

High-Stakes Health Care:

Essentials on the Affordable Care Act, Medicaid and CHIP in a Trump Administration

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Legislative Briefing
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About CPPP:



CPPP was born from faith and a vision of social justice in 1985 when a Congregation of Benedictine Sisters in Boerne, Texas, founded the center to improve health care access for the poor.



Today's Topics:

ACA repeal: What is at stake for Texas,

Possible mechanisms & timelines for repeal, and

Considerations for ACA replacement plans

Medicaid Block Grant:

Medicaid fundamentals;

Interactions with state budget issues;

Several angles on how fed law block granting Medicaid would change, potentially harm Texas

What to Take Away:

ACA repeal and conversion of Medicaid to a Block Grant could reverse all recent Texas progress in reducing the uninsured. Specific outcomes:

- ❖ **Human suffering and financial harm of the uninsured, inadequately insured**
- ❖ **Damage to Texas health providers, with a hard blow to hospitals in particular**
- ❖ **All recent/current Congressional BG proposals include DEEP Medicaid funding cuts.**
- ❖ **Cost shifts will be to Texas, and in turn to county government, local taxpayers**

Implications for Texas Legislature:

Top priority:

Legislators more fully understand the expected impact of ACA repeal/replace, as well as Medicaid Block Grants or Per Capita Caps--past the talking points. Lawmakers and staff engage with our Congressional delegation to protect interests of Texans.

Other:

- Federal changes may require state action/decisions on either ACA replacement or Medicaid funding caps
- Texas may want to replace some repealed ACA consumer protections (though state action reaches only 1/3 of privately insured Texans)
- Directive on Medicaid, contingent on congressional action? 2011 law (SB 7) may already authorize state to pursue a Medicaid Block Grant
- Next extension of Texas Medicaid 1115 waiver could provide vehicle for coverage of poor adults: a silver lining, but with plenty of challenges

Speakers



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ACA Repeal

HOW CURRENT PLANS FOR AN ACA REPEAL WILL AFFECT TEXANS

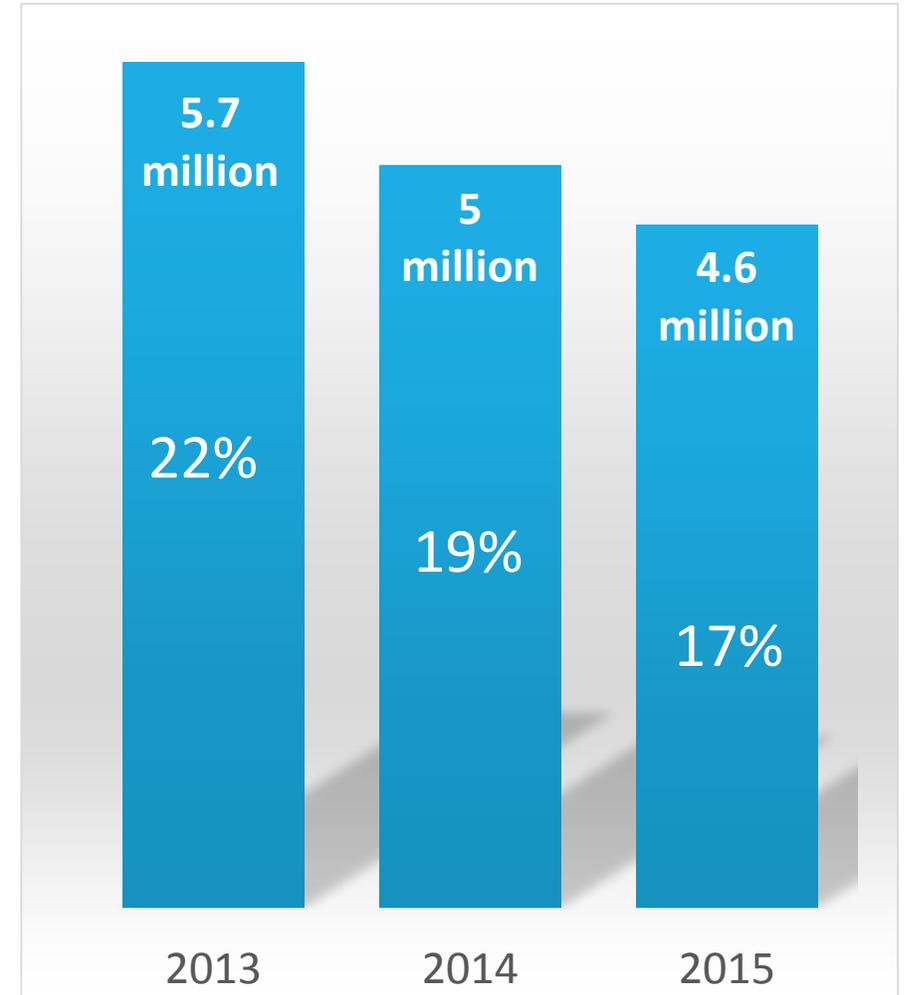
ACA's Historic Reduction in Uninsured

1.1 million fewer uninsured

5 percentage point drop in uninsured rate

Pre-ACA, Texas never had a one-year improvement of even a single percentage point

Texas Uninsured Population and Rate



Center for Public Policy Priorities. 2015. "[Census Data Reveal New Facts On Health Insurance.](#)" Austin, TX

Path for Partial ACA Repeal

A full repeal would need enough support (60 votes) to overcome a Senate filibuster. Congress is instead planning a partial repeal using “budget reconciliation.”

Requires only
51 votes in the
Senate

Can only change
existing law that
affects taxes or
spending

Possible Paths Forward in Congress

Repeal and Delay

- Pass partial repeal through reconciliation with an effective date for some changes 2-4 years in the future
- Pass replacement plan(s) through normal legislative process (needs 60 Senate votes)
- Allows an earlier vote on repeal
- Likely to cause immediate loss of coverage. Funding needed for replacement at risk.

Repeal with Simultaneous Replacement

- Will require 60 Senate votes, at least for some parts
- Will extend horizon for passage, as no consensus on a replacement plan

The ACA and Reconciliation

No bill language is available today. Congress passed, and Pres. Obama vetoed, a reconciliation bill to repeal the ACA in 2015, which serves as a possible blueprint.

Can be repealed in reconciliation:

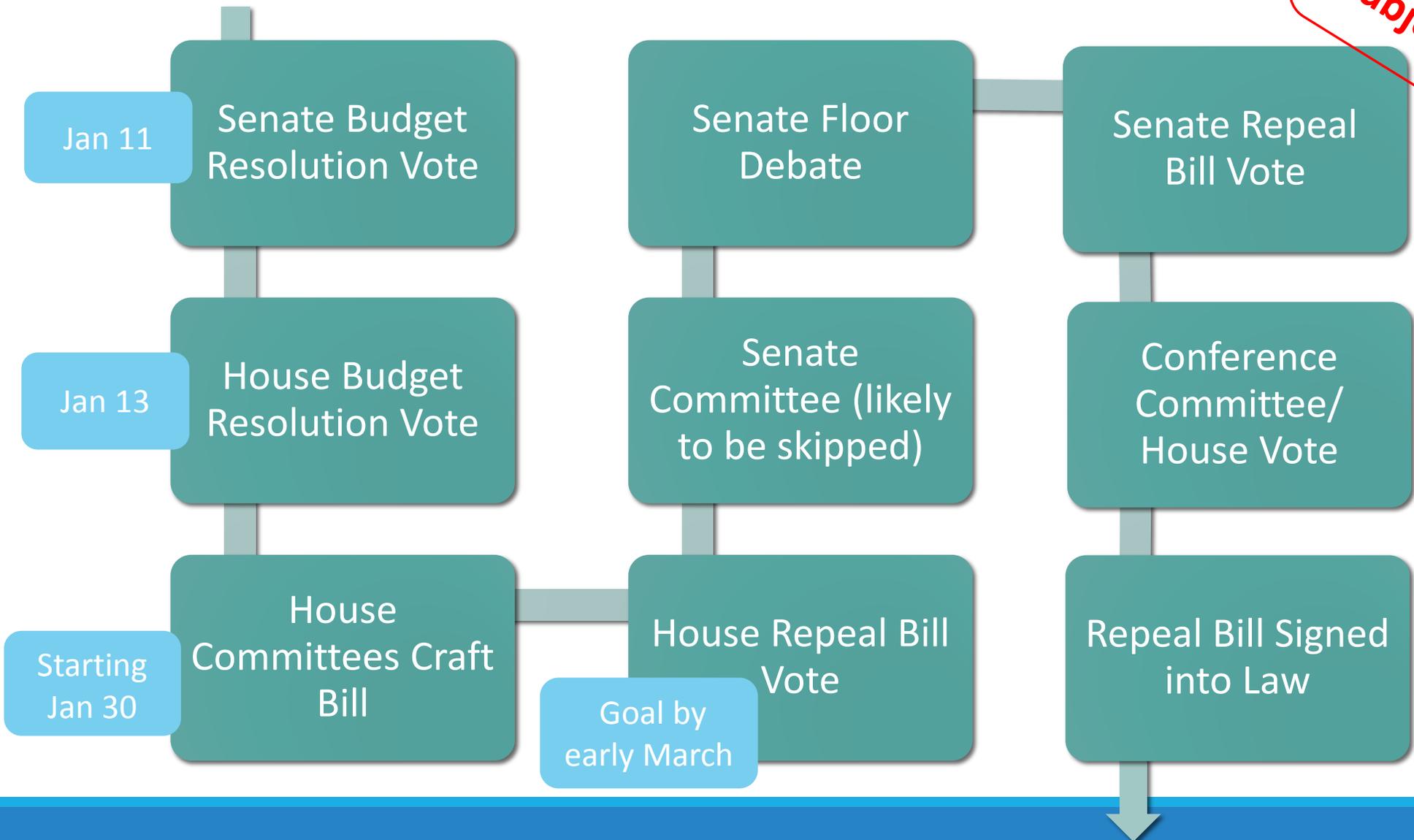
- Subsidies for the Health Insurance Marketplace
- Medicaid expansion
- Penalty for individual mandate and employer mandate
- Taxes that fund the ACA

