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3 MARKUP ON H.R. 1683, THE STATE FLEXIBILITY ACT OF 2011

4 THURSDAY, MAY 12, 2011

5 House of Representatives,

6 Subcommittee on Health

7 Committee on Energy and Commerce

8 Washington, D.C.

9 The Subcommittee met, pursuant to call, at 10:05 a.m.,
10 in Room 2123 of the Rayburn House Office Building, Hon.
11 Joseph R. Pitts [Chairman of the Subcommittee] presiding.

12 Members present: Representatives Pitts, Barton, Shimkus,
13 Murphy, Burgess, Blackburn, Gingrey, Latta, McMorris Rodgers,
14 Cassidy, Guthrie, Waxman (ex officio), Dingell, Pallone,
15 Engel, Capps, Schakowsky, Baldwin, and Weiner.

16 Staff present: Gary Andres, Staff Director; Jim
17 Barnette, General Counsel; Anita Bradley, Senior Policy
18 Advisor to Chairman Emeritus; Allison Busbee, Legislative

19 Clerk; Howard Cohen, Chief Health Counsel; Marty
20 Dannenfelser, Senior Policy Advisor, Health Policy and
21 Coalitions; Paul Edattel, Professional Staff Member, Health;
22 Julie Goon, Health Policy Advisor; Debbie Keller, Press
23 Secretary; Peter Kielty, Senior Legislative Analyst; Ryan
24 Long, Chief Counsel, Health; Katie Novaria, Legislative
25 Clerk; Monica Popp, Professional Staff Member, Health; Chris
26 Sarley, Policy Coordinator, Environment and Economy; Heidi
27 Stirrup, Health Policy Coordinator; Kristin Amerling,
28 Democratic Chief Counsel and Oversight Staff Director; Phil
29 Barnett, Democratic Staff Director; Jen Berenholz, Democratic
30 Chief Clerk; Alli Corr, Democratic Policy Analyst; Tim
31 Gronniger, Democratic Senior Professional Staff Member;
32 Purvee Kempf, Democratic Senior counsel; Karen Lightfoot,
33 Democratic Communications Director, and Senior Policy
34 Advisor; Karen Nelson, Democratic Deputy Committee Staff
35 Director for Health; and Mitch Smiley, Democratic Assistant
36 Clerk.

|
37 Mr. {Pitts.} The subcommittee will come to order. The
38 chair recognizes himself for an opening statement.

39 In March of this year, the full committee held a hearing
40 on the consequences of ObamaCare impact on Medicaid and state
41 health reform, and the Health Subcommittee held a field
42 hearing in Harrisburg entitled ``PPACA in Pennsylvania: One
43 Year of Broken Promises.'' Again and again, we heard from
44 governors who spoke about how broken the Medicaid program is
45 in their respective states, how it is eating up an ever-
46 increasing portion of their state budgets and, more than
47 anything else, we heard how states want to have the
48 flexibility to tailor their Medicaid programs to the needs of
49 their individual states and citizens. And we heard how they
50 do not want a one-size-fits-all federal framework imposed on
51 them that prevents commonsense reforms.

52 The bill before us today, H.R. 1683, the State
53 Flexibility Act, addresses one way that states are prevented
54 from adapting their Medicaid programs to fit their needs,
55 Maintenance of Effort requirements. Both the 2009 American
56 Recovery and Reinvestment Act--the stimulus bill--and PPACA
57 contain maintenance provisions which requires states to
58 maintain their Medicaid programs with the same eligibility
59 standards, methodologies, and procedures or risk losing all

60 of the states' federal Medicaid-matching funds. H.R. 1683
61 would simply repeal these MOE requirements and allow states,
62 most of which are facing unprecedented budget crises, to make
63 commonsense reforms, including eliminating waste, fraud, and
64 abuse in order to balance their budgets and save their
65 Medicaid programs.

66 Currently, on average, Medicaid takes up approximately
67 25 percent of state budgets, a figure that is sure to rise as
68 25 million more Americans are made eligible under the PPACA
69 expansion. With MOE requirements in place, in order to keep
70 their Medicaid programs from taking over the state budget,
71 states are having to cut Medicaid benefits that are not
72 federally required, reduce provider reimbursement rates
73 already dismally low, or raise taxes on providers. None of
74 these are good options, not for patients, not for those who
75 treat them. If we do not repeal these MOE requirements,
76 Medicaid programs will continue to eat up funding that used
77 to be allocated for education, highways, parks, law
78 enforcement, and every other function of state government.

79 In my home State of Pennsylvania, the Medicaid program
80 currently takes up 30 percent of the entire state budget. By
81 the time PPACA's Medicaid expansion is fully phased in, that
82 will rise to 60 percent. That is simply unsustainable.

83 I commend my friends Dr. Gingrey and Representative

84 McMorris Rodgers for introducing H.R. 1683, and I urge my
85 colleagues to favorably report the bill out of the
86 subcommittee. And I now recognize my friend from New Jersey,
87 Mr. Pallone, the ranking member, for his opening statement.

88 [The prepared statement of Mr. Pitts follows:]

89 ***** COMMITTEE INSERT *****

|
90 Mr. {Pallone.} Thank you, Mr. Chairman.

91 I want to start with my disappointment in this week's
92 committee processes. I am upset we are marking up H.R. 1683
93 without a subcommittee legislative hearing. As outlined in
94 my letter to both you and Chairman Upton last week, regular
95 orders should be followed. The committee should begin
96 consideration of a bill with a legislative hearing in
97 subcommittee, followed by a subcommittee markup before the
98 bill comes to the full committee, and this allows the
99 subcommittee members who have expertise on the relevant
100 subject matter to solicit and synthesize these views of
101 outside experts and the individuals and entities affected by
102 the bill. It also allows for a thorough review and analysis
103 of the relevant policy issues.

104 Today's bill, the State Flexibility Act, would repeal
105 the Medicaid and Children's Health Insurance Program, CHIP,
106 responsibility requirements enacted in the American Recovery
107 and Reinvestment Act and the Affordable Care Act, which would
108 have devastating effects on low-income women, children,
109 seniors, and the disabled. It is critical that we hear from
110 all stakeholders who represent these populations before
111 moving forward on any potential legislation. I know you said
112 we heard from the state governors in a hearing, but I don't

113 think that that satisfies this requirement.

114 We are here considering another bill that attempts to
115 appeal important provisions of the Affordable Care Act. I
116 guess I had hoped when we moved to the SGR and the
117 malpractice that maybe the attempts to repeal would cease,
118 but obviously that is not the case. The bill today disguises
119 giving our states flexibility within the law, does nothing to
120 improve care for Americans. It merely tells states they can
121 kick people off the programs. These protections were
122 designed to prevent states from cutting people off coverage
123 and provide stability to both programs until the full slate
124 of health reform provisions kick in and now, during the
125 economic downturn, to also try to protect people in the
126 economic downturn. If these protections are rescinded, the
127 coverage of more than a third of Medicaid and CHIP is at
128 risk.

129 Medicaid was established to serve those with nowhere
130 else to turn. For the last 45 years, this provided a safety
131 net to millions of Americans in need. It is also the last
132 resort for people who need long-term services and supports.
133 In fact, it covers 70 percent of nursing home residents and 3
134 million home- and community-based beneficiaries, making
135 Medicaid the primary Federal Government program for long-term
136 care.

137 Meanwhile, CHIP, a bipartisan effort created in '97, has
138 been nothing but a success story. Because of this critical
139 program, the number of uninsured children in the United
140 States decreased while other uninsured populations grew.
141 Now, the Republicans want to allow states to dismantle their
142 CHIP programs entirely, a scenario that is devastatingly
143 clear in the preliminary CBO score.

144 Now, I am aware of the difficult situation the states
145 are in. Certainly my state is no different. They have had
146 to balance budgets in the wake of decreased revenues and
147 increased need, but cutting healthcare programs is not the
148 way forward. We must not balance our budgets on the backs of
149 low-income families, children, and seniors. We know the
150 Medicaid program isn't the cause of budget problems. It is
151 the level of unemployment and the lost tax revenues that has
152 caused these fiscal challenges for states.

153 So instead of revoking these MOE provisions, we should
154 be marking up a bill that extends the enhanced FMAP payments
155 to states which expire on June 30. This was the type of
156 federal fiscal relief that is effective and that was used
157 historically by both Democrats and Republicans in Congress to
158 help states address their fiscal issues, to increase jobs,
159 and sustain safety net programs like Medicaid during economic
160 downturns. I don't understand why all of a sudden FMAP is no

161 longer in vogue. We did it when the Republicans were in the
162 majority; we did it when the Democrats were in the majority.
163 All of a sudden, now the Republican leadership has taken that
164 off the table. It is the only answer to the problem of the
165 states, not taking people off the Medicaid and SCHIP rolls.

166 I strongly believe that the true purpose of this bill,
167 which my colleagues on the other side are not going to admit,
168 is the first step towards gutting Medicaid and changing it
169 into a block grant program. These calls to block grant or
170 cap Medicaid under the guise of flexibility and fiscal
171 restraint are shortsighted and dangerous. I know that in the
172 Republican budget that was adopted, that they essentially do
173 this with Medicaid. They make major cuts. I think that what
174 we are seeing today under the guise of flexibility is just
175 another way of moving towards these major cuts in Medicaid
176 that we saw in the budget. I urge my colleagues to oppose
177 H.R. 1683. I think it is very shortsighted and is really
178 going to hurt poor people.

179 [The prepared statement of Mr. Pallone follows:]

180 ***** COMMITTEE INSERT *****

|
181 Mr. {Pitts.} The chair thanks the gentleman and
182 recognizes the chair emeritus of the full committee, Mr.
183 Barton, for 5 minutes.

184 Mr. {Barton.} Thank you, Mr. Chairman. I thought we
185 were going to recognize the full committee chairman.

186 I appreciate you bringing forward this legislation
187 before the Health Subcommittee. We are beginning to tell the
188 true story about what our friends on the Democratic side
189 passed in the last Congress. Their big claim to fame was
190 coverage, and we are beginning to see that the way they got
191 this increase in coverage was by mandating these Maintenance
192 of Efforts at the state level and this huge expansion of
193 Medicaid. If left untouched, this one provision of the new
194 law will literally bankrupt almost every State in the 50
195 United States. So we are here today to repeal that
196 Maintenance of Effort. Almost every governor, regardless of
197 political affiliation, has asked for if not outright repealed
198 at least flexibility to get around the mandate on this
199 Maintenance of Effort.

200 As we know, the first stimulus package increased the
201 FMAP percentage, Federal Medicaid Assistance Percentage
202 dollars. In order for the states to receive those funds,
203 they had to maintain that same Medicaid eligibility standard

204 methodology or procedure from July of 2008 to June 30 of
205 2011. The Patient Protection and Affordable Care Act, PPACA,
206 extended those Maintenance of Efforts requirements, increased
207 the FMAP funding, but that is set to expire in June the 30th
208 of this year. Congress has now limited states' abilities to
209 manage their Medicaid programs, and we have given states a
210 limited cost boost. Now that states will no longer have the
211 additional FMAP funding, PPACA expands the eligibility
212 requirements for Medicaid, which will greatly expand the
213 number of people participating in the program, adding to the
214 financial burden that states are already facing.

215 In my home State of Texas, it is predicted that the
216 expansion of Medicaid under PPACA is going to cost Texas
217 taxpayers 27 billion additional dollars over the next 10
218 years. I am a cosponsor of this legislation. I think
219 Congress should release the restrictions on the states. We
220 should give them greater flexibility to run their Medicaid
221 program. My own governor in Texas has been very vocal about
222 getting this flexibility. He has indicated that Texas
223 Medicaid costs are increasing about 9 percent a year. This
224 is Governor Rick Perry, ``One-size-fits-all approach to
225 healthcare does not work in the states and imposes
226 unnecessary financial burdens on already-strapped state
227 budgets. Now is the time for the Federal Government to

228 restore states' flexibility to craft Medicaid programs that
229 are tailored to their specific needs.' I totally agree with
230 Governor Perry. I think this bill before us today is a big
231 step in that direction, and I hope that we report it out
232 forthwith.

233 With that, Mr. Chairman, I yield back.

234 [The prepared statement of Mr. Barton follows:]

235 ***** COMMITTEE INSERT *****

|
236 Mr. {Pitts.} The chair thanks the gentleman and
237 recognizes the ranking member of the full committee, Mr.
238 Waxman, for 5 minutes.

239 Mr. {Waxman.} Thank you, Mr. Chairman.

240 If this bill were to become law, it would slash the
241 number of people that would look to Medicaid and CHIP for
242 their safety net. For 45 years, the Medicaid program has
243 worked as a lifeline to millions of people, providing
244 healthcare to the lowest-income and medically-needy
245 Americans. Over the past 3 years, Medicaid and the CHIP
246 program for children served as the healthcare safety net at a
247 time when we have suffered from the deepest recession since
248 the Great Depression.

249 Since 2008, Medicaid has enrolled 7 million people as
250 they lost employer-sponsored coverage or lost the ability to
251 continue paying their health insurance premiums. During this
252 period, the number of uninsured children actually decreased
253 from 2007 to 2009. This is a testament to the success of
254 these programs. Republicans are now using arguments like
255 flexibility and freedom to make us believe that cutting
256 people from access to prescription drugs, a primary care
257 doctor, a nursing home, and other long-term care is the right
258 thing to do. And I would submit this is precisely the wrong

259 way to go.

260 States are without a doubt facing tight budgets, but
261 cutting eligibility to healthcare is not the answer. In the
262 Medicaid program, the most expensive 5 percent of enrollees
263 account for more than half of Medicaid spending and dual
264 eligibles, those eligible for Medicare and Medicaid, account
265 for 9 million people and 40 percent of total Medicaid
266 spending. States could see a much greater return by managing
267 the care of these high users than by cutting them off the
268 program or cutting their eligibility to services.

