



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

THE GOVERNOR

May 30, 2017

The Honorable Pat Toomey
United States Senate
248 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Toomey:

Thank you for the recent opportunity to discuss attempts in Washington D.C. to change our health care delivery system, as well as my concerns about the impact certain policy proposals may have on the millions of Pennsylvanians who now have coverage but previously were without adequate care.

To be frank, I am extremely concerned with the direction of the conversation in Congress, and the impact it may have on Pennsylvanians' access to affordable and adequate care – an undoubtedly vital service. Scaling back consumer protections and disrupting our insurance market would eliminate or diminish coverage for millions of our neighbors. The proposed caps and cuts imposed on Medicaid would be particularly harmful for our aging population, and would leave the commonwealth scrambling to maintain coverage for kids and individuals with disabilities. To that end, I urge you to reconsider your recent call for even steeper cuts in federal support for this critical program.

Throughout the debate on the future of the Affordable Care Act (ACA), I have heard from constituents across our great state – seniors with complex health care needs, parents of children with disabilities and chronic diseases, and those suffering from substance use disorder – who continue to express serious concerns about the impact the American Health Care Act (AHCA) will have on their ability to access quality health care.

I wanted to take a moment to share some of their stories with you directly:

- Michael from Allison Park has a grandson with special needs who has been able to maintain a high quality of life because of the services he receives through Medicaid.
- Annette from New Hope has worked hard all her life, and struggles to make ends meet, but has been able to access preventive care because of ACA subsidies. However, with the new distribution included in the AHCA, she does not think she'll be able to afford care any longer.
- Johnathan from Beaver reached out to tell me how his parents – a retired teacher and a former USAirways employee – have been able to purchase a health care plan that fits their needs because of the ACA. This coverage meant his father could receive treatment for pre-cancerous polyps, treatment that they are likely no longer going to be able to afford under the cost shifts included in AHCA.

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- Tasha from Pittsburgh underwent corrective heart surgery that was covered due to reforms through ACA but now is terrified about what this pre-condition will mean if changes are not made to the current version of the AHCA.

I have no doubt that you are also hearing these concerns and will advocate on behalf of our residents as the U.S. Senate drafts its alternative proposal.

As we discussed, I believe that the AHCA, in its current form, is a bad bill that should be taken off the table. The process to get the AHCA through the House was not transparent, not representative of the voice or needs of the people, and resulted in a piece of legislation that will have dire and immediate consequences for the most vulnerable Americans instantly upon implementation.

As a member of the core group of senators charged with forging a path forward on health care reform, I implore you to consider where we are today with the ACA and recognize that while it has challenges, dismantling the progress we have made is not the right move for residents across Pennsylvania.

Any new proposal should not take us backward, where too many Americans sought treatment in emergency rooms and the rest of us paid for that care through higher premiums. Rather, changes should focus on making health care more affordable, more sustainable, and more accessible. These are basic principles that should be at the heart of any legislation that hopes to truly achieve meaningful reform yet they have been absent from the debate in Washington over the last several months.

I urge you to take this opportunity to restore the public's faith in the legislative process, listen to your constituents, and craft a piece of legislation that meets Americans, and state and local governments, where they are. Pennsylvania is facing a \$3 billion structural deficit in the coming years. If the federal government shifts significant costs to states at any point, it will throw Pennsylvania into a fiscal crisis the likes of which we've never seen before. The current Medicaid reforms included in AHCA would reduce federal funding to Pennsylvania by more than \$26 billion over the next nine years. Whether this shift is phased in or immediate, you and I both know this cost shift will result in hundreds of thousands of people losing access to health care.

One glaring fallout from a proposal of this kind would be the impact on our state's ability to address the ongoing opioid and heroin epidemic. Through Pennsylvania's Medicaid program, 222,127 individuals received treatment for substance use disorder in 2016. Of those, 127,194 individuals were covered through Medicaid expansion, meaning they would not have been able to access that treatment prior to my decision to expand Medicaid. Almost 68,000 of those newly enrolled Pennsylvanians sought treatment of some kind for opioid specific substance use disorder,

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an alarming number. Phasing out Medicaid expansion and eliminating this benefit for low-income, hard-working individuals across our state would catapult us even further into the depths of this epidemic and would put people's lives unnecessarily at risk.

