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Opening Statement

Congresswoman Jackie Speier, Subcommittee Ranking Member

Subcommittee on Energy Policy, Health Care and Entitlements

Hearing on "Examining the Federal Government's Failure to Curb Wasteful State Medicaid Financing Schemes"

July 29, 2014

Thank you, Chairman Lankford, for holding this hearing. And thank you to all the witnesses for testifying before our Committee. Tomorrow is the 49th anniversary of the Medicaid program. In 1965, this country made a pledge to low-income working and disabled Americans that they would have a safety net to provide for their basic healthcare needs. This partnership between the State and Federal governments has delivered on this promise for nearly five decades, providing critical medical services to the most vulnerable Americans.

Under the Affordable Care Act, we have extended this commitment to millions more Americans. This year, states were able to expand Medicaid to all adults under 65 with incomes up to 138% of the federal poverty level. We are talking about a person with an income of approximately $16,000 or a family of four with an income of $32,900. For these newly eligible enrollees, the federal government will pick up 100% of the cost of the expansion from 2014-2016, falling gradually to 90% by 2020.

Twenty-seven states have decided to expand Medicaid, including a number of Republican-controlled legislatures and Governors. For example, recently, Governor Kasich announced his decision to expand Medicaid in the state of Ohio, stating quote "It's going to save lives…It's going to help people, and you tell me what's more important than that." End quote.

To the detriment of their State's bottom line, some Governors and state legislatures are so blinded by hostility toward the ACA that they overlook the compelling moral and economic reasons to expand Medicaid.

Similarly, many Congressional Republicans view the ACA Medicaid expansion, as well as the Medicaid program generally, as an anathema. Today, we will hear a number of arguments about why Medicaid should be cut, or turned into a block grant.

First, Republicans argue that Medicaid's costs are growing out of control. But average annual Medicaid cost growth per beneficiary over the last 30 years has been no greater than the

growth of health care costs system wide. In fact, Medicaid's cost growth per beneficiary has been growing slower than costs in the private insurance market.

Second, Republicans argue that the financing structure of Medicaid is highly vulnerable to gaming by states that use financing mechanisms to maximize federal funding; some examples they point to include the use of intergovernmental transfers (IGTs), certified public expenditures (CPEs), and provider taxes. Therefore, Republicans argue, the only way to control federal Medicaid costs is to block grant funding.

It is important to point out that under the current statutes and regulations, provider taxes, intergovernmental transfers, and certified public expenditures are entirely legal and permissible ways to finance the non-federal share of Medicaid. Nearly all 50 states use these financing mechanisms, and have done so for decades.

Moreover, the federal government has taken a number of steps over the past two decades to limit these mechanisms. Legislation enacted in 1992, 1997, 2000, and 2006, as well as federal regulations and guidance, have imposed restrictions on states' ability to draw down additional federal Medicaid funds.

I'm not saying that Medicaid is perfect. One problem that I hear about repeatedly is that Medicaid pays providers much less than what Medicare pays. Even after factoring in the Medicaid supplemental payment programs, California hospitals provided nearly $14 billion in uncompensated care in 2011. This figure includes $5.2 billion in losses due to the difference in the cost of caring for Medi-Cal patients and what the program pays hospitals for those services.

Although the problem of uncompensated care is particularly acute in California, uncompensated care costs and Medicaid reimbursement rates are an issue for providers nationwide. Any efforts to restrict state financing of the nonfederal share of Medicaid or change the Upper Payment Limit must be considered in this context, and in the context of how such changes will affect providers who are already struggling to keep doors open.

I appreciate that today we are looking at the cost implications to the federal government by examining legitimate and legal practices that states use to fund their non-federal share of Medicaid. But if we are serious about preventing and identifying waste, fraud, and abuse, there is so much more that we could be doing. We are currently being penny-wise and pound-foolish if we do not fully fund the HHS Inspector General's FY 2015 budget request, which is one of the best tools we have for identifying waste, fraud, and abuse.

I look forward to hearing from GAO and the OIG regarding their concerns and recommendations, and from CMS regarding what the agency is doing to improve federal oversight of state financing of Medicaid costs. I also look forward to hearing about any additional actions that Congress should take to address these problems.

With that, I yield back.

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