269 H.R. 1683 undermines the stability of the Medicaid and
270 CHIP programs and the commitments states have made to their
271 residents for healthcare coverage. It allows states to cut
272 coverage before the health insurance exchanges make health
273 insurance accessible and affordable for all at a time when
274 the individual market is still not accessible to sick and
275 lower-income Americans.

276 This bill affects some of our country's most vulnerable
277 populations. Kids--this bill would jeopardize the health of
278 14 million children who are currently receiving coverage
279 under Medicaid and CHIP. Uninsured children are more likely
280 to miss school, to lack immunizations, prescription
281 medications, asthma care, and basic dental care.

282 Pregnant women--healthcare is essential to healthy

283 pregnancy. Rollbacks of coverage mean less prenatal care,
284 more high-risk pregnancies, potentially a higher infant
285 mortality rate, and less coverage of deliveries. Rollbacks
286 are particularly dangerous for this group because it is
287 unlikely that a pregnant woman will be offered insurance in
288 today's individual market. The pregnancy would be seen as a
289 preexisting condition.

290 Seniors and individuals with disabilities--before I get
291 to that, let me just say that some of the Medicaid provisions
292 to cover children and especially pregnant women were adopted
293 on a bipartisan basis and cosponsored by myself and
294 Representative Henry Hyde, who was a strong, pro-life member
295 of the Congress and had believed if you are pro-life, you
296 have to help a woman be able to have a healthy pregnancy and
297 also to have a healthy child.

298 Seniors and individuals with disabilities would be hurt.
299 Unlike other categories, seniors and individuals with
300 disabilities have needs that are not easily or exactly met
301 with traditional insurance--for example, long-term care
302 services like nursing home care or care that allows a person
303 to live independently in their homes. These are just some of
304 the populations affected. They exemplify how Medicaid and
305 CHIP have been designed to meet the needs of tens of millions
306 of Americans.

307 This bill is one step in the Republican plan to
308 undermine and defund Medicaid and CHIP. I guess the overall
309 goal is to rollback the expansion in the Affordable Care Act,
310 to cap the level of federal funding available to states
311 through a block grant and to cut the program in half over the
312 next decade by slashing it by nearly \$800 billion. But what
313 this legislation does is undermines access to healthcare for
314 individuals resulting in increased uncompensated care for
315 providers. It will hinder economic growth by pulling money
316 out of states' economies. It is a dangerous bill and I urge
317 my colleagues to vote against it. Thank you, Mr. Chairman.

318 [The prepared statement of Mr. Waxman follows:]

319 ***** COMMITTEE INSERT *****

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320 Mr. {Pitts.} The chair thanks the gentleman and
321 recognizes the gentleman from Illinois for 3 minutes.

322 Mr. {Shimkus.} Thank you, Mr. Chairman.

323 This is an important discussion and debate especially
324 affecting my home State of Illinois. And on March 14, 2011,
325 many of us--myself and the Republican members of the
326 delegation--just sent a letter to our governor asking him how
327 are we going to do this? How are we going to continue to
328 fund Medicaid, especially with the healthcare law which locks
329 in services that we can't afford?

330 Medicaid was created as a voluntary program and states
331 could participate in with the Federal Government. It was
332 designed to allow states the flexibility to tailor their
333 programs to fit the needs of their citizens around what those
334 states could afford. The Maintenance of Effort requirement
335 in the health reform law creates a situation where states no
336 longer have the ability to control their Medicaid programs
337 and disregards their ability to afford, not making changes
338 that are right for their state. With Medicaid representing a
339 significant portion of every state's budget, this has already
340 forced many states to start looking towards cuts in other
341 areas they can control, as well as raising taxes.

342 We have already seen the effects start in the State of

343 Illinois where Medicaid represents over 40 percent of the
344 state budget that is already \$13 billion in debt. That is
345 the State of Illinois, \$13 billion in debt. The State has
346 begun to cut programs and services for the very people
347 Medicaid is intended to protect with reductions in public
348 health programs, services to elderly and disabled, and
349 education funding K through 12.

350 In addition, Illinois now has a 67 percent increase in
351 personal income tax that hits every family budget. Just this
352 week, Sears reports considering leaving the State of Illinois
353 because of the increase in taxes. This is on top of a 46
354 percent bump in the corporate income tax that has companies
355 starting to look elsewhere, as I just mentioned. And despite
356 all this, we have still not received a response from the
357 governor in asking how are we going to resolve this crisis?
358 How are we going to keep businesses in Illinois? How are we
359 going to keep Medicaid solvent?

360 So we see these impacts back at home and heard straight
361 from the governors on their fears. The bill we are marking
362 up today is intended to give them the flexibility to make
363 changes when they see fit to ensure they are serving our most
364 vulnerable populations and meeting their responsibilities to
365 all the citizens of their states. What the governors
366 testified before us is they want the flexibility to be able

367 to handle these services within the constraints of the money
368 that we share with them. They do not have that right now.
369 It is probably time that we give it to them, especially in
370 this problematic period.

371 Again, Illinois has raised income taxes 67 percent.
372 Illinois has a \$13 billion state debt. 40 percent of that
373 cost to Illinois is Medicaid provisions. If Illinois is ever
374 to get out of its indebtedness position, it will have to be
375 by reforming the Medicaid system. And with that, Mr.
376 Chairman, thank you. I yield back my time.

377 [The prepared statement of Mr. Shimkus follows:]

378 ***** COMMITTEE INSERT *****

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379 Mr. {Pitts.} The chair thanks the gentleman and
380 recognizes the distinguished ranking member emeritus, the
381 gentleman from Michigan, Mr. Dingell, for 5 minutes.

382 Mr. {Dingell.} Mr. Chairman, I thank you for your
383 courtesy. And I would begin by stating my respect for you
384 and my denunciations for the legislation before us.

385 H.R. 1683, the State Flexibility Act, would dramatically
386 limit access to Medicaid and CHIP programs in our states. It
387 breaks the promise of affordable healthcare to our people and
388 the promises made in the Affordable Care Act that we made to
389 the families of this Nation. The Maintenance of Effort
390 provision was included in the Affordable Care Act to assure
391 that the states would not drop low-income adults and children
392 from coverage prior to when the health insurance exchanges
393 are up and running.

394 These provisions were deliberately included in the
395 Affordable Care Act to assure that the states would not roll
396 back their Medicaid and CHIP eligibility as they did in the
397 early 2000s, resulting in the loss of health coverage for
398 more than 1 million low-income adults and children. The CBO
399 projects that 400,000 people will lose their insurance in
400 2013. And in 2016, 1.7 million children will lose their
401 coverage under CHIP. Cutting people off CHIP and Medicaid

402 does not make the patient well or cause the cost of care to
403 go away. In fact, it just shifts the cost to other patients
404 and to other insurance policyholders, to the hospital
405 systems, and to healthcare providers. There is going to be a
406 cost associated with this that we are all going to have to
407 pay, but a lot of people are prepared to ignore it.

408 Supporters of the bill will argue that it will help to
409 provide some fiscal relief to the states' budgets. This is a
410 shortsighted fix to a long-term problem. My home State of
411 Michigan made it through 10 years of falling revenue and
412 rising Medicaid enrollment demonstrating that it is possible
413 to balance a budget without doing harm to the most vulnerable
414 in our society. I would urge others to learn from Michigan's
415 experience and from its accomplishments in this matter.

416 Instead of pursuing short-term budgetary savings,
417 Congress would be better served to deal with the problems of
418 reducing long-term costs and improve incomes and outcomes.
419 Michigan is also a leader in this field as they have expanded
420 coverage for pregnant women up to 185 percent of the federal
421 poverty level.

422 I would note just parenthetically that we rank with the
423 Third World in terms of infant mortality and we are finding
424 that we are seeing a continuing fall in the health of mothers
425 during pregnancy. What we have done is to provide--in the

426 legislation that this would repeal--that more high-risk moms-
427 to-be will have access to important prenatal care that will
428 provide for their health during their life, but also for the
429 health and the wellbeing of their children.

430 States may be able to roll back eligibility to reduce
431 their Medicaid and CHIP costs now, but this all sets the
432 stage for greater Medicaid and CHIP costs in the future when
433 Medicaid expansion takes place in 2014. Thousands of
434 beneficiaries are probably going to be dropped from Medicaid
435 and CHIP rolls if H.R. 1683 is enacted and will only have to
436 be added back in the system come 2014, when they will
437 probably be both sicker and more costly to treat. Restoring
438 eligibilities is simply then going to increase cost to the
439 states, but it will cause them to have to increase healthcare
440 for a sicker population of adult and children patients.

441 H.R. 1683 is an irresponsible way for addressing the
442 healthcare access for our most vulnerable citizens, but it is
443 also bad economic policy and it is going to further strain
444 the federal budget by causing us to misallocate resources and
445 to see to it that when the Affordable Care Act goes into
446 place in full, there will not be the resources available to
447 it being applied as the Congress intended when we passed the
448 legislation.

449 Mr. Chairman, I know you want to work with our governors

450 to help ensure that they can continue to run their Medicaid
451 and CHIP programs while also balancing their budgets. The
452 rest of us do, too. But understand that this is a question
453 that we must address with some concern for the sick and the
454 unfortunate amongst us who desperately need to have this
455 legislation rejected by this committee. I yield back the
456 balance of my time.

457 [The prepared statement of Mr. Dingell follows:]

458 ***** COMMITTEE INSERT *****

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459 Mr. {Pitts.} The chair thanks the gentleman. The chair
460 reminds members that pursuant to committee rules, all
461 members' opening statements will be made a part of the
462 record. Are there further opening statements? The chair
463 recognizes the distinguished vice chairman of the
464 subcommittee, Dr. Burgess, for 3 minutes.

465 Dr. {Burgess.} Thank you, Mr. Chairman.

466 I think what bothers me most about the issue today is
467 the underlying arrogance in the system. I have seen Medicaid
468 patients. I have worked in the system. I do know firsthand
469 the shortfalls of the Medicaid system, the flaws that have
470 been compounded in the system by the Maintenance of Effort
471 provisions in both the stimulus bill and the Affordable Care
472 Act.

473 The ability of states to manage their optional
474 populations and tailor the programs to fit those most at need
475 should be the foundation of the program, and instead, the
476 Maintenance of Effort provision actually ties their hands.
477 Arrogance to be sure but what is worse in practice is we hurt
478 the very people that we are trying to help. But let me just
479 explain. Instead of encouraging innovation for states to
480 manage their Medicaid dollars, the Maintenance of Effort
481 provisions have locked states in to procedures and

482 methodologies and forced them to look at areas such as
483 cutting provider rates and eliminating optional services. So
484 I would just have to ask the question, why would you support
485 an outcome like that?

486 In Texas, it is estimated that the total cost of
487 extended both stimulus Maintenance of Effort for 2012 and
488 2013 is over \$9 billion to retain the current service levels.
489 Now, how in the world does a state face that sort of
490 budgetary hit? To absorb that \$9 billion cost, they could
491 cut provider rates by almost half. Now, Medicaid patients
492 currently have trouble finding access to care. Imagine the
493 difficulty that they are going to have if we cut provider
494 rates in half. And this doesn't just affect the new
495 populations that are being affected under Maintenance of
496 Effort; it actually extends to all Medicaid recipients.

497 Now, it is rare for Secretary Sebelius and I to agree on
498 anything, but it turns out that did happen just the other
499 day. And Secretary Sebelius noted that coverage does not
500 equal access, something which I have said repeatedly during
501 the Affordable Care Act debate. She said, ``The issue is
502 whether or not by so poorly reimbursing healthcare providers,
503 you essentially block access to healthcare so that, yes, you
504 have a Medicaid card but no one will see you.'' That is
505 exactly the problem. So, Madam Secretary, the question is

506 why support a policy that encourages the lowering of provider
507 rates and therefore decreasing access to care? Now, the
508 Secretary simultaneously puts out a proposed regulation that
509 will encourage states to flee fee for service or cut optional
510 services such as dental, optometry, and prescription drug
511 services outright. How is this helpful? Once again, it will
512 negatively impact all of the beneficiaries across the board.

513 So states must decide how to best serve those at the
514 highest needs. And the Maintenance of Effort by just its
515 very existence harms patients in both access and services.
516 Thank you, Mr. Chairman. I will yield back the balance of my
517 time.

518 [The prepared statement of Dr. Burgess follows:]

519 ***** COMMITTEE INSERT *****

|
520 Mr. {Pitts.} The chair thanks the gentleman and
521 recognizes the gentlelady from California, Ms. Capps, for 3
522 minutes.

523 Mrs. {Capps.} Thank you, Mr. Chairman.

524 I have serious reservations about the bill before us
525 today, the process--or lack thereof--of coming to markup, and
526 the larger attack that the Republican majority has launched
527 on the Medicaid program, the lynchpin of our health safety
528 net. Let us be clear. This bill is a stepping stone toward
529 Republican's true goal of capping the Medicaid program
530 through block grants. We saw this quite clearly on the House
531 floor where every single one of my Republican colleagues
532 voted for the Ryan budget that ends Medicare as we know it
533 and reduces Medicaid to a shell of itself. These cuts are
534 being made on the backs of low-income families, children, and
535 seniors; it is an extra burden placed on our local
536 governments who will have to deal with the increased level of
537 uninsured; and it is a cruel blow to our community doctors,
538 hospitals, and other providers who will still treat those in
539 need but not be able to recover any of the cost.