Can't be repealed in reconciliation:

- Ban on denials/price hikes for pre-existing conditions
- Comprehensive benefits for small employer and direct purchase plans
- Preventive care with no copays

Road to Repeal (via reconciliation)

Several unknowns;
Subject to change



Harm from Repeal and Delay

Destabilized Individual Market

Insurers must sell to everyone, can't charge more if sick



~~Individual mandate~~



~~Marketplace subsidies~~



Younger, healthier people drop coverage

"Death Spiral"

Covered "pool" becomes sicker on average

Insurers raise rates

Destabilize individual insurance market. Possible market collapse before replacement.

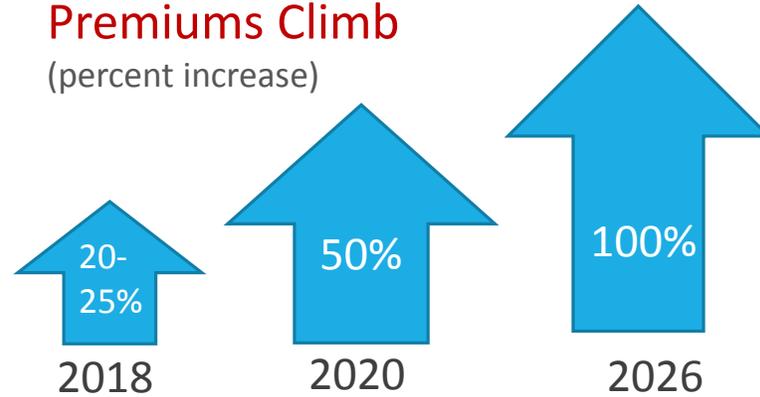
Affects 1.8 million Texans
(in and out of Marketplace)

Harm from Repeal and Delay

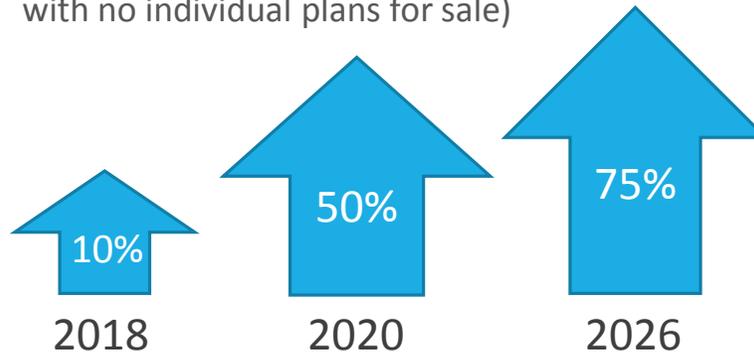
Starting in 2017, unpredictable costs/enrollment and general uncertainty cause some insurers to leave the individual market. In 2018 and beyond, more insurers exit and remaining ones raise rates.

Destabilized Individual Market

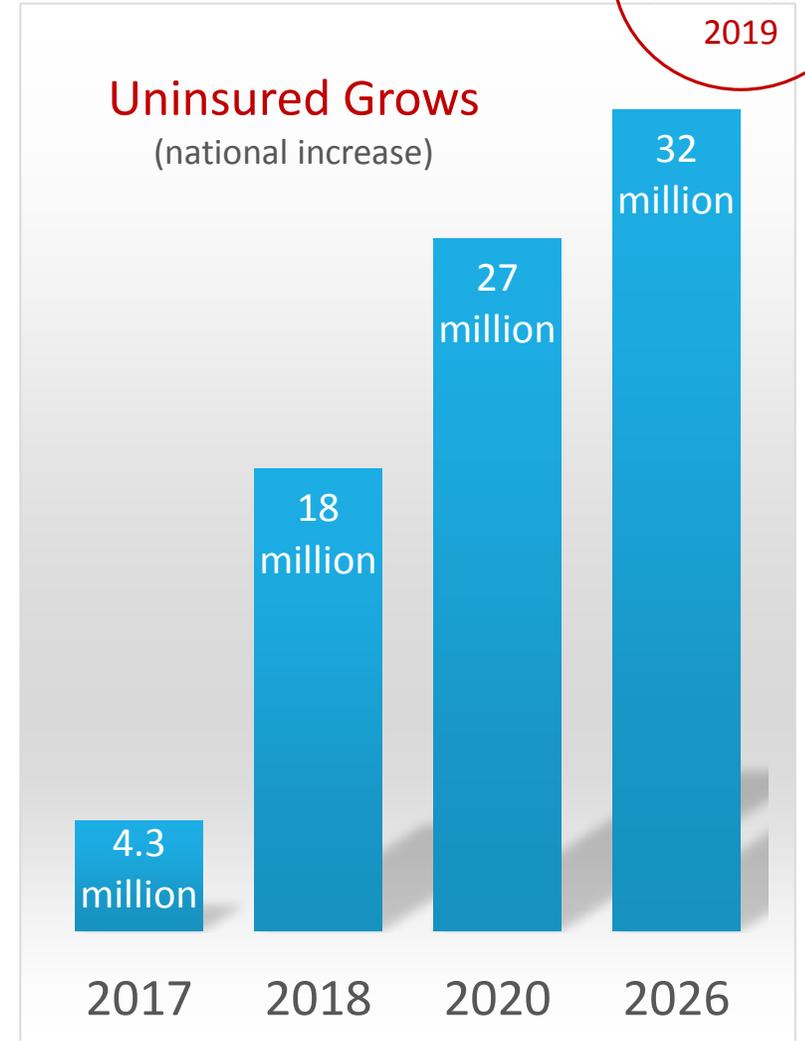
Individual Market Premiums Climb
(percent increase)



Coverage Unavailable
(% of Americans who live in an area with no individual plans for sale)



Uninsured Grows
(national increase)