You and I discussed the importance of finding middle ground and compromise in this debate, and I want to reiterate my appreciation for your willingness to listen to my concerns and the concerns of our constituents and to discuss alternatives to the current AHCA plan. That said, I believe the following are critical considerations for the Senate as this debate continues:

- A fundamental inclusion in any health care legislation, new or existing, must be the protection against discrimination based on an individual's pre-existing condition(s). You mentioned on our call that you believe community rating waivers would only be available in very limited circumstances. I would argue that the AHCA does not include that guarantee and fear that states would have broad authority to apply for and implement these waivers. This would ultimately allow states and insurers to charge individuals with a gap in coverage higher premiums based on health status, a practice that is currently prohibited under the ACA. According to a recent report by the Kaiser Family Foundation, more than 27.4 million non-elderly adults nationally had a gap in coverage of at least several months in 2015. This includes 6.3 million people who have a pre-existing condition that would have led to a denial of insurance in the pre-ACA individual market and would lead to a substantial premium surcharge under AHCA community rating waiver. The recent Congressional Budget Office analysis of the House-passed ACHA projects that one in six Americans will see their premiums sky-rocket, the result being many of these individuals – the individuals who need coverage the most – will no longer be able to afford it.
- Reauthorization of the Children's Health Insurance Program (CHIP) must continue at the current enhanced matching rate. Pennsylvania's CHIP has long been acknowledged as a national model, receiving specific recognition in the Federal Balanced Budget Act of 1997 as one of only three child health insurance programs nationwide that met Congressional specifications. More than 180,000 children are estimated to benefit from Pennsylvania's CHIP this year, and it has contributed to Pennsylvania achieving the lowest uninsured rate in our history for children at just 4.1 percent.
- Structural changes to Medicaid must not slowly shift costs onto states by failing to increase federal funding at appropriate rates. Even reducing the federal matching rate for the expansion population to a traditional match rate of 52% would cost Pennsylvania well over \$2 billion annually. Paired with per capita cuts, Pennsylvania is projecting a loss of more than \$26 billion over the next nine years. This a number we simply cannot absorb.

The federal government must reform the approach to review state plan amendments, state waiver programs, and state contracts and rates for Medicaid. The Centers for Medicare & Medicaid (CMS)' review of these materials has become a bureaucratic process that is protracted and lacks official standards or criteria by which the review is based. A better state-federal partnership should

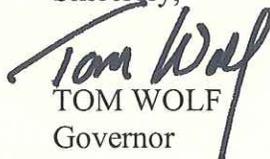
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be grounded in objective rules, applied consistently, and afford states the flexibility and control over those matters that are appropriate for state oversight.

- Along those same lines, following through on the Trump Administration's promise of increased flexibility for states to design programs that meet our specific needs would save our state money and allow us to continue improving outcomes for Medicaid recipients. Structural changes that pass risk and cost onto states degrade our ability to be flexible, except in cases of deciding which services should be cut and ultimately, who is less deserving of health care.
- Congress should repeal the Institutions for Mental Disease (IMD) exclusion. This policy, further clarified and limited in CMS' Medicaid Managed Care Final Rule issued last summer, limits federal financial participation on stays in an IMD, which encompass more than 80 percent of Pennsylvania's inpatient drug and alcohol treatment providers, to no more than 15 days. The new rule goes further and suggests that state will lose the match for the entire month if a person goes one day over a 15 day stay. Clearly, in the face of the opioid and heroin epidemic, we know that 15 days is not sufficient for a person to address their substance use issues in any kind of substantive or long-term way. This arbitrary policy could cost Pennsylvania upwards of \$100 million annually to offset this shift in federal guidance and would force us to take several steps backward in our fight to address addiction and curb the tide of this devastating epidemic.

In summary, we should be working to improve current approaches that aim to provide better health care for more people by developing solutions that increase access, lower costs, and improve the quality of care. I have reiterated to your colleagues in the House and Senate that I stand at the ready to engage in meaningful debate about what health care reform should look like for Pennsylvanians – reforms that build on the progress made under the ACA and ensure that residents have access to quality and affordable health care coverage. I would be happy to continue this discussion at any time and look forward to future conversations.

Sincerely,


TOM WOLF
Governor