540 Despite what we will hear today, this bill isn't about
541 flexibility. Flexibility is simply a code for ``dropping the
542 most in need of care.'' This includes kids who would no

543 longer be able to see their pediatrician when they get the
544 chicken pox or strep throat, a pregnant woman who would no
545 longer be able to have access to critical prenatal care in
546 order to deliver a healthy baby, and seniors and people with
547 disabilities who will be forced into expensive nursing home
548 care because their home- and community-based care is taken
549 away, costing them and taxpayers huge sums all on our watch.
550 Those are not American values.

551 The purpose of Medicaid is to ensure that those who need
552 it most have access to healthcare without passing all of the
553 uncompensated costs onto hospitals and localities. It is to
554 ensure that access to care so that individuals can get
555 treatments they need when they first get sick and not wait
556 until their illness is so severe, costly, and difficult to
557 treat.

558 Cutting eligibility levels, or even worse, turning the
559 program into a capped block grant is foolish and dangerous.
560 The fact that we are even considering it is shameful to me.
561 It is clear that all around the country, state budgets--like
562 those of the American families--are hurting. So while we do
563 need to make tough choices as to how we can put our financial
564 house in order, we should not, we really must not do this on
565 the backs of our poor, our elderly, and our disabled.

566 I yield back the balance of my time.

567 [The prepared statement of Mrs. Capps follows:]

568 ***** COMMITTEE INSERT *****

|
569 Mr. {Pitts.} The chair thanks the gentlelady and
570 recognizes the gentlelady from Tennessee, Ms. Blackburn, for
571 3 minutes.

572 Mrs. {Blackburn.} Thank you, Mr. Chairman. And I thank
573 you and the staff for the good work on this legislation.

574 You know, when it comes to the Maintenance of Effort,
575 Tennessee has learned some lessons the hard way. And many on
576 the committee have heard me talk for years about those
577 lessons that we learned through the TennCare program.

578 Now, one of the things that we learned very well is that
579 we do not want to see federal legislation and federal
580 mandates that are going to tie our hands. They are going to
581 end up restricting access and then are going to drive up the
582 cost of that access when our Medicaid enrollees do get that
583 access. As has been pointed out and Dr. Burgess just pointed
584 it out, what happened in Tennessee with TennCare was when you
585 incentivized used, you gave access to the queue. What you
586 did not give was access to the exam room. And so we have
587 learned very well that lesson that we need to be thoughtful
588 and we need to be careful. And I am pleased that Secretary
589 Sebelius, after all this time of healthcare debates, is
590 recognizing how harmful that process can be.

591 Now, what we do want to see is a process and an

592 environment that is going to expand delivery of care and is
593 going to expand that access and provide some certainty that
594 once you have that card, access to the exam room--not just
595 the queue--is going to be there. So I thank the chairman and
596 my colleagues who have worked on this legislation. We all
597 have had our input on it. I am appreciative that we have had
598 that opportunity and I yield back my time.

599 [The prepared statement of Mrs. Blackburn follows:]

600 ***** COMMITTEE INSERT *****

|
601 Mr. {Pitts.} The chair thanks the gentlelady and
602 recognizes the gentlelady from Illinois, Ms. Schakowsky, for
603 3 minutes.

604 Ms. {Schakowsky.} Thank you, Mr. Chairman. This is the
605 first markup that we have had on Medicaid and CHIP in the
606 Health Subcommittee. We should be discussing ways to get
607 needed healthcare to Americans who have lost their health
608 insurance along with their jobs or who can't afford costly
609 insurance premiums. We should be working to lower healthcare
610 costs by improving efficiency and providing access to
611 prevention.

612 Instead, we are here today to consider legislation that
613 will actually take away healthcare coverage for millions of
614 Americans, children, people with disabilities, and seniors.
615 But throwing people off Medicaid does not make them or their
616 health costs disappear. Uninsured individuals are more
617 likely than those with coverage to go to emergency rooms, the
618 most expensive care, or get sick and develop expensive
619 chronic conditions. We know all too well what that will
620 mean--expensive, uncompensated costs to hospitals, worsening
621 of conditions that could be treated early on and at less
622 cost, and they will ultimately end up costing taxpayers more
623 money in the long run--unless the Republican plan is to just

624 let poor people get sick and die or, to quote the speaker, so
625 be it.

626 Normally, we would hear an argument that those who will
627 now be uninsured can go to their community health centers,
628 but given the Republicans' insistence on cutting those
629 centers' funding, that argument doesn't wash. And even if a
630 community health center is available, it won't be able to
631 provide services like chemotherapy, so we are left with the
632 question, where are these people supposed to go?

633 We are probably also going to hear the argument that
634 states need more flexibility. Flexibility to do what?
635 States already have flexibility to reduce benefits. Even
636 prescription drug coverage is optional. And to set provider
637 payments, with the Federal Government paying an average of 57
638 percent of total Medicaid costs, I don't believe it is
639 unreasonable for us to require that individuals not be thrown
640 off Medicaid until the exchanges are fully available, that
641 children shouldn't lose CHIP coverage because it is more
642 affordable for some families. Nor is it unreasonable to
643 prevent states from imposing new administrative barriers to
644 enrollment.

645 Finally, we will likely hear the argument today that
646 states and Federal Government can't afford to maintain
647 Medicaid and CHIP coverage for Americans because of deficits.

648 Once again, that argument doesn't fly. It seems there is
649 plenty of room in the Republican budget to continue and
650 deepen tax cuts for millionaires and billionaires, to
651 maintain subsidies for oil and gas companies making record
652 profits, to allow corporations to ship jobs and profits
653 overseas to avoid their fair tax burden. If there is room
654 for that, there is room to give mothers prenatal care,
655 children doctor visits, seniors and people with disabilities
656 of all ages long-term care services.

657 It is simply a matter of priorities. For Republicans,
658 it is obviously not a matter of women and children first
659 anymore.

660 [The prepared statement of Ms. Schakowsky follows:]

661 ***** COMMITTEE INSERT *****

|
662 Mr. {Pitts.} The chair thanks the gentlelady and
663 recognizes the gentleman from Georgia, Dr. Gingrey, for 3
664 minutes.

665 Dr. {Gingrey.} Mr. Chairman, I want to thank you for
666 calling today's markup on H.R. 1683, the State Flexibility
667 Act. I would also like to thank you for your willingness to
668 support this important legislation. Additionally, let me
669 thank my colleague from Washington State, Cathy McMorris
670 Rodgers, as well as full committee chairman Fred Upton, Greg
671 Harper, and Leonard Lance for their work in altering the
672 legislation.

673 Unfortunately, due to both the American Recovery and
674 Reinvestment Act, the stimulus act; and the Patient
675 Protection and Affordable Care Act, Obama Care, we are
676 leaving states with zero flexibility by placing on them
677 Medicaid eligibility restrictions known as Maintenance of
678 Effort. These restrictions bar states from implementing
679 simple waste fraud and abuse programs under Medicaid. During
680 this unprecedented budget crisis, governors are desperately
681 asking the Federal Government to give back what was taken
682 from them by the last Congress, Medicaid flexibility.

683 In my State of Georgia, our governor and former
684 colleague on this committee, Nathan Deal sent me a letter

685 yesterday supporting this legislation and reminded me of the
686 constraints that my State of Georgia is currently facing. He
687 wrote, ``With little flexibility, we are finding it almost
688 impossible to protect patient access while ensuring the
689 financial solvency of our program. Since Maintenance of
690 Effort requirements demand the State of Georgia must maintain
691 our Medicaid and SCHIP programs with the same eligibility
692 standards, methodologies and procedures, the only options
693 available to balance our Medicaid and CHIP budgets include,
694 what, increases in participant cost-sharing, reducing
695 provider reimbursement, and eliminating coverage for optional
696 benefit categories.'' Mr. Chairman, Governor Deal's letter
697 of support shows the critical need for this legislation to be
698 enacted.

699 Since most states are compelled by their state
700 constitutions to balance their budget on an annual basis, MOE
701 compliance prevents states from implementing commonsense
702 Medicaid enrollment modernizations, and a failure of
703 compliance means, you guessed it, a state loses all federal
704 Medicaid-matching funds. H.R. 1683 corrects this problem by
705 repealing these onerous Medicaid Maintenance of Effort
706 restrictions and it restores the long-standing partnership
707 between the Federal Government and our states.

708 Additionally, the nonpartisan CBO offices scored this

709 bill as reducing our deficit by \$2.1 billion over the next 10
710 years. And furthermore, the CBO estimates that the
711 legislation could save states approximately \$2.5 billion
712 within that same budget window.

713 Mr. Chairman, the Medicaid program has historically been
714 a partnership between the states and the Federal Government
715 where states could manage their enrollment in a way that
716 meets the needs of their citizens and keeps their budgets
717 balanced. H.R. 1683 helps states continue to ensure this
718 partnership by ending onerous Maintenance of Effort
719 requirements. Therefore, I ask of my colleagues to support
720 our governors by supporting H.R. 1863.

721 [The prepared statement of Dr. Gingrey follows:]

722 ***** COMMITTEE INSERT *****

|
723 Dr. {Gingrey.} Mr. Chairman, I ask unanimous consent to
724 enter into the record letters of support for this bill from
725 Americans for Prosperity, Let Freedom Ring, Americans for Tax
726 Reform, Citizens Against Government Waste, and Governor
727 Nathan Deal from the great State of Georgia. Furthermore, I
728 would like to submit two letters that contain the signatures
729 of all 50 governors urge and repeal of the Maintenance of
730 Effort provisions currently burdening state Medicaid
731 programs. And I ask for unanimous consent.

732 Mr. {Waxman.} Reserving the right to object.

733 Mr. {Pitts.} If you will pass those down, please. The
734 chair thanks the gentleman and recognizes the gentlelady
735 from--

736 Mr. {Waxman.} Mr. Chairman, I had a reservation on--

737 Mr. {Pitts.} Yeah, we are going to let you take a look
738 at them first.

739 Mr. {Waxman.} Okay.

740 Mr. {Pitts.} I recognize the gentlelady from Wisconsin
741 for 3 minutes, Ms. Baldwin.

742 Ms. {Baldwin.} Thank you, Mr. Chairman.

743 This bill is deeply troubling to me. Let us be
744 forthright about what this bill could do in our states, in
745 Wisconsin and across the Nation. It could kick our most

746 vulnerable citizens, including patients with cancer, women
747 who are pregnant, people with disabilities, seniors in
748 nursing homes off their health insurance and leave them
749 without access to affordable healthcare coverage. States
750 could scale back or even entirely eliminate the Children's
751 Health Insurance Program leaving kids with everything from
752 ear infections to cancer without healthcare coverage. And
753 states could refuse to provide coverage for parents and non-
754 disabled childless adults over 34 percent of the federal
755 poverty level with healthcare.

756 Mr. Chairman, we often throw around numbers without
757 thinking about what they really meant, so let us explore this
758 in a little more depth. Thirty-four percent of the federal
759 poverty line. This means that if a Wisconsinite makes more
760 than \$3,702 a year, \$3,702 a year, the State could refuse to
761 provide healthcare coverage. That is morally reprehensible.
762 We know that there could be immediate consequences in many
763 states, including Wisconsin. Should this bill become law, it
764 would allow our governor Scott Walker to make the very steps
765 that he outlined in his budget adjustment bill earlier this
766 year that significantly alter--I would say even gut--our
767 Medicaid program by eliminating insurance coverage to up to
768 63,000 Wisconsin parents and 6,800 childless adults.
769 Moreover, this bill could open the window to allow the

770 governor to make even more drastic changes to one of our
771 Medicaid programs BadgerCare.

772 Now, even though it pains me to do so, let us just set
773 aside the moral reasons to protect our vulnerable neighbors
774 for one moment. Proponents of this bill have asserted that
775 appealing the Maintenance of Effort provisions is necessary
776 given immediate state budget problems. What these same
777 proponents fail to recognize is that this is not a plan that
778 will save states money. Rather, it would simply shift costs
779 and result in very expensive consequences. When individuals
780 are uninsured, they are much less likely to seek preventative
781 care. They are more likely to delay needed medical care and
782 more likely to seek treatment for what would otherwise have
783 been avoidable illnesses in costly emergency room settings.
784 This results in higher uncompensated care costs for
785 hospitals, which in turn increases medical bills and
786 insurance premiums for families and small businesses. I
787 really fail to see how this will help states or families
788 recover from our severe economic downturn.

789 Mr. Chairman, if our goal is to help states that are
790 struggling at this time of economic downturn, let us focus on
791 productive solutions that will create jobs and bolster the
792 economy. I urge my colleagues to oppose this morally and
793 fiscally flawed policy that will leave our vulnerable

794 neighbors without access to healthcare and stunt our Nation's
795 economic recovery. Thank you, Mr. Chairman, and I yield
796 back.

797 [The prepared statement of Ms. Baldwin follows:]

798 ***** COMMITTEE INSERT *****

|
799 Mr. {Pitts.} The chair thanks the gentlelady and
800 recognizes the gentlelady from Washington, Ms. McMorris
801 Rodgers, for 3 minutes.

802 Mrs. {McMorris Rodgers.} Thank you, Mr. Chairman. And
803 I would like to thank you and Dr. Gingrey and Chairman Upton
804 for all of your work on this legislation. And at the
805 beginning here I would like to enter into the record a letter
806 that is a consensus letter of the National Governors
807 Association. It is signed by Governor Gregoire from
808 Washington State, who is the chair; Democrat and Governor
809 Dave Heineman, who is the vice chair Republican. And I want
810 to read just a little bit from this letter. They start out
811 and say, ``As the new Congress convenes and a new year
812 begins, the National Governors call on the Federal Government
813 to work cooperatively with us to reduce deficits, restore
814 fiscal discipline, and promote economic growth and long-term
815 prosperity.''

816 One of their principles that they highlight as a way of
817 moving forward in this effort is ``Congress should not impose
818 Maintenance of Effort, MOE, provisions on states as a
819 condition of funding. MOEs curtail state authority to
820 control their own budgets and fiscal systems and over time
821 discourage investments in state/federal program.''