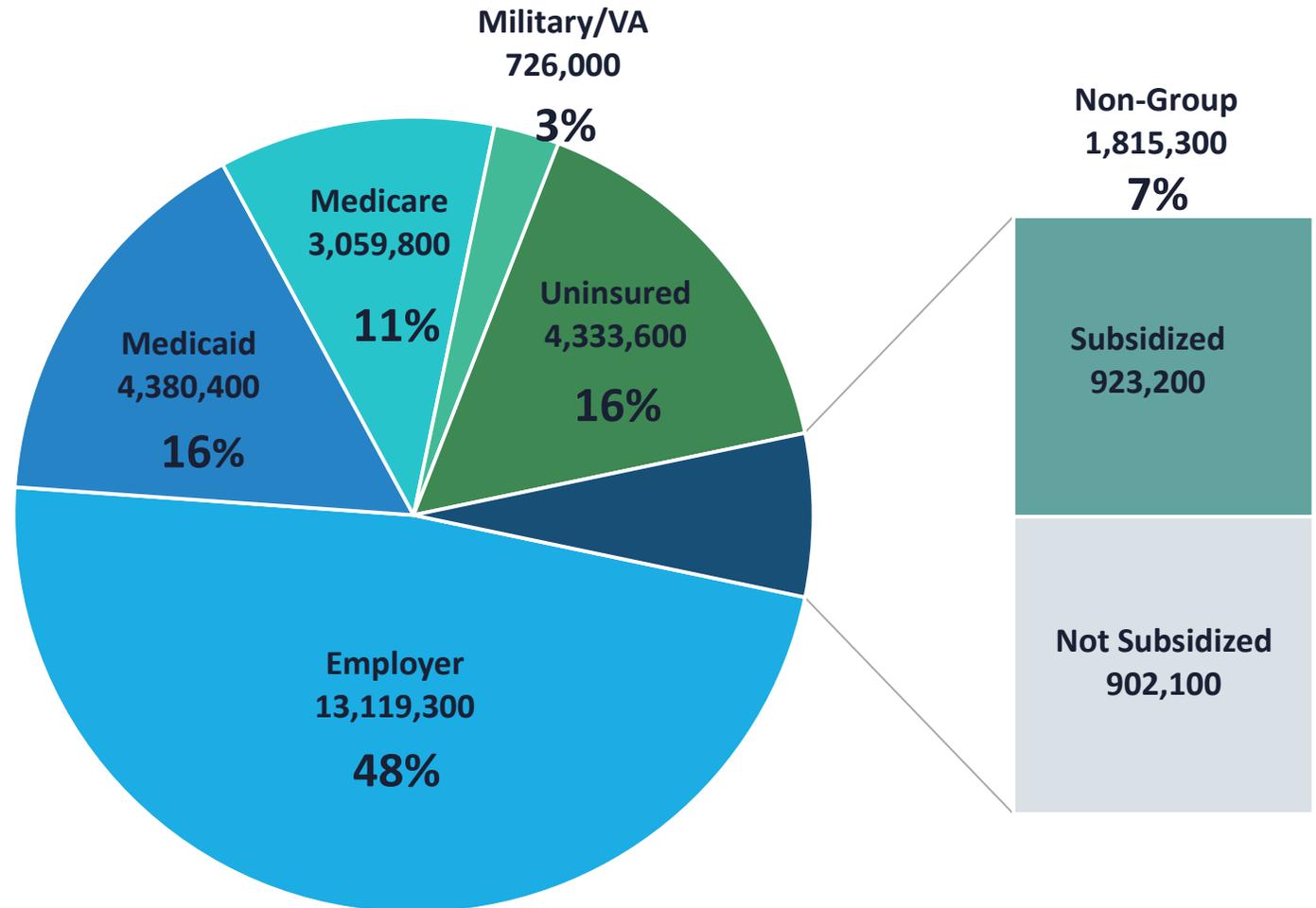
The Executive Order and Executive Actions

- Executive order from January 20: within the law, dismantle provisions of the ACA that impose a cost on state or individuals
- No immediate change, other than possibly introducing more uncertainty for insurers
- Changes unlikely before heads of HHS/CMS, Treasury/IRS, and Labor are in place
- Any changes to regulations must still comply with rulemaking process, notice, and timeline requirements and adhere to statute
- Possible changes down the road:
 - More hardship exemptions to individual mandate (in guidance)
 - Less or no enforcement of individual mandate

} “death spiral”
concerns

ACA: beyond the individual market

- The ACA includes important protections in almost all types of insurance
- Some could be at risk through changes to rules/guidance
- All need to be considered when evaluating ACA replacement plans



Kaiser Family Foundation estimates based on the Census Bureau's March 2014, March 2015, and March 2016 Current Population Survey (CPS: Annual Social and Economic Supplements).

Many are protected today because they have job-based coverage, Medicaid, or Medicare.

But, if they lose this coverage, they will be at risk of being denied coverage in the individual market.

27% of Non-elderly Texans Have a Pre-existing Condition



ACA protections for job-based insurance (and individual market insurance)

- ✓ No copays for preventive care
- ✓ No annual or lifetime limits: won't "run out" of coverage if you get seriously ill
- ✓ Annual cap on out-of-pocket costs: protections from medical bankruptcy
- ✓ Young adults can stay on a parent's plan until age 26
- ✓ No waiting periods before insurance covers your pre-existing condition
- ✓ Right to independent, external review if insurer denies your care
- ✓ No skimpy plans that don't even cover hospitalization

ACA protections for small employer insurance (and individual market insurance)

On top of other protections in the ACA for job-based coverage, small businesses and their employees stand to lose:

- ✓ A guarantee of decent coverage: essential health benefits and mental health parity
- ✓ Protections against wildly variable and discriminatory rates
- ✓ Review of rate increases

ACA protections for Medicare

- ✓ No copays for preventive care (3.6 million Texans)
- ✓ Medicare more financially secure: the ACA extended the solvency of the Medicare Hospital Insurance trust fund by 11 years
- ✓ Help with costs for prescription drugs: prescription drug “donut hole” closed

ACA innovations for Medicaid even w/o Medicaid expansion

- ✓ Medicaid for Former Foster Youth to age 26;
- ✓ Community First Choice (and enhanced match)
- ✓ CHIP mega-enhanced match
- ✓ Revamped Medicaid eligibility to be more consistent across states. *What will repeal do to that?*
 - Ended Medicaid asset tests/reporting, face to face interviews and complex income deduction requirements for poverty-based Medicaid (i.e., not MEPD)
 - “No Wrong Door” - Medicaid-CHIP and Marketplace applications automatically sent to the right home
 - Less paper: states use available third-party data for eligibility verification (at enroll and renewal);
 - “Reasonable Compatibility” requires you not be denied for inconsistent info, as long as available data still supports eligibility.
 - Allowed Texas to pay for Modernized eligibility process and conversion to tax-return based rules: 90% fed match for development, 75% for operations & maintenance

Common ideas in ACA replacement plans

- Non-continuous coverage penalty
- High risk pools
- Selling insurance across state lines
- Promoting health savings accounts
- Some form of tax credit/subsidy (generally less than ACA, based on age)
- Punting to the states

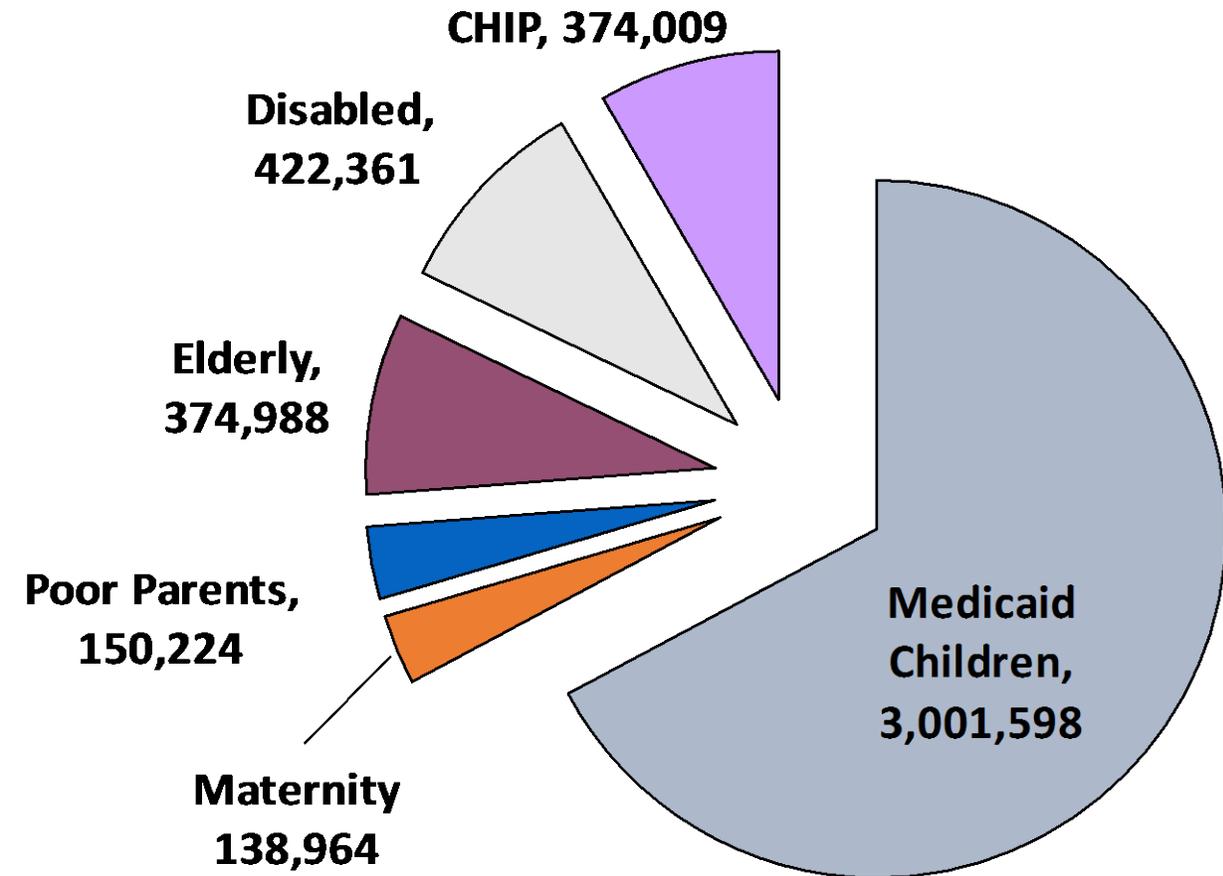
Drive-By: Texas Medicaid Primer

Medicaid & CHIP Overview

- Medicaid and the Children's Health Insurance Program (CHIP) provide health insurance coverage to certain low-income individuals, with the costs shared between the state and the federal government.
- Medicaid is an entitlement program; anyone who meets eligibility requirements must be provided coverage.
- CHIP is not a federal entitlement, but in Texas all eligible children are provided services.

