



## **Proposed Changes to Public Benefits Create Confusion**

By [Robert F. Brogan, CELA](#)

Public benefit programs are likely to see significant modifications. Legislators are already proposing major changes to the Affordable Care Act (ACA), Medicaid, Social Security, Medicare and other programs of enormous importance to individuals with disabilities. Legislative action is likely to impact the following:

- Repeal or revision of ACA
- Block grants or per capita caps for Medicaid
- Tightened eligibility guidelines for disability programs

### **Affordable Care Act**

President Trump's first act upon taking office was to instruct regulatory agencies to block implementation of ACA features they consider "harmful." In addition, both houses of Congress have passed legislation that would enable repeal as part of a fast track budget reconciliation process. There's been lots of discussion about how quickly a replacement could be in place if the law is actually repealed. Given the program's complexity, it seems unlikely that an alternative could be shaped quickly, and interim uncertainty would be likely to shake up the healthcare market. However, it's probable that insurers and the federal government would, for some period, continue to honor agreements in place at the time that legislation is passed.

Leaders in Congress and the administration have expressed interest in keeping these two popular provisions in an ACA replacement:

- Coverage of children till the age of 26 on parents' health insurance policies. This extended coverage has meant that many individuals with disabilities could postpone applying for Medicaid, which often means spending down assets and/or creating a special needs trust in order to protect them.
- Coverage for pre-existing conditions, without which many people with disabilities would, once again, find it difficult to obtain private insurance or would be forced into high-risk pools charging premium fees.

Other features at risk include:

- Medicaid expansion, meaning that millions of individuals would no longer have health coverage, because they make too much money to qualify for “standard” Medicaid but not enough to purchase private insurance.
- Elimination of lifetime caps. If reinstated, many people with disabilities would eventually need to find alternatives to private insurance.
- Requirement that mental health be covered to the same extent as physical health.
- Coverage for “10 essential health benefits” by exchange-sold policies. This has been of special benefit to people with disabilities because it includes habilitative services, which focus on helping individuals acquire functional abilities limited by congenital conditions.

As the legislative changes roll out, the Special Needs Alliance intends to publish additional blog posts to explain the implications the changes may have for individuals with special needs.

## **Medicaid**

There have long been discussions in Congress about controlling the cost of Medicaid, and by late summer or early fall, it’s likely that focus will shift to this fundamentally important program. Recently, in fact, the House held a hearing on a few cost-saving measures. Lump sum payments to the states, in the form of block grants or per capita caps, have been proffered as one solution by the White House to be a replacement for the current funding process. Today, the federal government has an open-ended obligation to match each dollar that a state contributes to Medicaid. And when states have a high percentage of low-income residents or the federal government wants to encourage the delivery of certain services, Washington often covers significantly more than 50 percent of the expense.

Since either block grants or per capita caps would limit federal outlays, some states may see increased financial responsibility to cover services and supports.

Block grants or per capita caps in the Medicaid program may reduce the federal government’s role in setting the requirements for Medicaid eligibility. States could potentially revise eligibility qualifications for these programs, and/or change the nature or extent of benefits that current enrollees receive.

As potentially dramatic differences in Medicaid services emerge across the nation (Indiana already charges a premium for Medicaid coverage), the Special Needs Alliance intends to provide timely updates to help explain how the changes may impact those with special needs.

## What This Means

For families wondering what all this means for loved ones with special needs, there are more questions than answers. But one thing is certain. Advocacy will be critical in order to provide for the highest possible quality of life for individuals with special needs. The Special Needs Alliance is joining other groups to fight for the right of people with disabilities to lives characterized by dignity and independence.

---

**About this Article:** *We hope you find this article informative, but it is not legal advice. You should consult your own attorney, who can review your specific situation and account for variations in state law and local practices. Laws and regulations are constantly changing, so the longer it has been since an article was written, the greater the likelihood that the article might be out of date. SNA members focus on this complex, evolving area of law. To locate a member in your state, visit [Find an Attorney](#).*

**Requirements for Reproducing this Article:** *The above article may be reprinted only if it appears unmodified, including both the author description above the title and the “About this Article” paragraph immediately following the article, accompanied by the following statement: “Reprinted with permission of the Special Needs Alliance – [www.specialneedsalliance.org](http://www.specialneedsalliance.org).” The article may not be reproduced online. Instead, references to it should link to it on the SNA website.*