822 When it comes to Medicaid and most issues, the
823 government closest to the people is the best form of
824 government. States have long been laboratories of democracy
825 and innovation, identifying policies and practices that
826 assist and empower individuals, including the most vulnerable
827 and the poor among us. The State Flexibility Act follows
828 this principle facilitating the development of new ideas for
829 the best healthcare decision-making.

830 This last February I sat down with Washington State
831 Governor Christine Gregoire, who is the current chair of the
832 National Governors Association, and the first thing she said
833 to me was, Cathy, we need flexibility. We need flexibility
834 in eligibility, flexibility in services, and flexibility in
835 reimbursements. What many don't realize is that the current
836 MOE is harmful to our most vulnerable populations. And I
837 want to explain why.

838 When Washington State was experiencing surpluses, the
839 Medicaid eligibility rolls were expanded to include
840 individuals who had incomes well above the federal poverty
841 line, individuals, frankly, who should have been covered in
842 the private market. Yet, now the State finds itself facing a
843 projected deficit of \$5.2 billion and the governor can't do
844 anything about the main cost driver, Medicaid. She has
845 already put programs and services such as the Disability

846 Lifeline program that are critical to our most vulnerable
847 populations on the list of those to be cut because the strict
848 eligibility mandates imposed by the Federal Government
849 provide Washington State no flexibility and prevent her from
850 making any other choice. This is unacceptable. The State
851 Flexibility Act will give states the flexibility they need to
852 keep Medicaid available to those who truly need it--the poor,
853 the elderly, the disabled, poor women and children--while
854 avoiding the cost that will force the program to spiral out
855 of control. I urge my colleagues to support this bill and
856 yield back the balance of my time.

857 [The prepared statement of Mrs. McMorris Rodgers
858 follows:]

859 ***** COMMITTEE INSERT *****

|
860 Mr. {Pitts.} The chair thanks the gentlelady. If you
861 will pass down that letter, I will let the ranking member
862 take a look at it, please.

863 The chair recognizes--

864 Mr. {Waxman.} I have hers.

865 Mr. {Pitts.} You have hers? You don't have objection
866 to that?

867 Mr. {Waxman.} No.

868 Mr. {Pitts.} All right. Without objection, that
869 unanimous consent request be granted, the letter be entered
870 into the record.

871 [The information follows:]

872 ***** INSERT 5, 6 *****

|
873 Mr. {Pitts.} The chair recognizes the gentleman from
874 New York, Mr. Weiner, for 3 minutes.

875 Mr. {Weiner.} Thank you, Mr. Chairman, and first let me
876 just clarify Mr. Gingrey said this letter was signed by all
877 50 state governors. That is not correct. Only two state
878 governors signed it. But let me just say this, you know, I
879 am dying to--

880 Mrs. {McMorris Rodgers.} Will the gentleman yield?

881 Mr. {Weiner.} I only have 3 minutes.

882 Mrs. {McMorris Rodgers.} I will just very quickly say I
883 never said it was signed by all 50. I said it was a
884 consensus.

885 Mr. {Weiner.} Mr. Gingrey said it. Let me just say
886 this. First, I would love to introduce the Republican Energy
887 and Commerce Committee members of May 12 to the ones of May
888 11. They were the ones saying we needed to have national
889 standards for tort reform with no ability of governors to
890 waive, no ability of legislatures to waive because it is
891 important that you have mandatory, nationwide programs for
892 torts and now you are saying it is not necessary to have them
893 for Medicaid. It is not the first time there has been an
894 inconsistency. We have heard people in this chamber in this
895 room howl at the moon at the fact that the administration has

896 offered so many waivers on Mini-Med programs. Inflexibility?
897 You were complaining just a couple of weeks ago how they were
898 being too flexible.

899 And for those of you who were asking about let's have
900 selling of insurance over state lines, you apparently then
901 believe there should be a national regime and no state
902 regime. Look, I understand that you are having a difficult
903 time, and I hope your health insurance also covers you
904 getting tied in intellectual knots trying to figure out ways
905 to argue against healthcare reform. But the fact is very
906 simple. The reason you have the Maintenance of Effort in
907 place is because starting in 2014 when the exchanges in
908 place, the Federal Government pays all of the additional
909 cost. The states pay none of the additional cost. So the
910 reason you have the Maintenance of Effort is to prevent the
911 states dumping people off in anticipation of them coming back
912 on when the federal program kicks in. It is smart policy.
913 It is policy that, if you were serious about legislating on
914 healthcare reform, you would include in your provisions as
915 well.

916 And let me just say something else here. The fact is
917 that you can say tomorrow we will have no Medicaid. That is
918 your objective. It is pretty clear. You clearly want there
919 to be no Medicare. That is your objective. I have read the

920 Ryan book. It made my hair hurt reading it but I read it.
921 But the fact is it doesn't mean that nobody pays the bill.
922 Who pays when someone gets sick? When a poor person gets
923 sick, who do you think pays for it? What is your plan to pay
924 for those people? Oh, let us give them a voucher. When they
925 are hit by a bus lying on the street in your town, let us
926 roll up a little voucher and put it in their belt buckle and
927 say you are on your own, buddy. That is not the way it is
928 going to work. So this is why Medicaid was created. This is
929 why Medicare was created. It comes as no mystery to anyone
930 watching this debate there were programs created by Democrats
931 because we are serious about providing healthcare for people
932 and serious about figuring out a way to do it in a reasonable
933 way.

934 Now, you say there is this partnership between the
935 states and the Federal Government in Medicaid. That is true.
936 There isn't a single of the 50 states that hasn't gotten at
937 least one waiver for some element of Medicaid. Frankly,
938 Democrat or Republican executive branches alike have always
939 encouraged states to experiment.

940 I will make one final point. When we say Maintenance of
941 Efforts, we are saying today's state laws passed by the
942 governors and the legislatures of the 50 states. We are not
943 saying substitute the geniuses in this room for them. So the

944 idea of Maintenance of Effort is maintain the state autonomy.
945 That is something that we should be consistent on. Thank
946 you.

947 [The prepared statement of Mr. Weiner follows:]

948 ***** COMMITTEE INSERT *****

|
949 Mr. {Pitts.} The chair thanks the gentleman. Are there
950 other opening statements on--recognizes the gentleman from
951 Pennsylvania, Dr. Murphy, for 3 minutes.

952 Mr. {Murphy.} Thank you, Mr. Chairman. The damage that
953 the Affordable Care Act will have on Pennsylvania's Medicaid
954 recipients is too much to ignore. Somewhere between 600 and
955 800,000 Pennsylvanians will be added to Medicaid under the
956 new law, costing the Commonwealth between 100 and 150 million
957 in additional costs each year. For a State that is expected
958 to run a \$4 billion shortfall in this fiscal year, an extra
959 150 million is unsustainable.

960 Now, Pennsylvania is not alone. In March when the
961 Health Subcommittee held a hearing on the cost of the
962 Affordable Care Act on state governments, Mississippi
963 Governor Barbour told us that he estimates the State will be
964 forced to pay an additional 400 million in Medicaid costs
965 each year, increasing the State's annual deficit by close to
966 70 percent. This issue of Medicaid did not fix the poor's
967 healthcare needs. It did not finance this healthcare
968 provision. It did not fix the waste and inefficiency in this
969 program designed in 1965. Those issues must still be
970 addressed, but what was done does not fix the problem.

971 Some may contend that ensuring access to care is worth

972 the extra deficit spending, but due to the healthcare law's
973 Maintenance of Effort requirements, states will be cutting
974 provider reimbursements and reducing benefits to offset the
975 additional burden. How does that solve the problem? In
976 fact, it has already started. Due to the 2009 stimulus law's
977 Maintenance of Effort requirements, over 41 states cut
978 provider reimbursements. The Affordable Care Act will force
979 states to make cuts elsewhere in the healthcare system,
980 resulting in less quality healthcare and less access, less
981 physicians, and less treatments.

982 I support the State Flexibility Act because it repeals
983 the Federal Government's stranglehold on state deficits and
984 allows states to balance their budgets while maintaining
985 quality care for Medicaid beneficiaries. What is immoral is
986 handing each man, woman, and child in America a bill for
987 \$45,000, their share of the national debt. What is wrong is
988 increasing our debt by \$58,000 per second, spending it faster
989 than you can say it. What is wrong is telling states through
990 mandates they have to provide the Medicaid and then tells
991 them they are going to have to find a way on their own to pay
992 for it. What is wrong is not reforming Medicaid. So we
993 still have a system that was designed in 1965, as I said.

994 Now, we have done things in this committee where, for
995 example, my friend Mr. Weiner in a tongue-in-cheek way said

996 let us just get rid of Medicare. We all know that is not the
997 way to do this. We can't just get rid of Medicaid. We know
998 that there is a need out there and we want to help the poor.
999 We want to help them with healthcare. Believe me, I have
1000 seen my share of patients who are covered by this program and
1001 I have been a supporter of things like this and the CHIP
1002 program to make sure we are out there doing that. But we
1003 have got to find a way of reforming this system and making it
1004 work better for states and not just pointing fingers and say
1005 that those that want to make it work better don't care. I
1006 believe both sides of the aisle care deeply about those who
1007 are of low income and needy. We can fix this but this is not
1008 the way to do it, and that is why this bill needs to be
1009 repealed.

1010 I yield back.

1011 [The prepared statement of Mr. Murphy follows:]

1012 ***** COMMITTEE INSERT *****

|
1013 Mr. {Pitts.} The chair thanks the gentleman and
1014 recognizes the gentleman from Ohio, Mr. Latta, for 3 minutes.

1015 Mr. {Latta.} Well, thank you very much, Mr. Chairman.
1016 I appreciate the time. And I rise in support of the State
1017 Flexibility Act.

1018 And I think it is important to go back just a little bit
1019 as to what Mr. Barton was saying in the letter that was sent
1020 by the 33 Republican governors and governors-elect in their
1021 letter of January of 2011, especially when they are talking
1022 about the Maintenance of Effort provisions in the American
1023 Recovery and Reinvestment Act, the ARRA, and the Patient
1024 Protection and Affordable Act. You know, they state in this
1025 letter that it ``prevents states from managing their Medicaid
1026 programs for the unique Medicaid populations.'' It goes on
1027 to state that they need to have ``the flexibility to control
1028 their program costs and making the necessary budget
1029 decisions.'' And that is important because for those of us
1030 that have been in state legislatures and we also understand
1031 that we have a situation out there that most of all of us
1032 have in our constitutions where we have to balance our
1033 budgets.

1034 The National Governors Association, as quoted in this
1035 letter saying that when it was released last month, which

1036 would have been December, the fiscal review of the states, it
1037 goes on to say that ``one of the clearer signs of a state of
1038 fiscal stress are midyear budget cuts as they highlight the
1039 difference between budgeted levels of spending and forecasted
1040 revenue collections.'' And just in the year of 2010, 39
1041 states made \$18.3 billion in midyear budget cuts, a lot more
1042 than we did here when you look at what we were doing last
1043 year. It goes on to state that ``the health and education
1044 are the primary cost drivers for most states and the states
1045 aren't as able to afford the current Medicaid program.'' Yet
1046 in my home State of Ohio, we started this fiscal year--and we
1047 do our biennium budget this year--they had almost \$8 billion
1048 in the hole that they had to make those cuts. And I know
1049 Governor Kasich in Ohio and the governors across this Nation
1050 are asking for some flexibility that they would be given so
1051 they can make sure they can control these costs to carry on
1052 these very, very vital, needed benefits.

1053 And with that, Mr. Chairman, I urge support of H.R. 1683
1054 and yield back the balance of my time.

1055 [The prepared statement of Mr. Latta follows:]

1056 ***** COMMITTEE INSERT *****

|
1057 Mr. {Pitts.} The chair thanks the gentleman. Are there
1058 other opening statements? Seeing none, the chair calls up
1059 H.R. 1683.

1060 Mr. {Pallone.} Mr. Chairman, could I make this
1061 unanimous consent?

1062 Mr. {Pitts.} Yes, go ahead first.

1063 Mr. {Pallone.} I know that I guess Mr. Waxman had
1064 reserved on the Gingrey series of letters and I think that we
1065 have seen them now and so I would ask did you want to
1066 withdraw your--we can say that we will accept the unanimous
1067 consent on those. And then we had a series of five letters
1068 in opposition to H.R. 1683, which I gave to you or to your
1069 staff, and I would ask unanimous consent to include those in
1070 the record.

1071 Mrs. {Capps.} Will the gentleman yield for one second?

1072 Mr. {Pallone.} Yes.

1073 Mrs. {Capps.} Because I was going to wait later to do
1074 it but because we received also a letter from the American
1075 Nurses Association strongly opposing H.R. 1683, the State
1076 Flexibility Act of 2011 and urging us to vote ``no'' when it
1077 comes before the committee. So I would add these to the
1078 letters to be introduced into the record.

1079 Mr. {Pallone.} And that is one that you have already

1080 seen as well, so I would ask unanimous consent for that and
1081 the other five.

1082 Mr. {Pitts.} All right. Without objection, so ordered.

1083 All letters from Dr. Gingrey and from the ranking member and

1084 Ms. Capps are entered into the record.

1085 [The information follows:]

1086 ***** COMMITTEE INSERT *****

|

1087 H.R. 1683

1088 Mr. {Pitts.} The chair calls up H.R. 1863 and asks the
1089 clerk to report.

1090 The {Clerk.} H.R. 1683 to report.

1091 Mr. {Pitts.} Without objection, the first reading of
1092 the bill is dispensed with and the bill will be open for
1093 amendment at any point. So ordered.

1094 [H.R. 1683 follows:]

1095 ***** INSERT 1 *****

|
1096 Mr. {Pitts.} Are there any bipartisan amendments to the
1097 bill?