Texas Medicaid/CHIP: Mostly Children

Plus Serious Disability, Poor Seniors, Pregnant Women



September 2016, HHSC data

Source: Center for Public Policy Priorities, HHSC data.

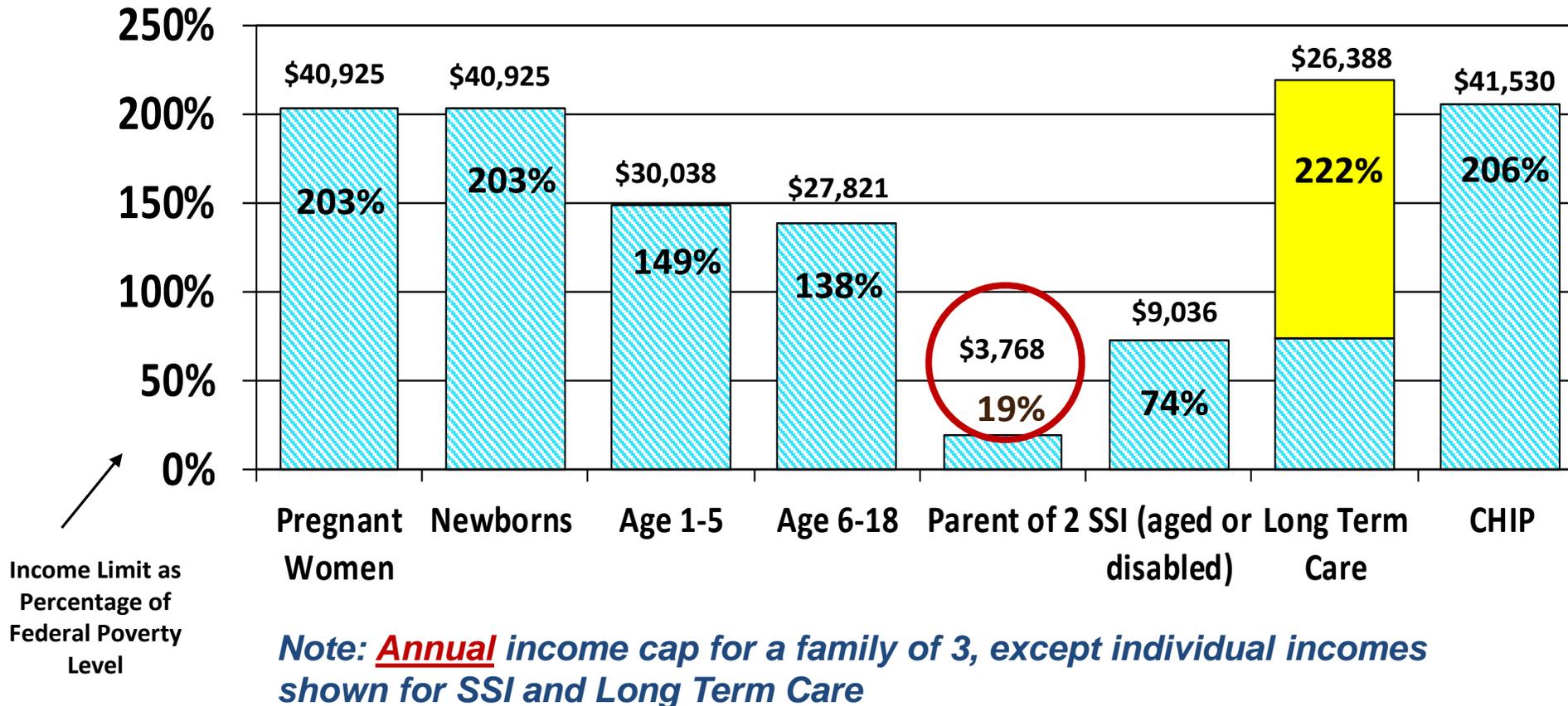
Total Enrolled:
(as of September 2016)
4.5 million Texans

Of these,

***3.4 million are children
(~45% of Texas kids)***

Why 3 million children, only 150,000 Parents?

Income Caps for Texas Medicaid and CHIP, 2016

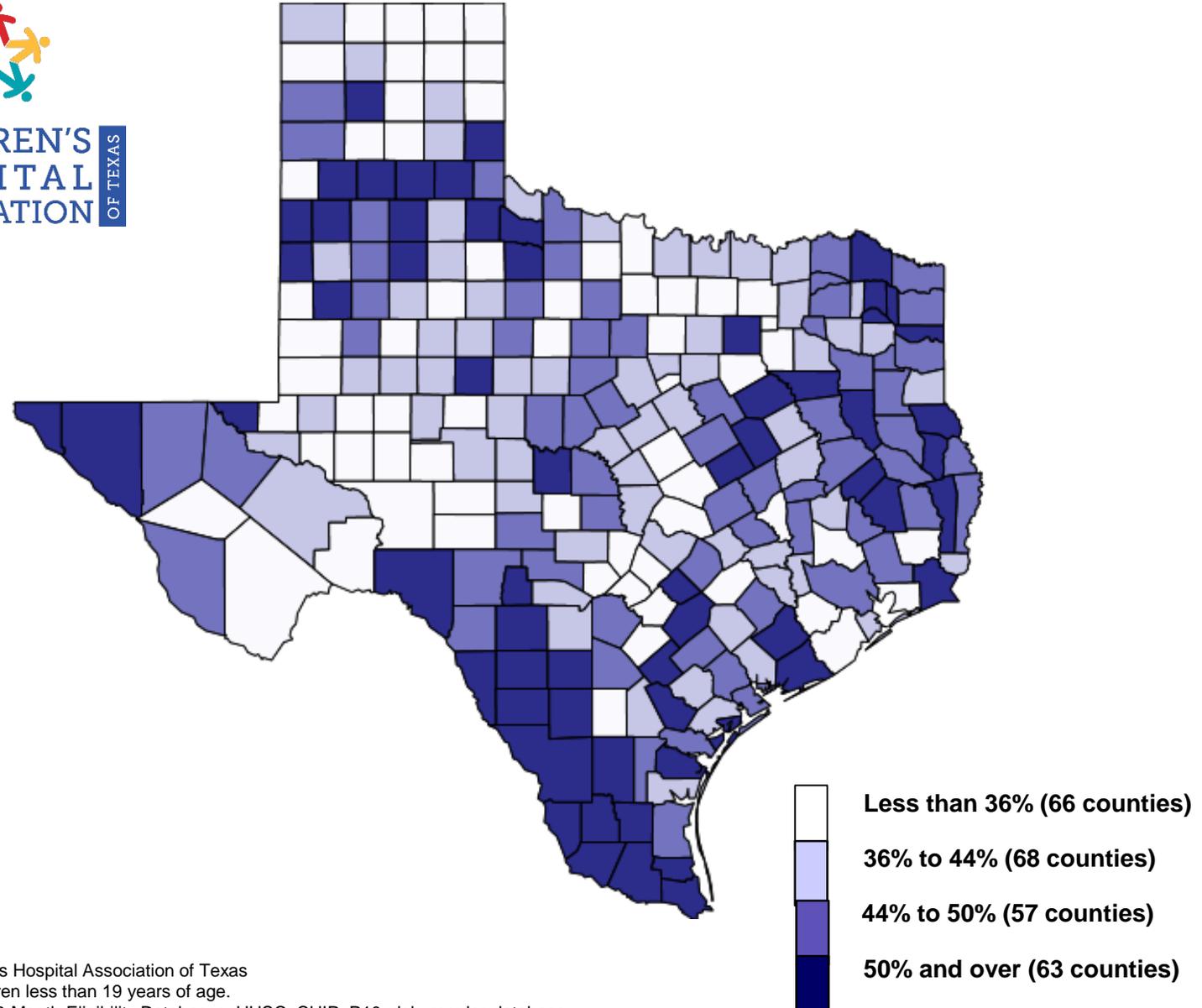


ACA
Repeal
May
Change
These!

Source: Center for Public Policy Priorities.

