

United States Senate

WASHINGTON, DC 20510

July 30, 2020

Dear President Trump:

We write to highlight our concern with the Medicaid “maintenance of effort” (MOE) provision in the Families First Coronavirus Response Act (FFCRA). This provision gravely threatens the integrity of state budgets and threatens the very purpose of the Medicaid program: to serve the truly needy.

The Medicaid “MOE” provision, perhaps better described as state budget handcuffs, requires states to maintain all persons enrolled in state Medicaid programs—regardless of whether they qualify for the program. The text says that states may not receive increased federal financial assistance unless everyone on the program, even someone who is or becomes ineligible, is:

“treated as eligible for such benefits through the end of the month in which such emergency period ends unless the individual requests a voluntary termination of eligibility or the individual ceases to be a resident of the State.”¹

The “emergency period” is expected to last well into next year according to the Congressional Budget Office, and could be much longer.² Because of this provision, states may be required to keep ineligible individuals on the Medicaid program, even after they return to work, or even if they gained access to the program fraudulently.

We are concerned that this provision will threaten the integrity of state budgets. In FFCRA, Congress also authorized an additional temporary 6.2 percent federal match. However, Medicaid spending already accounts for one out of every three state dollars.³ As Medicaid enrollment is projected to spike by as much as 70 percent or more compared to 2019 levels, with states needing to fund as much as \$128 billion, this provision adds to the states’ already existing financial burden by requiring states to keep those who are not actually eligible for benefits enrolled in the program.⁴

¹ Sec. 6008 of the Families First Coronavirus Response Act; Public Law No: 116-127.

² Phillip Swagel, “Preliminary Estimate of the Effects of H.R. 6201, The Families First Coronavirus Response Act,” Congressional Budget Office (April 2020) <https://www.cbo.gov/system/files/2020-04/HR6201.pdf>

³ Nicholas Horton, “The Medicaid pac-man: How Medicaid is consuming state budgets,” Foundation for Government Accountability (October, 2019) <https://thefga.org/research/medicaid-pac-man/>

⁴ Jon Ingram and Nicholas Horton, States are About to be Hit by a Medicaid Tidal Wave, June 10, 2020, <https://thefga.org/research/covid-19-medicaid/>

As this provision stretches state budgets, it may also divert state resources from the truly needy towards those who are ineligible for the program. That is unacceptable. Moving forward, we must correct this statutory provision and instead grant states more flexibility so they can focus their resources on the truly needy.

Thank you for your attention to this matter. We stand ready to work with you to remedy the problems this provision has caused and enact a solution that will safeguard state budgets and the program's integrity.

Sincerely,



Michael S. Lee
United States Senator



Cindy Hyde-Smith
United States Senator



Ted Cruz
United States Senator



Ben Sasse
United States Senator



Mike Braun
United States Senator