1098 Mr. {Pallone.} What does that mean?

1099 Mr. {Pitts.} That is the rule what the chair asks us to
1100 consider first. Okay. Are there other amendments to the
1101 bill?

1102 Mr. {Pallone.} Yes, I have an amendment.

1103 Mr. {Pitts.} Mr. Pallone is recognized.

1104 Mr. {Pallone.} We can say it is bipartisan if you like,
1105 but I don't think you will agree. I guess I just have one
1106 amendment at the desk.

1107 Mr. {Pitts.} All right. The clerk will report the
1108 amendment.

1109 The {Clerk.} An amendment offered by Mr. Pallone of New
1110 Jersey.

1111 Mr. {Pitts.} Without objection, the reading of the
1112 amendment is dispensed with.

1113 [The amendment follows:]

1114 ***** INSERT 2 *****

|
1115 Mr. {Pitts.} And the gentleman is recognized for 5
1116 minutes in support of the amendment.

1117 Mr. {Pallone.} Thank you, Mr. Chairman. My amendment
1118 is quite simple. It protects children from the harms of this
1119 bill by exempting them from the repeal of the Maintenance of
1120 Effort in Medicaid and CHIP in both the Recovery Act and the
1121 Affordable Care Act. The choice I think is clear and simple.
1122 You either support the care of children or you oppose the
1123 care of children, because without these protections, this
1124 Nation's children are very vulnerable.

1125 I want to offer for the record a report by Georgetown's
1126 Center for Children and Families titled ``Eliminating
1127 Medicaid and CHIP's Stability Provisions: What is at Stake
1128 for Children and Families.'' I believe we have given you
1129 that. I would ask unanimous consent that that be included.

1130 Mr. {Pitts.} Without objection, so ordered.

1131 [The information follows:]

1132 ***** COMMITTEE INSERT *****

|
1133 Mr. {Pallone.} Now, this report rightly concludes that
1134 if the stability protections included in the Affordable Care
1135 Act are rescinded, it could have a dramatic impact on many of
1136 the low- and moderate-income children, families, seniors, and
1137 people with disabilities that rely on Medicaid and CHIP. It
1138 could also unleash cuts in healthcare spending that weaken
1139 the pace of economic recovery and job growth.

1140 Medicaid and the CHIP program cover nearly 30 million,
1141 or 1/3 of all America's children and over half of low-income
1142 children. Medicaid and CHIP provide children with
1143 comprehensive medical services to address physical, mental,
1144 and developmental health needs. Children represent half of
1145 all Medicaid enrollees, yet they account for only 20 percent
1146 of the spending. Through Medicaid and CHIP, the country has
1147 successfully reached the highest rate of insured children on
1148 record. 90 percent of children in the United States have
1149 health coverage. If the Maintenance of Effort is repealed,
1150 the coverage of more than 1/3 of Medicaid and CHIP
1151 beneficiaries will be threatened, and children are the single
1152 largest group of beneficiaries that will be at risk if the
1153 stability protections are repealed, even though they are the
1154 least expensive population to cover.

1155 And I will stress that again, Mr. Chairman. They are

1156 the least expensive population to cover. According to the
1157 Center for Children and Families, there are an estimated 14.1
1158 million children covered at state options through CHIP or
1159 Medicaid, all of whom will be at risk of losing coverage. If
1160 the MOE is repealed, states could shut down new enrollment in
1161 the CHIP programs, roll back CHIP eligibility, or completely
1162 eliminate their CHIP programs. And such potential loss of
1163 health insurance has dire consequences on the health of
1164 children.

1165 Let me give you examples. Uninsured children are 20 to
1166 30 percent more likely to lack immunization, prescription
1167 medications, asthma care, and basic dental care. Uninsured
1168 children with conditions requiring ongoing medical attention
1169 such as asthma or diabetes are 6 to 8 times more likely to
1170 have unmet healthcare needs. Uninsured children are also
1171 more likely than insured children to miss school due to
1172 health problems and to experience preventable
1173 hospitalizations.

1174 According to CBO, the legislation before us will cause
1175 400,000 people to lose their insurance in 2013 with about
1176 300,000 of them unable to find other coverage and 2/3 of
1177 those would be children. In fact, according to CBO, by the
1178 end of 2016 half of the states would cease participating in
1179 the SCHIP program. This repeal would throw 1.7 million

1180 children out of a program that is proven to work in 2016
1181 alone.

1182 And this is a program created with bipartisan support.
1183 I don't know what happened to the Republican Party. This was
1184 done on a bipartisan basis. I was here. Mr. Waxman, others
1185 were here. You were the ones that initiated this along with
1186 us so why do you want to kill the CHIP program? This 1.7
1187 million children, about 30 percent of projected enrollment in
1188 that year, 2016, would become uninsured. In addition, cost-
1189 sharing protection and employer-sponsored insurance and
1190 qualified health plans is less protective than CHIP.

1191 I can't emphasize enough, Mr. Chairman, that coverage
1192 for children is much cheaper than that for other kinds of
1193 people and it is very cost-effective. It cost 234 percent
1194 more for an emergency room visit than a doctor's office, and
1195 an uninsured child is 500 percent more likely to use an
1196 emergency room as their regular place of care than an insured
1197 child.

1198 Let me just summarize again. The rescission of
1199 stability protections would be devastating to the children,
1200 to our country. I don't think we should be balancing the
1201 budget on the backs of children. I just urge my colleagues
1202 to make the right choice, to vote ``aye'' on this amendment.
1203 Children should be exempted. We worked for many years on a

1204 bipartisan basis for this CHIP program. Don't throw it away.
1205 And I know you are going to say you are not, but that is what
1206 you are doing. And then certainly the CBO report indicates
1207 that. And, you know, I don't want to keep saying the same
1208 thing again, but you know, I always worry that because kids
1209 don't vote and they don't have a constituency and they don't
1210 have a lobbyist that, you know, they are just put aside. I
1211 am not saying that you are doing that because I wouldn't want
1212 to accuse anybody of that, but I do think that somehow over
1213 the years this concern for kids is being lost. And I just
1214 think it is a shame.

1215 Thank you, Mr. Chairman.

1216 Mr. {Pitts.} The chair thanks the gentleman. Is there
1217 discussion on the amendment? The chair recognizes the
1218 gentlelady from Washington, Ms. McMorris Rodgers, for 5
1219 minutes.

1220 Mrs. {McMorris Rodgers.} Thank you, Mr. Chairman.

1221 No one is suggesting that we kill SCHIP. I believe you
1222 just said that.

1223 Mr. {Pallone.} I don't want to take away from your
1224 concern--

1225 Mrs. {McMorris Rodgers.} I want to make a point here.

1226 Mr. {Pallone.} --is but I just want to point out the
1227 facts.

1228 Mrs. {McMorris Rodgers.} With all due respect, I am
1229 reclaiming my time. I want to make some points.

1230 The SCHIP program maintains broad bipartisan support. I
1231 oppose this amendment because the bill doesn't change the
1232 eligibility of any population, including children. I would
1233 ask my colleagues how is adding an additional 25 million
1234 people to the Medicaid rolls strengthening a program for
1235 children? What I would say is that the expansion actually
1236 diminishes the proper coverage for those most in need.

1237 And I want to just remind members of the committee
1238 mandatory coverage--which is not changed in this bill--
1239 includes pregnant women during pregnancy, infants under 1
1240 year of age whose family incomes do not exceed 133 percent of
1241 the federal poverty level, children between 1 and 6 years of
1242 age and family incomes do not exceed 133 percent of the
1243 federal poverty level, children between 6 and 19 years of age
1244 whose family incomes not exceeding 100 percent of the federal
1245 poverty level, the SSI recipients, recipients of adoption
1246 assistance and foster care. This bill does not change the
1247 mandatory coverage of the categorically needy groups.

1248 I support the safety net provided through Medicaid.
1249 What I oppose is promising healthcare to many who will never
1250 see it at the expense of those that are truly in need. The
1251 gentleman from New York says that the Federal Government is

1252 going to pay the entire cost of Medicaid after 2014. It is a
1253 false promise. First of all, it is a temporary payment.
1254 Second, I would suggest that the government doesn't pay the
1255 cost. We all know that Medicaid, that it is the providers
1256 that continue to have to pay more and more of the cost of
1257 actually delivering these services because the government,
1258 whether it is the Federal or the State Government is not
1259 actually paying the bill, isn't paying the cost of the
1260 program. And the providers are put in a situation where they
1261 cannot afford to provide the services. And what it does is
1262 when you are on Medicaid it is harder and harder to find a
1263 provider that will actually take you because we aren't paying
1264 the bill as it currently is.

1265 So if we are honest with ourselves, if we truly want to
1266 maintain the safety net for those that are most in need, we
1267 will allow the states to be making those decisions, and we
1268 will allow them the flexibility that they need to ensure that
1269 those that are most in need get the services. So I would
1270 oppose--

1271 Mr. {Pallone.} Would the gentlewoman yield if you are
1272 done? You know, I know you are a mother and I know you care
1273 about children. I am not suggesting otherwise and I am not
1274 suggesting that about anybody on the other side. I am just
1275 saying that practically speaking, I know that everyone on the

1276 other side cares about kids and feels that somehow, if this
1277 bill passed, that they are still going to be covered, they
1278 are still going to get their proper care. I just think that
1279 practically speaking, though, you really haven't come up with
1280 an alternative. In other words, you are saying I don't like
1281 what the Democrats did. You know, let us get rid of this.
1282 Let us have state flexibility. But I think the CBO shows--
1283 and I know, you know, don't always want to believe in the
1284 CBO, but the CBO numbers show that practically speaking, you
1285 know, 2/3 of the kids are going to be gone. They are just
1286 not going to get the coverage. And I just don't think you
1287 guys have come up with an alternative to show us in a
1288 practical way how we are going to achieve coverage and get
1289 these kids care. That is my concern, and that is why I am
1290 proposing this amendment.

1291 Mrs. {McMorris Rodgers.} Well, in response I would say
1292 that the governors, Republicans and Democrats, have asked for
1293 this flexibility so that they can really make decisions at
1294 the state level that are going to best serve the population
1295 that we all want to help, whether it is the poor, elderly,
1296 children, developmentally disabled. And what the Federal
1297 Government has done is imposed mandates on the states that
1298 take away their flexibility so that they can't even make
1299 decisions that are in the best interest of those populations.

1300 And CBO, with all due respect, I am not sure that they
1301 can assume--I know that they try to project as much as they
1302 can, but I am not sure they know how the governors are really
1303 going to respond to this legislation. There is bipartisan
1304 support for ensuring that we have this safety net moving
1305 forward. And what the governors have asked is the
1306 flexibility.

1307 And as I mentioned in my remarks, Washington State, for
1308 example, proposed to cut the Disability Lifeline this year
1309 because of the mandates in the legislation that passed last
1310 year that would not allow them to make a decision to keep
1311 that program. So that is why I--

1312 Mr. {Pitts.} The chair thanks the gentlelady. For what
1313 purpose does the gentleman from New York seek recognition?

1314 Mr. {Weiner.} I thank you. And, look, I--

1315 Mr. {Pitts.} Do you want to strike the last word?

1316 Mr. {Weiner.} Certainly, strike the last word.

1317 Mr. {Pitts.} Recognized for 5 minutes.

1318 Mr. {Weiner.} Thank you. You know, let me just show
1319 how this is being characterized. And this is not just a
1320 squabble here. There is a difference of philosophy. I mean,
1321 this is the way CQ quarterly reported it today. CBO says,
1322 ``New Medicaid bill will leave many children without
1323 coverage.'' That is their assessment. And the irony is on

1324 the very next page it says, ``GOP freshman decry attacks on
1325 their plan.'' There has got to be some recognition of the
1326 idea that what Mr. Pallone is saying is right. CBO
1327 stipulates to the idea that the gentleman from Georgia and
1328 the gentlelady from Washington State that this amendment is
1329 going to save the Federal Government money. But you can't
1330 have it both ways. You have got to understand the way it is
1331 going to save money is essentially reduce the number of
1332 people getting coverage. That is the bottom line. And they
1333 are children. And if you were really going to be honest
1334 about this discussion, all of these amendments that you have
1335 would include some answer to the question how you increase
1336 coverage, how you make sure people are covered.

1337 Now, let us remember something. What the gentlelady
1338 from Washington said about my remarks earlier, in 2014 when
1339 the Federal Government accepts full funding responsibility--
1340 not 60 percent or 80 percent as it is in Mississippi--it is
1341 because they say what we want to do is increase the number of
1342 people being covered. And unlike what happened in Republican
1343 administrations, we are not going to have an unfunded
1344 mandate. We are going to accept responsibility on the part
1345 of the federal taxpayer to do what this federal thing does.
1346 You guys do the opposite with this amendment. You save money
1347 for the federal side and then you leave the states to try to

1348 figure out how these people are going to get covered or
1349 uncovered. We need to have some level of standards. We have
1350 to make sure there is not a race to the bottom.

1351 And Washington State has had several occasions applied
1352 to the Federal Government for waivers under some of the
1353 Medicaid rules so they can experiment in different ways, and
1354 that is the way that it should be. But you can't decry the
1355 attacks on your healthcare plan when, in fact, you are trying
1356 to defund it and you are doing it in a way that leaves at
1357 least 2/3 of the 300,000 people affected will be children. I
1358 mean, how are you going to cover them? What is the plan?
1359 Tell us the plan.