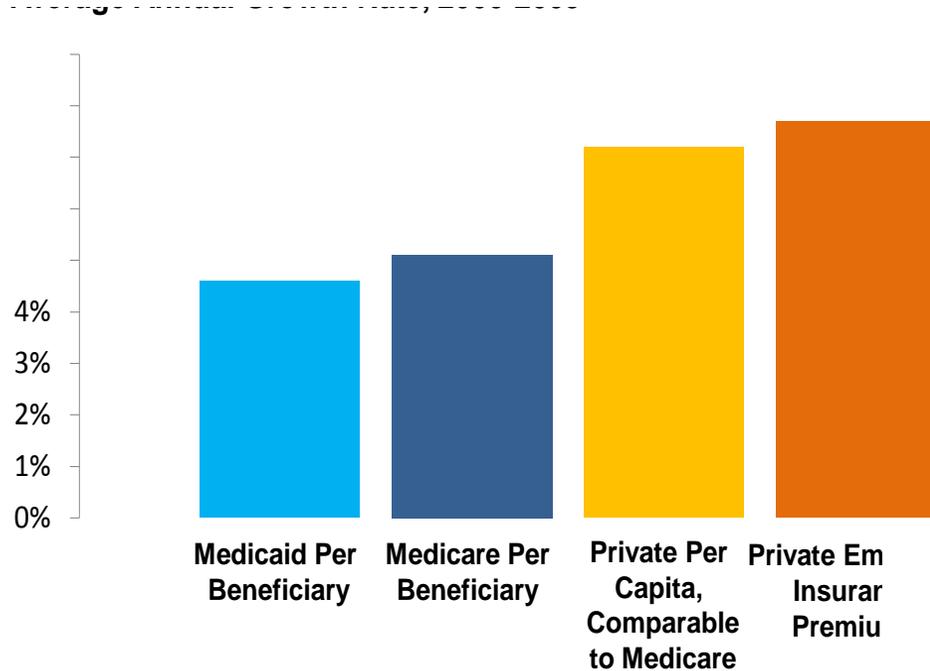
Nearly half of Texas Children Were Enrolled in Medicaid or CHIP in March 2014,

From a high of 77% to a low of 10%



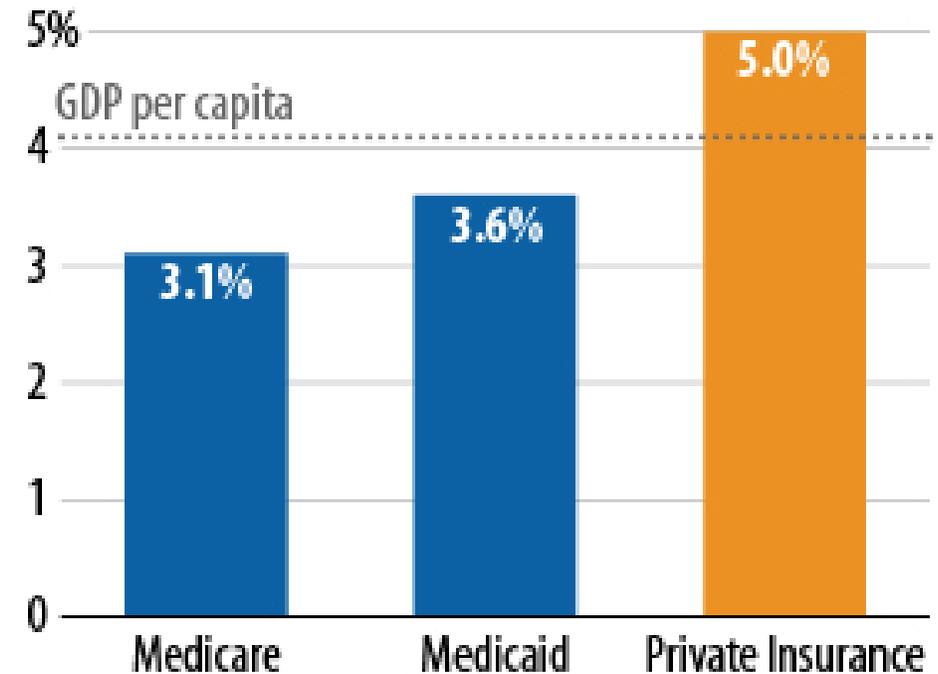
Analysis by Children's Hospital Association of Texas
Note: Includes children less than 19 years of age.
Sources: Medicaid: 8-Month Eligibility Databases, HHSC; CHIP: P10_dob_regular database, HHSC. Prepared by Data Quality & Dissemination, Strategic Decision Support, HHSC.
Children <19: Projections of the Population of Texas and Counties in Texas by Age, Sex and Race/Ethnicity for 2010-2050 (2000-2010 Migration (1.0) Scenario), UTSA, November 2014.

Medicaid Cost Growth Driven by Enrollment, Not Per-person Costs



Medicare and Medicaid Spending per Beneficiary Is Projected to Grow Slower Than Private Insurance

Average annual growth rate per enrollee, 2012-2021



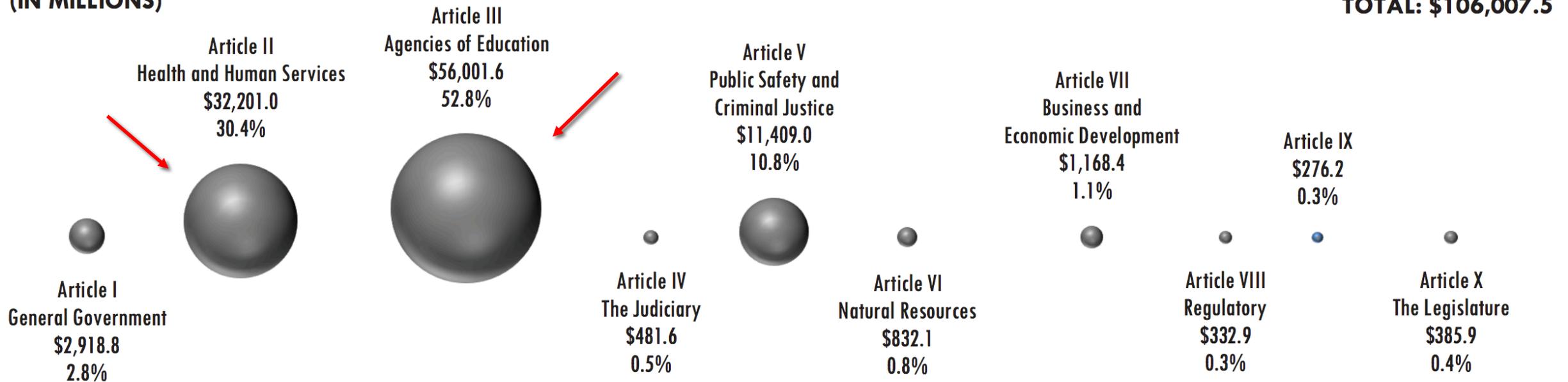
Source: Holahan and McMorrow, *New England Journal of Medicine*, August 2, 2012.

HHS as a share of Texas' State-Dollar Spending = 30.4%

Only with federal funds GAINED does HHS % exceed K-12 Public Education

FIGURE 3
FUNDING BY ARTICLE, GENERAL REVENUE FUNDS

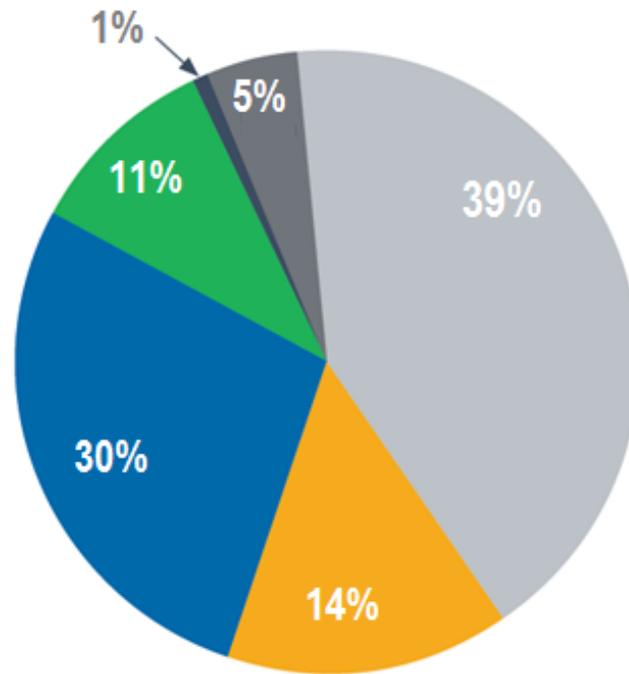
(IN MILLIONS)



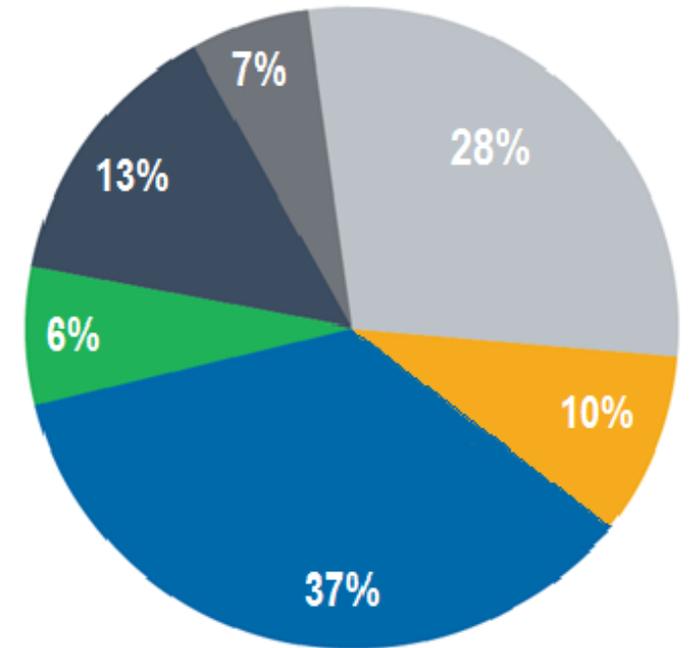
SOURCE: Legislative Budget Board.

