nwlc.org/wp-content/uploads/2017/06/final_nwlc_DoubleTrouble2017.pdf)

<sup>16</sup> CONG. BUDGET OFFICE, *Cost Estimate: H.R. 3134 Defund Planned Parenthood Act of 2015* (Sept. 16, 2015) at 3, available at <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr3134.pdf>.

<sup>17</sup> CONG. BUDGET OFFICE, *Cost Estimate: American Health Care Act* (Mar. 13, 2017) at 23, available at <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/americanhealthcareact.pdf>.

and considered in this Congress, the Graham-Cassidy proposal would be devastating to women and families across this country. It is time to stop playing politics with women's health. The Center urges senators voting on this proposal to oppose it.