1360 Now, the gentlelady from Washington says I don't have a
1361 plan. I am going to leave it up to the governor to have a
1362 plan. Okay, that is very nice of you. You want to have no
1363 requirements and you want to hope for the best. Well, we
1364 have seen what happens. What we see is a country that has
1365 about 40 million people that are uninsured. You have
1366 hospitals that are closing. You have people that have higher
1367 taxes in the states and localities because we aren't doing
1368 something the way we should, which is saying you know what?
1369 The same way we address the safety net for seniors under
1370 Medicare, you are trying to dismantle that. We now created a
1371 system of a safety net for Medicaid and we are trying to grow

1372 it every day to close the gaps in that safety net, and you
1373 are saying no, let us slash some more holes in it and let
1374 children fall through it. So what is your proposal?

1375 You know, the thing about the repeal and replace that
1376 had some appeal to me is you were going to offer something
1377 for the first time, really something to replace the things
1378 you are repealing. When are we going to see that I say to
1379 the gentlelady or the gentleman from Georgia? When are we
1380 going to actually see what the proposal is to deal with the
1381 300,000 kids that are going to be falling off the rolls here?
1382 I mean, you can't just hope and pray that the healthcare
1383 fairy will come down and put pixie dust and that is the way
1384 it is going to happen. It hasn't worked that way.

1385 And so what the system is that we have worked out is
1386 pretty simple. People are going to be required to get
1387 insurance so people can't freeload, but we are going to give
1388 them a subsidy and incentives to go get it. We are going to
1389 create the system for poor people that hasn't really kept up.
1390 We are going to raise that floor substantially, but we are
1391 not going let the states just pick it up. The Federal
1392 Government is going to pick it up.

1393 The next thing we are going to do is we are going to
1394 make sure that people have the opportunity that insurance
1395 companies really have to compete by having minimum standards

1396 and saying you know what? We are going to create an exchange
1397 like we have in the Federal Government. This is our plan for
1398 trying to do it. Now, as you throw darts at it, and then you
1399 decry anyone for criticizing it, come up with your own plan.
1400 You have now been running the shop here for a few months.
1401 Let us see what you actually plan to do. The CBO, which you
1402 like, sometimes you don't like, you like, sometimes you don't
1403 like. I understand. I have been in Congress a while. I
1404 understand we like the CBO when they agree with us. We
1405 dislike them when they disagree with us. But at least put
1406 something on the table that--

1407 Mrs. {McMorris Rodgers.} Would the gentleman yield?

1408 Mr. {Weiner.} Certainly.

1409 Mrs. {McMorris Rodgers.} First of all, I want to
1410 remind--

1411 Mr. {Weiner.} I don't think you are going to get a
1412 second, so let us just--

1413 Mrs. {McMorris Rodgers.} Okay. I will just say the
1414 mandatory requirements are not changed in this legislation.
1415 Second, I would remind my colleagues on the other side of the
1416 aisle that their proposal doesn't fund SCHIP after 2015. It
1417 is up to the states to figure out how they are going to pay
1418 that bill. And yes, we do have a plan moving forward on
1419 Medicaid. We want to make sure that we have a safety net and

1420 we want to be providing more options to families, to
1421 children, to individuals--

1422 Mr. {Weiner.} When you say more options, if I can
1423 reclaim my time, first of all, it is not like we go to zero
1424 reimbursement rate in 2015. That is not rate. We just don't
1425 do 100 percent, but we still are in the magnitude of 90, 95
1426 percent for years to come after that. Secondly, here is what
1427 I would say--

1428 Mrs. {McMorris Rodgers.} If the gentleman would yield,
1429 that is Medicaid, not SCHIP.

1430 Mr. {Weiner.} Secondly, what I would say is this--is
1431 that there is going to be a point that I think something is
1432 going to happen as a result of this bill. I hope CBO says it
1433 is going to happen and common sense is going to happen that
1434 more people are going to get covered, the economy is going to
1435 do better since we are not all paying healthcare bills, and
1436 hopefully fewer people are on Medicaid and SCHIP. That is
1437 the objective, but at least our bill sets up some kind of a
1438 platform to do it. I would welcome you to offer one that
1439 accomplishes any of those things. Up to this point, there
1440 hasn't been one. You know, any jackass can kick down a barn
1441 but it takes a pretty great woman to build one. Let us go
1442 ahead and build one.

1443 Mr. {Pitts.} The chair thanks the gentleman. The

1444 gentleman's time has expired. Recognize the gentleman from
1445 Georgia, Dr. Gingrey, for 5 minutes.

1446 Dr. {Gingrey.} Mr. Chairman, thank you. And of course,
1447 I am very much opposed to the Pallone amendment. My
1448 colleague that just spoke, our friend from New York, talked
1449 about, well, you Republicans, what is your plan? Well, if
1450 you look right in front of you, it is called the State
1451 Flexibility Act, H.R. 1683. That is our plan.

1452 Our plan is to allow our governors to, you know, if they
1453 wanted to, as let us say the State of New Jersey wanted to
1454 increase their coverage of Medicaid or SCHIP, including
1455 families making \$90,000 a year for a family of four,
1456 heretofore, before the provisions of the stimulus plan and
1457 ObamaCare under 1115 waivers, they could do that. And all we
1458 are saying why put those handcuffs on the governors? Why not
1459 let them go back to the way it was, and if they decide--I
1460 don't think in their infinite wisdom--to cover people making
1461 \$90,000 a year and their children, so be it. Let New Jersey
1462 do that. Let New York do that. Let them cover people making
1463 \$150,000 a year. I mean, you know, maybe in those States it
1464 is politically correct to do that. But quite honestly, in
1465 the State of Georgia, politics aside, we can't afford that.

1466 And these letters of support from so many governors,
1467 both Democratic governors and Republican governors just

1468 simply say, you know, we can do--maybe we or our State that
1469 expanded our coverage beyond the mandatory coverage in the
1470 Medicaid law that was enacted way back in 1965 along with
1471 Medicare, maybe in times of prosperity when we decided to
1472 expand our coverage to people making \$50,000 a year, that was
1473 great. But now we can't. Now, we can't. And the only way
1474 we can continue to cover people that are, you know, not rich
1475 but they are certainly not at a poverty level, the only way
1476 we can continue to do that is to cut benefits, to cut some of
1477 the optional things like dental care and the early and
1478 preventive screening, diagnostic and treatment program for
1479 children.

1480 And so as Mr. Weiner said earlier, something about,
1481 well, you might as well have a voucher. Well, you know, what
1482 good is it to have a Medicaid card if not only the coverage
1483 is poor--it is bargain-basement healthcare coverage, and even
1484 worse, you can't find anybody to provide that coverage,
1485 inadequate coverage. So you know, quite honestly, as I have
1486 already said, I think in response to the suggestion from the
1487 gentleman from New York about what is our plan, this is a
1488 simple plan. This is just simply saying--we heard all day
1489 long yesterday when we were debating the Medical Liability
1490 Reform Act, you know, why not use these pilot programs? Why
1491 not let the states be the incubators of reform? Why not let

1492 the governors and the states be the incubators of reform in
1493 regard to taking the handcuffs off them so they can save the
1494 Medicaid program, so they can save the CHIP program. That is
1495 all we are asking.

1496 Mr. {Weiner.} Would the gentleman yield?

1497 Dr. {Gingrey.} I would be glad to.

1498 Mr. {Weiner.} I just want to make sure I heard the
1499 gentleman say, perhaps with irony, that what is the use of
1500 giving someone a voucher if they can't find affordable care
1501 and it is not of a certain quality.

1502 Dr. {Gingrey.} Reclaiming my time. It is my time. I
1503 have to say I will have to admit to the gentleman from New
1504 York when I am trying to make a lot of points and get it all
1505 said, sometimes I speak as quickly and as rapidly as the
1506 gentleman from New York--

1507 Mr. {Weiner.} Fair enough.

1508 Dr. {Gingrey.} --and I might misstate a word or two.

1509 Mr. {Weiner.} Fair enough.

1510 Mr. {Pallone.} Would the gentleman yield to me?

1511 Dr. {Gingrey.} I would be glad to yield to the author
1512 of the amendment.

1513 Mr. {Pallone.} The bottom line is, though, right now
1514 states have a lot of flexibility. They can change the
1515 benefits, they can decrease benefits, they can increase co-

1516 pays. I mean, I don't want them to do these things, but that
1517 flexibility exists. The problem is that once this bill
1518 passes, they actually could not provide insurance at all for
1519 a lot of these kids, okay? And that is what I am trying to
1520 avoid because I--

1521 Dr. {Gingrey.} Well, I will reclaim my time. I thank
1522 the gentleman from New Jersey for his point, but what they
1523 end up doing, of course, to make sure that that doesn't
1524 happen, our governor of Georgia, our former colleague Nathan
1525 Deal, former chair of the Health Subcommittee, served 20
1526 years in this body, a distinguished member, he won't do that.
1527 He doesn't want to do that but what he had to do--

1528 Mr. {Pallone.} Does--

1529 Dr. {Gingrey.} No, I won't yield. My time is about
1530 expired. He had to cut funding for K through 12 education,
1531 for public safety, and first responders. That is what our
1532 governors are faced with. That is why I am so opposed to
1533 this amendment that the gentleman has offered. And I ask my
1534 colleagues to vote ``no.''

1535 Mr. {Pitts.} The chair thanks the gentleman and
1536 recognizes the gentlelady from California, Ms. Capps, for 5
1537 minutes.

1538 Mrs. {Capps.} Thank you, Mr. Chairman, for yielding to
1539 me. And I think the discussion that we are having

1540 underscores the very value of Mr. Pallone's amendment. We
1541 are anticipating what it would mean to have millions of
1542 children pushed into the ranks of the uninsured at some level
1543 and in some way. I think it is important to remind us that
1544 the federal poverty level line is drawn at \$22,000 of income
1545 per year for a family of four. That is for all of their
1546 needs, all of their healthcare, daycare, new clothes and
1547 whatever, food on the table. And in light of the bipartisan
1548 efforts that we have had in the Congress in the past to
1549 recognize that despite our differences in opinion on so many
1550 things, investing in children's healthcare is worthwhile.
1551 That is the underlying of SCHIP.

1552 The return on investment is also still the case, which
1553 Mr. Pallone said. Children continue to be a very affordable
1554 group to cover. They represent over half of Medicaid
1555 enrollees. They still account for only 1/5 of the program's
1556 cost, 1/5. And we have been successful. Between CHIP,
1557 Medicaid, and employer-provided healthcare, nearly 90 percent
1558 of all children now have health insurance, setting them up
1559 for healthier, more productive lives and reducing the
1560 uncompensated care burden on our economy, yet all of this
1561 would be jeopardized with the possibility of this legislation
1562 becoming law.

1563 In California alone, it is estimated that the repeal of

1564 the MOE will place 400,000 children at risk of losing
1565 coverage. Nationally, it could affect nearly 14 million
1566 children. This doesn't make sense.

1567 When children are uninsured, as already been said this
1568 as well, they are likely to lack immunizations, needed
1569 prescription medication, asthma care, basic dental care, and
1570 not surprisingly, they are likely to miss school due to
1571 health problems, experience preventable hospitalization.
1572 This has a huge economic impact on families as parents have
1573 to choose between their job and caring for a sick kid. For
1574 \$22,000 a year you don't have a lot of access to daycare. As
1575 a school nurse, I can tell you that it leaves these kids very
1576 far behind in school. If her ears ache, a young kid doesn't
1577 hear well. Their ears are ringing. They have trouble
1578 breathing because his parents could no longer afford an
1579 inhaler. We know how hard it is to catch up once you get
1580 behind in school.

1581 This amendment simply ensures that if this bill is
1582 enacted, we don't go back and lose the ground that we have
1583 fought on a bipartisan basis to achieve this. I am seeing
1584 what my governor and our legislature is doing in California,
1585 a State hard-hit with its economy making drastic cuts in
1586 programs that we all believe in because they have to balance
1587 their budget. This is what we will burden the states with.

1588 And what they will do is pass this burden along. They have
1589 to balance their budget so that the burden will be passed
1590 onto local jurisdictions, onto county health departments,
1591 onto hospitals who will continue to provide the care, more
1592 and more of it uncompensated. Providers will see these kids.
1593 You know they will. Who is going to compensate them for
1594 their care? We are just passing the buck of our
1595 responsibility here onto most particularly vulnerable
1596 children. And that is why I support this amendment. And I
1597 will yield to the author of the amendment.

1598 Mr. {Pallone.} Just briefly. I mean, I think that Ms.
1599 Capps is making the point very well. I mean, my point when I
1600 was speaking to Mr. Gingrey before is this. You know, I
1601 mean, of course, you know, you can always go to the emergency
1602 room, you can always try to find a clinic if it is available.
1603 I think the emergency room is more likely, but there is no
1604 question, as several governors have said, that their
1605 intention would be to simply eliminate kids from the rolls
1606 and not provide the insurance. And all I am saying is when
1607 you talk about flexibility, you got all kinds of flexibility
1608 under the law right now, whether it is, you know, payment
1609 raise to providers, benefits, cost-sharing, or even different
1610 delivery systems, managed care. A lot of states are putting
1611 more and more of the kids on managed care.

1612 But all we are saying is that I believe--I will speak
1613 for myself and I think the Democrats believe that it is
1614 better to have the kids ensured. And there is no question
1615 that kids will be taken off the rolls if this bill passes,
1616 and that is what the CBO is saying, that 2/3 of these kids
1617 are going to be uninsured. Now, what are the consequences of
1618 that? Do they not get any healthcare? Well, if they don't
1619 get primary care, they end up getting sick and going to the
1620 emergency room. I don't think that is a good way to operate.