2016-17 State Budget

Only with federal funds
GAINED does HHS %
exceed K-12 Public
Education



General Revenue
\$106.0 Billion



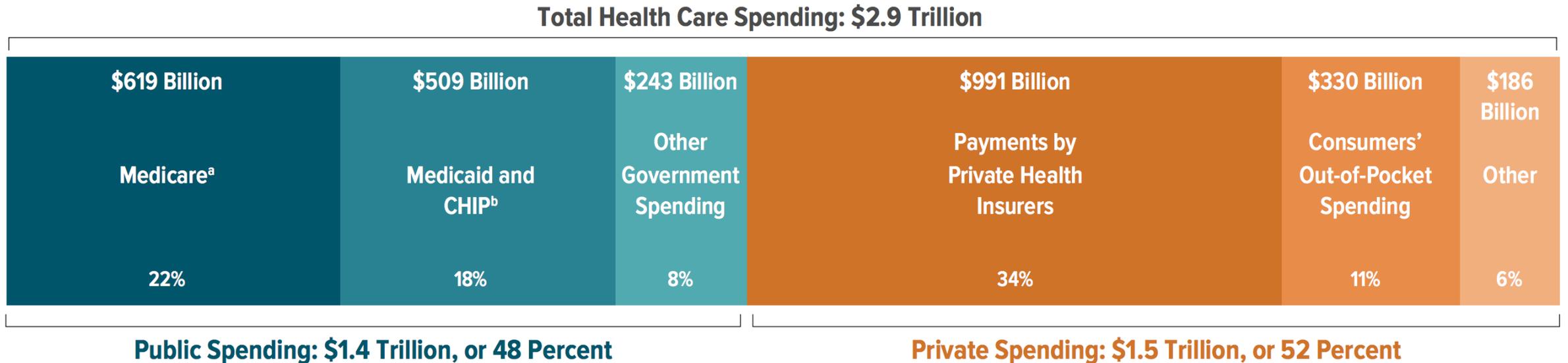
All-Funds
\$209.1 Billion

Source: Texas Legislative Budget Board, February 2016

Figure 3-1.

National Spending for Health Care, 2014

Total health care spending amounted to \$2.9 trillion in calendar year 2014, about half of which was private spending. The federal government subsidizes a substantial part of that private spending, primarily through the tax exclusion for employment-based health insurance.



Source: Congressional Budget Office, using data from the Centers for Medicare & Medicaid Services.

CHIP = Children's Health Insurance Program.

a. Refers to gross spending for Medicare, which does not account for offsetting receipts that are credited to the program. Those offsetting receipts are mostly premium payments made by beneficiaries to the government.

b. Includes federal and state spending.

Medicaid Provider Payments

Medicare physician payments, though imperfect, are annually adjusted.

Texas Medicaid physician payments have not had annual updates for over 20 years

- Annual updates frozen in 1993 and never resumed
- Since then, 3 legislative increases (99, 2001, 2007) and 4 cuts (2003, 2010, 2011, 2012)

Medicare Payment Advisory Commission estimates physician practice costs grow an average of 3% annually as a result of changes in practice expenses, such as salaries, rent, and other overhead costs.

Hospital payments are more complex, but like physician rates they stopped getting regular updates in the 1990s and pay far less than actual costs (average 55% for inpatient, 72% for outpatient).

Allowing provider rates to fall further and further behind actual costs of care has been a budget-balancing tool, which takes a toll on access to care.

State Budget and Medicaid/CHIP

- HHSC cannot ask for Medicaid inflation/cost increases in their budget request. Enrollment growth costs are allowed.
- HHSC must request funds to cover Medicaid inflation/cost increases via Exceptional Items; E.I. #1 is \$1.75 billion GR

House	Senate
Includes \$1.2 billion expected Medicaid Supplemental for 2016-2017 AND includes in 2017-2018 base	Missing from SB 1
Includes the ~\$700 million GR in base needed for Medicaid enrollment growth	Missing from SB 1
HHSC E.I.#1 \$1.75 billion for Current Services (~\$1.5B Medicaid-CHIP) not in either filed bill. LTSS needs = additional \$300 million GR	
House proposes additional \$100 million GR in Medicaid reductions	Senate proposes additional \$1 billion GR in cuts, not detailed (K-12 exempt)

Threat Assessment: Medicaid Block Grant and Per Capita Caps

Block Grant Basics

Current Medicaid law

- States are entitled to federal match for all costs despite enrollment or price spikes
- Individuals are entitled to be covered under the state's official eligibility standards and benefits, without caps or wait list

Block Grant

- Disconnects level of funding from the number of Medicaid beneficiaries and the cost of providing care.
- Federal contribution grows only according to a preset formula,
 - no matter how large the population in need becomes, or
 - how much a state actually must spend on health care, long term care for Medicaid recipients.

For states to manage Medicaid programs with a fixed amount of federal funding, the entitlement to coverage would need to be eliminated, and federal rules regarding eligibility, coverage, and payment would need to be substantially restructured or repealed.

The Block Grant Trade-Off

Texas trades current state-budget uncertainty (Medicaid enrollment growth + some cost growth) for annual uncertainty over whether Congress will fully fund the Medicaid Block Grant (or reduce the Per Capita Cap allocation), as these non-entitlement redesigns will be subject to annual appropriations.

Congress Established Social Security, Medicare, Medicaid as Entitlements deliberately to avoid Annual Funding Fights, and provide stability.

Recent Congressional Medicaid block grant proposals are designed to reduce federal Medicaid spending

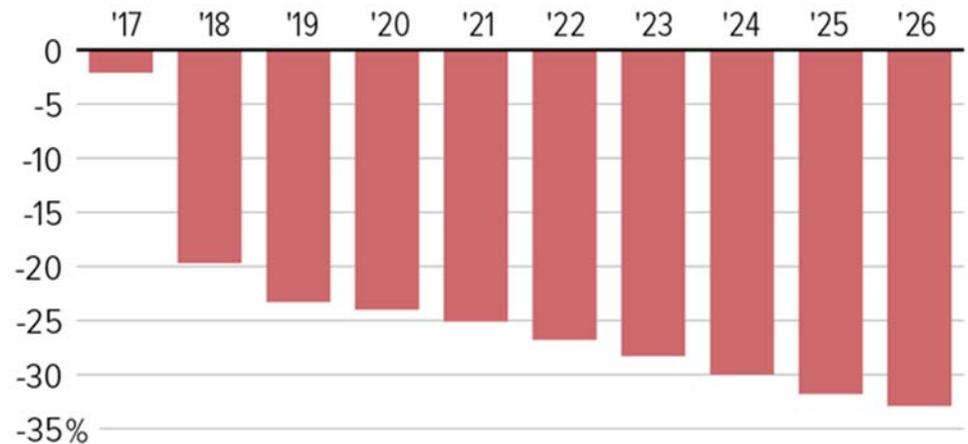
(Texas' Medicaid block grant amount based on current or historical spending) X (increased annually @ much lower % than currently projected annual federal Medicaid spending growth) = federal funding cuts that grow progressively larger each year.

Chairman Price's budget plan for FY 2017 would have cut federal Medicaid funding by \$1 trillion—or nearly 25%—over 10 years, compared to current law (*this is without including the additional funding cuts from repealing the ACA's Medicaid expansion, which increases the cut to 33% below the baseline projection*)

- And, the size of the cuts would have kept growing after 2026.
- Cuts of 20% by year #2 (increasing to 25%) will cut deeply into Texas enrollees' needs (and leave no room to cover our Texans with disabilities on wait lists and working poor uninsured, or to meet other new needs).

Medicaid Cuts Would Grow Over Time Under House Budget Committee Block Grant

Percent cut in federal Medicaid funds, relative to current law



Source: CBPP analysis using Jan. 2016 Congressional Budget Office Medicaid baseline and House Budget Committee documents.

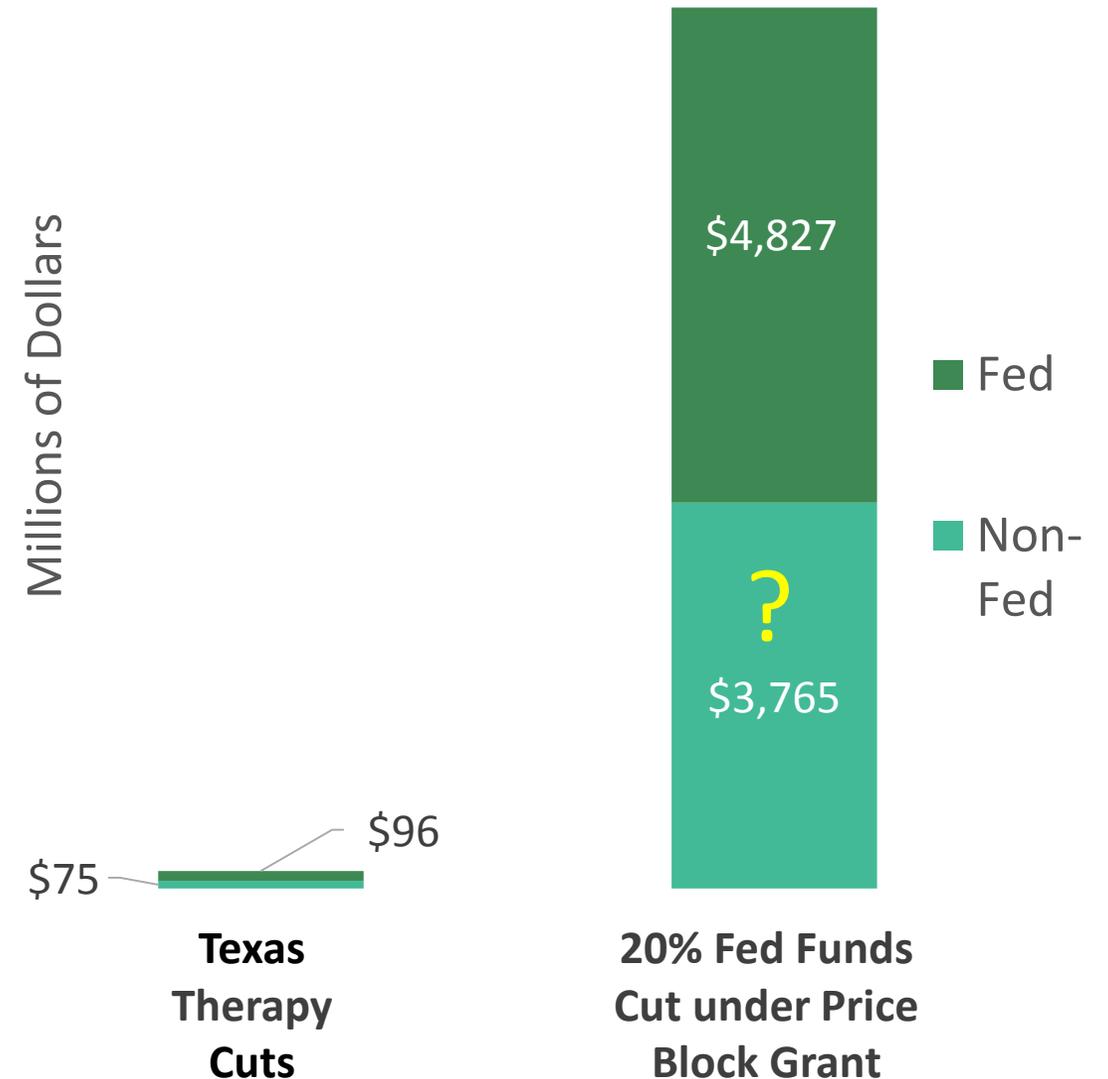
CENTER ON BUDGET AND POLICY PRIORITIES | CBPP.ORG

House Republican budget plan, FY 2017

Damaging Texas Medicaid Therapy Cuts Dwarfed by Congress' Proposed Medicaid Block Grant Cut

- Legislature's Medicaid Therapy rate cuts passed 2015 were **\$171 million All Funds** (\$75 million GR) per year, just 0.4% (less than one-half of one percent) of total All Funds Texas Medicaid funding for 2016.
- Compare: a 20% loss of federal Medicaid funding (by second year of BG) would be over **\$4.8 BILLION**. Imagine the cuts the Texas Legislature will have to decide on, the harm done, and the public outcry.

Texas Medicaid Therapy Cuts Compared to Medicaid Block Grant Cut



What Changes for Texans Under a Medicaid Block Grant?

BENEFITS:

- Today kids can't be denied medically necessary care by Medicaid (no arbitrary limits, either).
- Adults are less protected under current law, but even these minimum benefits likely eliminated under BG.

AFFORDABILITY:

- Kids are exempt from co-payments, premiums, denial of care for non-payment in Medicaid TODAY.
- Adults today have upper limits on cost-sharing, plus no denial of care for non-payment in Medicaid below poverty (use of premiums, denial of care ONLY allowed in 1115 waivers). These limits likely eliminated under BG.

WHO IS COVERED:

- Current federal Medicaid law requires all kids to 138% FPL to get Medicaid (kids 138-206% FPL can get CHIP). Seniors and individuals with disabilities 75% FPL and lower incomes and pregnant women to 203% FPL covered.
- Eliminating entitlement for state and individuals likely; states can decide who to cover, have waiting lists.
- NO ability to improve coverage of Texans with disabilities on current wait lists for Long Term Services and Supports under Medicaid "waivers"

What Changes for Texans Under a Medicaid Block Grant?

RED TAPE:

- Current federal Medicaid law prevents states from cutting back on kid's coverage (income thresholds) or otherwise creating eligibility barriers.
- TODAY Medicaid Managed Care plans are subject to many consumer protections: network adequacy, due process, and more.

PROVIDER CHOICE AND PAYMENT:

- Freedom of Choice of Family Planning providers, Cost-based pay for Community Health Centers (FQHCs)

With no federal “floor” in place, these and many other Medicaid standards may be eliminated.

More Medicaid Block Grant Worries

Could lock in Texas' low provider rates, and lack of coverage for most adults.

- Also.....Will 31 states get their Medicaid expansion funds? Will Texas? Will our 1115 waiver funds be part of our BG? Will Texas be allowed to use Local Funds (IGT)?

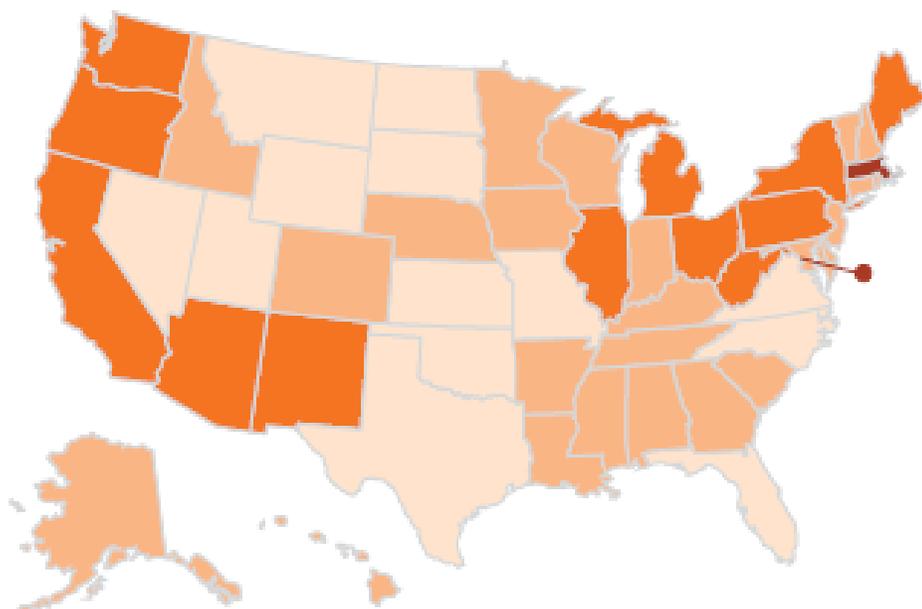
Per capita cap adds back funding for enrollment growth, but like Texas legislature, Congress may not fund inflation/price increases

Whether BG or PCC, a survivable financing system needs to respond to: Population Growth; Increases in poverty/economic downturns; Epidemics/public health crises; Medical breakthroughs:

- Otherwise it is simply a recipe for more uninsured, **and cost-shift to Texas counties**

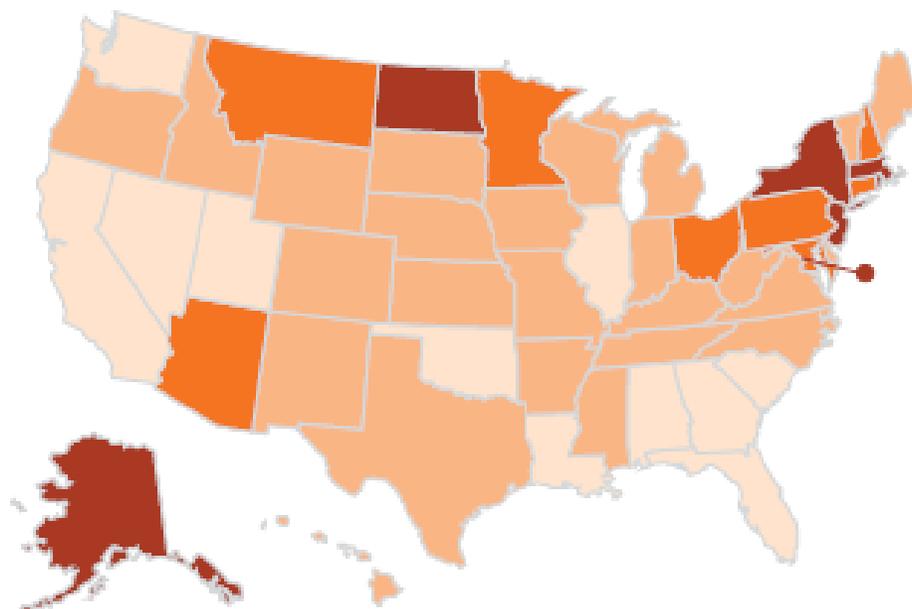
Congress' track record on maintaining the buying power of Block Grants is very poor.