1621 Dr. {Gingrey.} Will the gentlewoman yield?

1622 Mr. {Pallone.} Back to Ms. Capps. I don't know if she--
1623 -

1624 Mrs. {Capps.} I am prepared to yield. I wanted to
1625 yield to my colleague from Illinois but she--

1626 Ms. {Schakowsky.} Can I ask for time myself?

1627 Mrs. {Capps.} Okay. Then, anybody else on my side
1628 seek--I will be happy to yield to--

1629 Dr. {Gingrey.} And my friend from California, I
1630 appreciate her very much for yielding. But look, you know,
1631 what you are doing is forcing states to cut benefits. There
1632 is no other way. That is all they can do with these
1633 handcuffs applied. They can cut benefits. What we want to
1634 do is cut waste, fraud, and abuse, to get people off the
1635 rolls that shouldn't be there. I mean, what is wrong--I

1636 can't understand why anybody on your side of the aisle would
1637 be opposed to that. And I yield back and I thank you for the
1638 time.

1639 Mr. {Pitts.} The chair thanks the gentlelady, who
1640 yields back, and recognizes the gentleman from Louisiana, Dr.
1641 Cassidy, for 5 minutes.

1642 Dr. {Cassidy.} First, these are optional programs. Let
1643 us emphasize those children who are currently eligible will
1644 continue to be eligible. These are optional programs that
1645 the states expanded into when they had the money, and now
1646 that states don't have the money, some of them would like to
1647 cut back, but it is a state option. And frankly, this is
1648 important for the federal taxpayer but also for the taxpayer,
1649 because as you know, California has a \$25 billion deficit.
1650 California, your Democratic governor and, I presume,
1651 Democratic legislature is looking for ways to do this.

1652 But this even begs the question of the argument. You
1653 are assuming that if we keep this coverage that it expands
1654 access. This last Monday and this Monday I will see patients
1655 teaching medical residents in a hospital for the uninsured.
1656 About 50 percent of those whom I see will have Medicaid. It
1657 begs the question, if somebody has an insurance card,
1658 Medicaid, why are they coming to a hospital for the
1659 uninsured? They are coming to such a hospital because

1660 Medicaid pays so poorly it doesn't meet a physician's cost,
1661 and so therefore they cannot see the patient.

1662 It is not just Louisiana. Last year, ironically, just
1663 when PPACA passed, the New York Times had an article Helen,
1664 Michigan, a woman with cancer on Michigan Medicaid could not
1665 find a provider because Michigan Medicaid paid below cost.
1666 The woman--she was seeing her oncologist--was going bankrupt
1667 with so many Medicaid patients she had to leave care. We
1668 Googled her. She died a week later. Now, the fact is is
1669 that what governors and legislatures do--who, by the way,
1670 care for their children--you cannot tell me that Jerry Brown
1671 in that Democratic legislature in California doesn't care for
1672 the kids of California. What they are going to do,
1673 presumably, because they love children, too, is prune back
1674 the program where they think they safely can to strengthen
1675 the program or at least to preserve for those who are most at
1676 risk.

1677 For 20 years I worked in a public hospital for the
1678 uninsured frustrated because politicians would pass bills,
1679 pat themselves on the back, but they were passing bills with
1680 the appearance of coverage but without the power of it.
1681 Right now, what Sebelius wrote a letter to the states were,
1682 listen, if you are going bankrupt on your Medicaid program,
1683 just decrease provider payments. Now, subsequently, I think

1684 she is a little embarrassed by that. She sent another letter
1685 saying you can't do so because she understands that if one of
1686 the options they have to continue a Maintenance of Effort is
1687 to spread that pie thinner, then they are going to decrease
1688 provider payments, and unfortunately, that decreases access.
1689 That has clearly been shown when you pay providers below
1690 their cost of seeing patients. It hurts access.

1691 Now, as it turns out, we on this side think that if you
1692 give Jerry Brown and the Democratic legislature the right to
1693 make adjustments in their program, they will do it in a way
1694 which makes sense both for state taxpayers, federal
1695 taxpayers, the unborn who we are borrowing the billions from
1696 to finance this budget, as well as for patients--most
1697 particularly for patients. I actually have a great deal of
1698 faith in your Democratic legislature out there. I think they
1699 actually care about children, too.

1700 So I will say that if we pretend that requiring states
1701 which are going bankrupt that they have to continue this
1702 Maintenance of Effort and we are doing something positive,
1703 that we are not negatively impacting other portions of their
1704 Medicaid program or their K through 12 or their social
1705 service outreach to the blind and disabled or anything else
1706 that will have to be drained in order to continue to support
1707 the Maintenance of effort, we are fooling ourselves. Now, by

1708 the way, the Congressional Budget Office makes a point that
1709 states will abandon ship, not because they necessarily think
1710 it is a bad program or don't have the money, but because they
1711 will go into the exchange. CBO's estimate of the impact upon
1712 CHIP is kind of a business decision by the states. How do we
1713 stretch our federal dollars?

1714 Mr. {Pallone.} Will the gentleman yield?

1715 Dr. {Cassidy.} No, I am almost out of time and then I
1716 will give it to you. So I will summarize by saying that if
1717 we ignore the fact that we are leaving states with few
1718 options except to decrease payments to providers and other
1719 services, we are spreading the same pool of money thinner, we
1720 ultimately hurt patient access, we fool ourselves, we feel
1721 better about ourselves, but ultimately it is the patient, the
1722 state taxpayer, the federal taxpayer, and our federal deficit
1723 that suffers. I yield.

1724 Mr. {Pitts.} The chair thanks the gentleman and
1725 recognizes the gentlelady from Illinois, Ms. Schakowsky, for
1726 5 minutes on the amendment.

1727 Ms. {Schakowsky.} Thank you, Mr. Chairman. I won't
1728 take a full 5 minutes.

1729 Mr. Gingrey had mentioned having to cut education
1730 programs. I wanted to read some and ask if I could put in
1731 the record an email that I got from the National Education

1732 Association regarding--the statement is to oppose State
1733 Flexibility Act. And the quote is, ``Stripping important
1734 Maintenance of Efforts protections from the law would allow
1735 states to cut Medicaid eligibility, which would place many of
1736 the vulnerable people who rely on Medicaid at risk of losing
1737 the health coverage they depend on. This will have a
1738 devastating impact on millions of children in our classrooms
1739 across the Nation. As NEA members are well aware, children
1740 who lack access to healthcare services are less likely to
1741 come to school healthy and ready to learn and to succeed
1742 academically. The lack of necessary medical services for
1743 children and students of all ages creates a serious
1744 impediment to the learning process. In addition, families
1745 with access to a regular source of medical care are more
1746 likely to keep the entire family healthy and create a better
1747 learning environment within the home.''

1748 And so the teachers themselves, teachers across the
1749 country are stating that this would be unwise for the
1750 children that we hope will be coming to their classrooms and
1751 learning. And if the gentleman from New York--

1752 Dr. {Gingrey.} Gentelady will yield?

1753 Ms. {Schakowsky.} Yes, I would.

1754 Dr. {Gingrey.} I thank the gentelady from Illinois for
1755 yielding. You know, I just, again, I remind her and my

1756 colleagues that 34 states and yes, the District of Columbia
1757 have been forced to make budget cuts since the recession
1758 began and further cuts are projected for 2011. The NEA
1759 letter, you know, I am sure that I am not surprised that they
1760 would be in opposition to it, but what governors are having
1761 to do in the states in regard these 34 states is increase
1762 classroom size maybe to 30, 35 children in primary classes.
1763 They are able to cut down--

1764 Mr. {Engel.} Will the gentlelady yield?

1765 Dr. {Gingrey.} --on spending from reducing bus routes,
1766 but I can assure you that the rank-and-file teacher would
1767 probably not agree with this NEA letter. And I thank you for
1768 yielding.

1769 Ms. {Schakowsky.} I reclaim my time and yield to Mr.
1770 Engel.

1771 Mr. {Engel.} I thank my friend for yielding to me. You
1772 know, this is a philosophical difference. It clearly is, and
1773 I am sorry Mr. Cassidy left because I really wanted to answer
1774 him because what he is saying supposes that this is the
1775 federal monies that are available and that nothing more is
1776 available and states are cutting because they have to cut.
1777 And kids in California, the Democratic governor cares about
1778 kids. You see, it is a philosophical difference. You know,
1779 we think that having big oil get tax breaks is not something

1780 that the Federal Government should continue to allow. We
1781 think that saying that defense spending can never be cut is
1782 not something that is plausible. We think that tax cuts for
1783 the wealthy are not fair. And so it is not a matter of us
1784 not caring about the debt or matter of us forcing the states
1785 to make these tough decisions. We think that my friends on
1786 the other side of the aisle just prioritize. And they are
1787 prioritizing is that tax breaks for the wealthy are important
1788 and tax breaks for big oil are important and GE paying no
1789 taxes is fine and defense can never be touched. Well, we
1790 think those things have to be adjusted so there will
1791 ultimately be monies to close the deficit and also to fund
1792 these kinds of programs which we know are very, very
1793 important.

1794 So yes, if you have that philosophy that we are going to
1795 balance our budget on the backs of seniors, on the backs of
1796 children, on the backs of women, then fine. Then what you
1797 say is true. But we happen to think that that is not where
1798 the cuts should come from. Yes, there has got to be belt-
1799 tightening, yes, there has to be some kind of cuts, but not
1800 the kinds of cuts that my friends on the other side of the
1801 aisle want to see. So it is really a philosophical
1802 difference. There is nobody on this side of the aisle that
1803 thinks that we should do nothing about the budget deficit.

1804 And in fact--I am going to yield to Mr. Weiner. But in fact
1805 I want to remind my friends that during the years of
1806 President Bush, Republicans controlled both houses of the
1807 Congress for 6 years of the 8 years for the Bush
1808 administration. So if they really wanted to do things with
1809 the deficit, they really could have done it.

1810 So let me yield to Mr. Weiner now.

1811 Mr. {Weiner.} It is the gentlelady from Illinois' time,
1812 but I just want to just say in the final 10 seconds this
1813 notion that there is no other choice except to cut benefits
1814 is not actually accurate. And let us remember something.
1815 There are minimum standards in the Medicaid act today since
1816 forever. You can use the same arguments you are using now to
1817 say there shouldn't be any of those standards. So obviously,
1818 you believe there should be minimum standards. You just
1819 don't like them being the minimum standards the State of
1820 Georgia passed a couple of years ago. That is all this is
1821 about.

1822 Now, if you believe there should be no minimum
1823 standards, which, by the way, in the debate that originally
1824 took place on Medicaid a lot of people said the exact same
1825 thing. Do I have any standards? You have got to have these
1826 standards, and if you believe you shouldn't, let us be
1827 consistent. Let us eliminate them all, all the federal

1828 standards and then your argument would be actually
1829 consistent.

1830 Mr. {Pitts.} The chair recognizes the gentleman from
1831 Illinois for 5 minutes, Mr. Shimkus.

1832 Mr. {Shimkus.} Thank you, Mr. Chairman. I do also
1833 appreciate debate and take it in the intent that we all come
1834 to the table on.

1835 Just in response to my friend from New York, the
1836 drilling expenses was in law in 1911.

1837 Mr. {Pallone.} Which friend from New York?

1838 Mr. {Shimkus.} It is just my time.

1839 Mr. {Pallone.} Which friend from New York. There are
1840 two friends from New York.

1841 Mr. {Shimkus.} Well, sometimes it is the same, so it
1842 doesn't really--no. But the drilling expenses was in law in
1843 1911 and if you raise those and you don't raise it on
1844 imported crude oil, we just make ourselves more reliant on
1845 imported crude oil. And that is not what we want to do in
1846 this environment. The tax breaks was tax across-the-board
1847 cuts to every grade level, and we did cut defense in the last
1848 ER. I mean, we are making the tough decisions.

1849 I would ask the question if a state defaults, what
1850 services are paid? The states are not allowed to declare
1851 bankruptcy. And historically there have been states that

1852 defaulted. What happens to services rendered across the
1853 board if a state defaults? Why am I worried about that?
1854 Because I am from the great State of Illinois in which 40
1855 percent of our budget is Medicaid expenses. We are \$13
1856 billion in debt. Per capita we are in a worst per-capita
1857 position than the great State of California. So the issue is
1858 not always, you know, this debate on Medicaid, you all keep
1859 telling folks you are going to cut benefits. Why not address
1860 eligibility? Why not say is 350 percent of the poverty
1861 level, should that be figured?

1862 Mr. {Pallone.} Will the gentleman yield?

1863 Mr. {Shimkus.} There are two sides of the cost-and-
1864 income equation.

1865 Mr. {Pallone.} Yes.

1866 Mr. {Shimkus.} And when we have this Maintenance of
1867 Effort issue, it does constrain the states into not having
1868 the opportunity to be flexible. Medicaid was always created
1869 to be a voluntary program. It was designed to be a voluntary
1870 program that states could participate with the Federal
1871 Government. It was designed to allow states flexibility.
1872 That is why we developed it. All this is saying is let us go
1873 back to the intent of Medicaid. Let us allow states to be
1874 flexible to address this budgetary crisis which is affecting
1875 across-the-board cuts.

1876 As much as we get the debate about where is the plan,
1877 you know, even in the Ryan budget, we don't get to balance
1878 until like when kids today will be 40 years old. Medicare,
1879 Medicaid, Social Security, interest on the debt are
1880 unchecked. When we fight about the discretionary budget, we
1881 are fighting over peanuts. And if we don't address the
1882 entitlements, we cannot get control of this and we will
1883 continue to grow the national debt beyond its historical
1884 levels of \$4.5 trillion.

1885 So this is just a first start to try to say, how do we
1886 become more efficient? And we all, from states, we all deal
1887 with state reps. We deal with governors. They are going to
1888 be held accountable. They are going to have to find new and
1889 efficient ways to provide care. They may have to then roll
1890 into community health clinics. We may have to address
1891 EMTALA. You know, my mom, she is doing well. She went to
1892 the emergency room about a week ago. I left my event so I
1893 could be with her. I am sitting in the emergency room. Out
1894 of the 10 people that came in, probably 2 were emergent. The
1895 rest were twisted ankles, shoulder sprains, and they are
1896 using the emergency room for primary care.