Medicaid Coverage of the Nonelderly with Incomes Below 200 Percent FPL



- 30%–39% (13 states)
- 40%–49% (24 states)
- 50%–59% (12 states)
- 60%+ (1 state + DC)

Medicaid Spending per Enrollee



- <\$5,000 (11 states)
- \$5,000–\$6,499 (25 states)
- \$6,500–\$7,999 (8 states)
- \$8,000+ (6 states + DC)

Data: Coverage—Kaiser Family Foundation, State Health Facts, Health Insurance Coverage of the Nonelderly (0–64) with Incomes up to 200% Federal Poverty Level (FPL), 2015, www.kff.org/other/state-indicator/nonelderly-up-to-200-fpl/; Spending—Kaiser Family Foundation, State Health Facts, Medicaid Spending per Enrollee (Full or Partial Benefit), FY2011, www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/.

Will Congress use a Medicaid Block Grant to shift costs to the state, just like the state shifts costs to county/city governments?

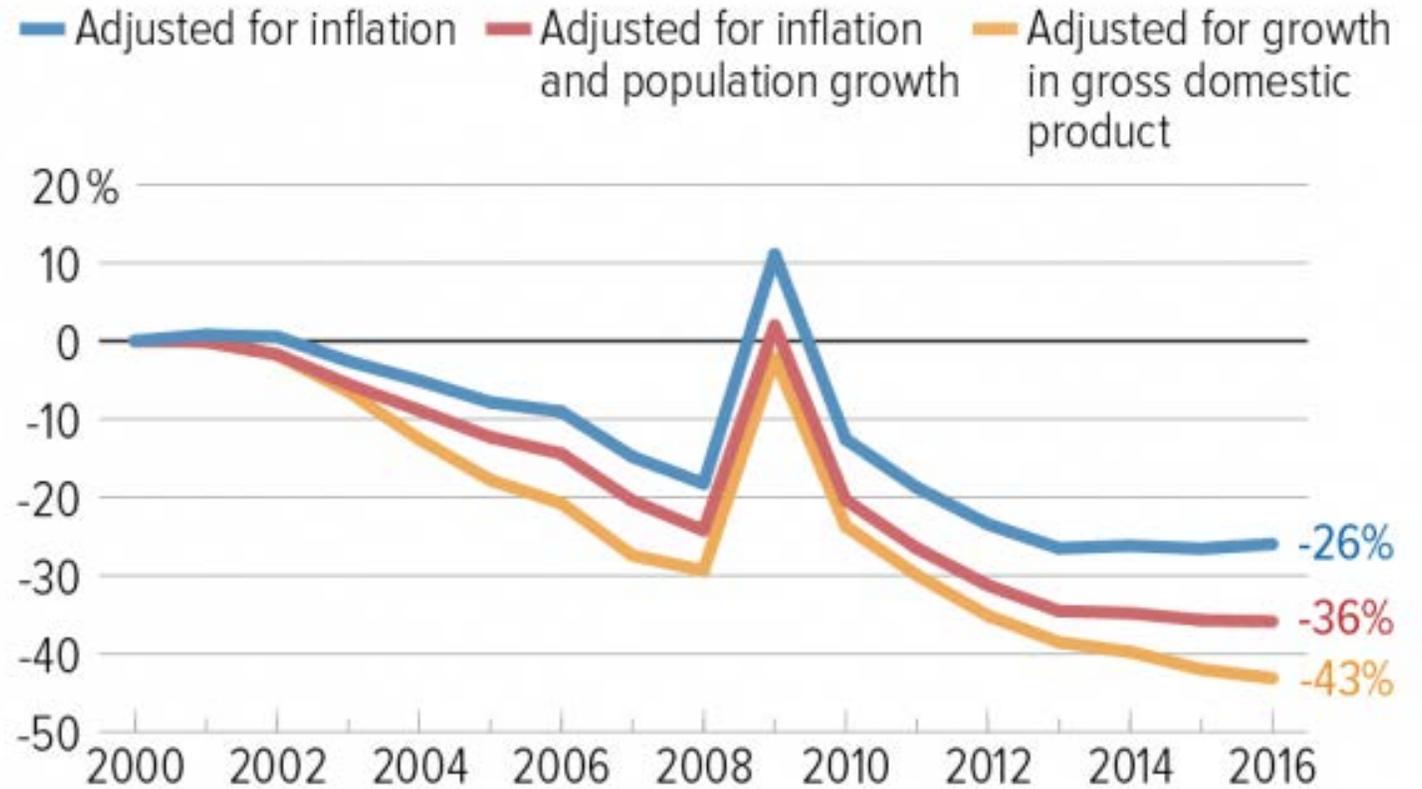
(CHIP BG is exception, NOT rule)

<http://www.cbpp.org/research/federal-budget/funding-for-housing-health-and-social-services-block-grants-has-fallen>

<http://www.cbpp.org/blog/chip-success-is-no-reason-to-convert-much-of-medicare-to-block-grants>

Changes in Overall Funding for Housing, Health, and Human Services Block Grants

Change relative to 2000 funding level



Source: CBPP based on Office of Management and Budget data. Figures generally reflect obligations, which are the amounts distributed as grants during the year. Inflation adjustments use CPI-U.

Per Capita Caps for Medicaid

PCC removes ONE harmful characteristic of the BG: it allows funding for enrollment growth, but in all recent proposals only at rate of General Inflation.

Like BG, PCC could be built many different ways:

- Federal government could set a single per-enrollee cap that applies to all Medicaid recipients, including children, adults, the elderly, and persons with disabilities; OR
- Set different caps for each group; OR
- Exempt certain groups from the cap.
- Caps could apply to all Medicaid services or only certain services, with others such as prescription drugs being exempt.
- Annual growth allowed in the caps is also an open question.

PCC could be less damaging than a Block Grant (depending on choices above) **but same fundamental trade-off remains: To save money at the federal level, the caps must keep spending below projected levels—in effect shifting the burden to states, much the same as block grants do.**

Working Example: In 2016 bills (Ryan, Price), “base” 2019 caps = state’s actual 2016 Medicaid spending per beneficiary, adjusted for general inflation.

Implications for Texas Legislature:

Top priority:

Legislators more fully understand the expected impact of ACA repeal/replace, as well as Medicaid Block Grants or Per Capita Caps--past the talking points. Lawmakers and staff engage with our Congressional delegation to protect interests of Texans.

Other:

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- Directive on Medicaid, contingent on congressional action? 2011 law (SB 7) already likely authorizes state to pursue a Medicaid Block Grant
- Next extension of Texas Medicaid 1115 waiver could provide vehicle for coverage of poor adults: a silver lining, but with plenty of challenges (cloud?)

What to Take Away

ACA repeal and conversion of Medicaid to a Block Grant could reverse all recent Texas progress in reducing the uninsured. Specific outcomes:

- ❖ **Human suffering and financial harm of the uninsured, inadequately insured**
- ❖ **Damage to Texas health providers, with a hard blow to hospitals in particular**
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to compete and succeed in life.

We envision a Texas

where everyone is healthy,
well-educated, and financially secure.

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Sources

Congressional Budget Office and the staff of the Joint Committee on Taxation, *How Repealing Portions of the Affordable Care Act Would Affect Health Insurance Coverage and Premiums*, January 2017, <https://www.cbo.gov/sites/default/files/115th-congress-2017-2018/reports/52371-coverageandpremiums.pdf>.

Urban Institute, *Implications of Partial Repeal of the ACA through Reconciliation*, December 2016, <http://www.urban.org/research/publication/implications-partial-repeal-aca-through-reconciliation>.