1897 Mr. {Engel.} Would the gentleman yield though?

1898 Mr. {Pallone.} Would the gentleman yield just--

1899 Mr. {Shimkus.} I have got some time. And let me go to

1900 Mr. Pallone first since he has been trying to get my
1901 attention.

1902 Mr. {Pallone.} You see, this is the whole point that we
1903 are trying to make here is that we would rather have the kids
1904 covered instead of going to the emergency room. And the
1905 gentleman is right. There are alternatives. I mean one of
1906 the alternatives I brought up in my opening statement is
1907 FMAP. I mean, when the Democrats were in the majority, we
1908 gave money back to the states for education and teachers. We
1909 did the enhancement with--

1910 Mr. {Shimkus.} And actually I reclaim my time--

1911 Mr. {Pallone.} If you want to do that, I mean, look--

1912 Mr. {Shimkus.} I am a big FMAP reform guy since we are
1913 a 50/50 state and not--

1914 Mr. {Pallone.} But recognize the fact that you still
1915 have the recession--

1916 Mr. {Shimkus.} But in reclaiming my time--

1917 Mr. {Pallone.} Something needs to be done and this is
1918 one alternative--

1919 Mr. {Shimkus.} I am trying to reclaim my time. I would
1920 say that Medicaid recipients use the emergency room more than
1921 the uninsured. And we have to have that reform of this
1922 system if we ever want to get to somewhat of fiscal sanity at
1923 the state level and the national level. And I apologize for

1924 my friend from New York. I am out of time.

1925 Mr. {Pitts.} Yeah, the chair thanks the gentleman. I
1926 would like to get to a vote on this bill. We have two more
1927 amendments.

1928 Mr. {Engel.} Mr. Chairman--

1929 Mr. {Pitts.} Is there other discussion on this issue?

1930 Mr. {Engel.} Mr. Chairman?

1931 Mr. {Pitts.} The gentleman from New York, Mr. Engel, is
1932 recognized for 5 minutes on the amendment.

1933 Mr. {Engel.} Thank you. Thank you, Mr. Chairman. The
1934 point I was trying to make to my good friend is that you look
1935 at cutting as the only way to be fiscally responsible. We
1936 think there needs to be cuts. There has to be cuts. But we
1937 don't think that is the only way to do it. If you give the
1938 states a smaller pot of money, of course, they have no choice
1939 but to make these cuts. But we happen to think that there is
1940 some priorities, and we think that these programs for
1941 healthcare are the priorities.

1942 You know, when you go to the emergency room and you have
1943 people with shoulders and all the things that you describe, I
1944 mean, they are there because they don't have insurance. They
1945 are not insured. And that was one of the premises of the
1946 Affordable Healthcare Act. We wanted to try to insure as
1947 many Americans as we possibly could. And the estimates are

1948 that we will insure 30 million more Americans under that
1949 bill. We don't want people to use the emergency rooms for
1950 those kinds of things.

1951 Mr. {Waxman.} Will the gentleman yield?

1952 Mr. {Engel.} Let me just get my thought out and then I
1953 will be happy to yield.

1954 So we are saying that there has got to be more than
1955 just cutting. And it goes back to what I said before in
1956 terms of the philosophical, you know, differences. You know,
1957 somebody mentioned the Ryan bill. I just don't think that we
1958 should just get rid of Medicare and Medicaid and turn things
1959 into a voucher system or a block grant. You guys do. I
1960 mean, I don't think so. And I think there are other ways of
1961 tightening our belts and there are other ways of doing it.
1962 And I agree that both parties have been negligent in the past
1963 with doing it.

1964 And now we cannot kick the can down the road but not to
1965 fix it the way you guys want to fix it, to fix it on the
1966 backs of people's healthcare, to say that we are opposed to
1967 the healthcare bill that we passed and signed into law, but
1968 that gives 30 million more Americans coverage. We are
1969 opposed to it and we are going to make burdens even more
1970 plentiful on the states and there is no maneuverability. The
1971 only maneuverability is just to cut. That is your

1972 philosophy. I will yield to Mr. Waxman.

1973 Mr. {Waxman.} I thank you for yielding because there is
1974 a lot of flexibility at the state level. I think Dr. Cassidy
1975 mentioned that the states don't have the ability to maintain
1976 the integrity of the program. Well, that is not accurate.
1977 States may change certain eligibility methods and standards
1978 to protect Medicaid program integrity when new eligibility
1979 loopholes are exploited in areas.

1980 Several members have said that the provider payments are
1981 so low. But you give the states more flexibility, that is
1982 not going to raise the provider payments. They are going to
1983 reduce the provider payments and take people out of the
1984 eligibility, especially children. Right now we are talking
1985 about children. The Pallone amendment is an amendment saying
1986 we are not going to allow children to be dropped, just
1987 children. We will get other amendments on other subjects.

1988 The interesting argument was made by the gentlelady from
1989 Washington that when we have low provider payments, they are
1990 subsidizing healthcare for the poor. Well, I suppose that is
1991 true, but if you take a child and make him or her no longer
1992 eligible for the Medicaid program, no provider is going to
1993 want to take that child without any reimbursement at that
1994 point.

1995 Dr. {Cassidy.} Will the gentleman yield just for--

1996 Mr. {Waxman.} Now, some doctors will but most won't.
1997 So the flexibility that the Republicans are asking for is a
1998 one-way flexibility, to reduce the kids that would be covered
1999 under this program. I think that we could look at other
2000 alternatives if we are concerned about state budgets. And I
2001 am really touched by all the concern about California's
2002 budget. My governor has not signed on to this letter that
2003 the Republicans put forward saying that we ought to pass this
2004 bill. We are struggling. Other states are struggling. That
2005 requires, it seems to me, more federal help because I believe
2006 a child born in any state in this country ought to have the
2007 opportunity to go as far as that child's talents will bring
2008 her or him. And that means to me there ought to be a basic
2009 standard for healthcare, not no healthcare for a child in
2010 Georgia where there is healthcare in another state.

2011 And I want to correct another statement that was
2012 absolutely inaccurate. No state allows children to be
2013 covered or others to be covered under Medicaid when they have
2014 an income of \$90,000 a year. That sounds good but it is just
2015 not true.

2016 So I thank the gentleman for yielding me time to make a
2017 few extra statements.

2018 Mr. {Pitts.} Is there further discussion of the
2019 amendment? If there is no further discussion, the vote

2020 occurs on the Pallone amendment. All right. We will pass
2021 the clerk to call the roll.

2022 The {Clerk.} Mr. Burgess?

2023 Dr. {Burgess.} No.

2024 The {Clerk.} Mr. Burgess, nay.

2025 Mr. Whitfield?

2026 [No response.]

2027 The {Clerk.} Mr. Shimkus?

2028 Mr. {Shimkus.} No.

2029 The {Clerk.} Mr. Shimkus, nay.

2030 Mr. Rogers?

2031 [No response.]

2032 The {Clerk.} Mrs. Myrick?

2033 [No response.]

2034 The {Clerk.} Mr. Murphy?

2035 [No response.]

2036 The {Clerk.} Mrs. Blackburn?

2037 [No response.]

2038 The {Clerk.} Mr. Gingrey?

2039 Dr. {Gingrey.} No.

2040 The {Clerk.} Mr. Gingrey, nay.

2041 Mr. Latta?

2042 Mr. {Latta.} No.

2043 The {Clerk.} Mr. Latta, nay.

2044 Mrs. McMorris Rodgers?
2045 Mrs. {McMorris Rodgers.} No.
2046 The {Clerk.} Mrs. McMorris Rodgers, nay.
2047 Mr. Lance?
2048 Mr. {Lance.} No.
2049 The {Clerk.} Mr. Lance, nay.
2050 Mr. Cassidy?
2051 Dr. {Cassidy.} Nay.
2052 The {Clerk.} Mr. Cassidy, nay.
2053 Mr. Guthrie?
2054 Mr. {Guthrie.} No.
2055 The {Clerk.} Mr. Guthrie, nay.
2056 Mr. Barton?
2057 [No response.]
2058 The {Clerk.} Mr. Upton?
2059 Mr. {Upton.} Vote no.
2060 The {Clerk.} Mr. Upton, nay.
2061 Mr. Pallone?
2062 Mr. {Pallone.} Aye.
2063 The {Clerk.} Mr. Pallone, aye.
2064 Mr. Dingell?
2065 Mr. {Dingell.} Aye.
2066 The {Clerk.} Mr. Dingell, aye.
2067 Mr. Towns?

2068 [No response.]

2069 The {Clerk.} Mr. Engel?

2070 Mr. {Engel.} Aye.

2071 The {Clerk.} Mr. Engel, aye.

2072 Mrs. Capps?

2073 Mrs. {Capps.} Aye.

2074 The {Clerk.} Mrs. Capps, aye.

2075 Ms. Schakowsky?

2076 Ms. {Schakowsky.} Aye.

2077 The {Clerk.} Ms. Schakowsky, aye.

2078 Mr. Gonzales?

2079 [No response.]

2080 The {Clerk.} Ms. Baldwin?

2081 Ms. {Baldwin.} Aye.

2082 The {Clerk.} Ms. Baldwin, aye.

2083 Mr. Ross?

2084 Mr. {Ross.} Aye.

2085 The {Clerk.} Mr. Ross, aye.

2086 Mr. Weiner?

2087 Mr. {Weiner.} Aye.

2088 The {Clerk.} Mr. Weiner, aye.

2089 Mr. Waxman?

2090 Mr. {Waxman.} Aye.

2091 The {Clerk.} Mr. Waxman, aye.

2092 Mr. Whitfield?

2093 Mr. {Whitfield.} No.

2094 The {Clerk.} Mr. Whitfield, nay.

2095 Mr. Murphy?

2096 Mr. {Murphy.} No.

2097 The {Clerk.} Mr. Murphy, nay.

2098 Mr. Rogers?

2099 Mr. {Rogers.} No.

2100 The {Clerk.} Mr. Rogers, nay.

2101 Mr. Pitts?

2102 Mr. {Pitts.} No.

2103 The {Clerk.} Mr. Pitts, nay.

2104 Mr. {Pitts.} Okay. The clerk will report the vote.

2105 The {Clerk.} Mr. Chairman, on that there were 9 ayes,

2106 13 nays.

2107 Mr. {Pitts.} The amendment is not agreed to. Are there

2108 further amendments? Mrs. Capps is recognized.

2109 Mrs. {Capps.} I have an amendment at the desk.

2110 Mr. {Pitts.} The clerk will report the amendment.

2111 Mrs. {Capps.} D-02A.

2112 The {Clerk.} An amendment offered by Mrs. Capps--

2113 Mr. {Pitts.} Without objection, the reading of the

2114 amendment is dispensed with.

2115 [The amendment follows:]

2116 ***** INSERT 3 *****

|
2117 Mr. {Pitts.} The gentlelady is recognized for 5 minutes
2118 in support of her amendment.

2119 Mrs. {Capps.} Thank you, Mr. Chairman. My amendment
2120 will ensure that seniors and individuals with disabilities
2121 are not dropped if this bill is enacted. As we know,
2122 Medicaid is not just a program of children and poor families.
2123 In fact, the Medicaid program is absolutely critical for the
2124 health of seniors, individuals with disabilities, and their
2125 families, 16 million Americans who rely upon this important
2126 program. It fills in where other programs fail, allowing
2127 them to live in their community while receiving home
2128 healthcare so they can experience more independence at a much
2129 lower cost to them and to taxpayers. It allows for them,
2130 Medicaid, to be cared for in nursing homes, care that is
2131 prohibitively expensive for most Americans, but particularly
2132 out of reach for our poor seniors.

2133 In my State alone, Medicaid provides this critical care
2134 to nearly 2 million seniors and persons with disabilities,
2135 individuals who have one less thing to worry about because
2136 they know they have a way to pay for the care they most
2137 desperately need, individuals and especially their families.
2138 But the Republican majority's plan today is to take away that
2139 security and in many cases leave these low-income seniors to

2140 fend for themselves. This burden could leave them with no
2141 other choice than to enter expensive and restrictive nursing
2142 home care, or it could simply drive them to homelessness.
2143 Just picturing a frail and forgetful senior homeless in this
2144 country makes me cringe.

2145 This new burden the Republican majority is willing to
2146 place on seniors and individuals with disabilities does not
2147 stop with the patient. In fact, consequences of this
2148 reckless action would extend to their families, to their
2149 communities, and to our local economies. The rollback of the
2150 Maintenance of Effort provisions could lead to direct harm to
2151 these vulnerable populations.

2152 First, for those who are in the Medicaid program and are
2153 above the absolute minimum means test for coverage, a vote
2154 for this bill is a vote to allow them to lose their care
2155 completely. In raw numbers, that represents over 5 million
2156 individuals who will be at risk of losing their coverage.

2157 Second, if someone qualifies for the bare minimum level,
2158 the poorest among us, there are still consequences. The bill
2159 would allow states to take away in-home care and community-
2160 based services, services that allow them to stay at home for
2161 a fraction of the nursing home price and often with a better
2162 quality of life. In California, again, this represents half
2163 a million individuals who would be left with only the option

2164 of nursing home or nothing.

2165 In addition, the states could impose onerous enrollment
2166 and recertification processes, requiring long waits at the
2167 Social Service Agency, increased paperwork, and burdens to
2168 find adequate transportation to do all of this. People will
2169 naturally fall out of the program not because they don't need
2170 it but because we allowed for hurdles to high to jump.

2171 And finally, I can't help but think of the larger impact
2172 of this misguided bill, the impact on communities and
2173 families. Earlier this year we had a hearing on long-term
2174 care issues. Members on both sides of the aisle acknowledge
2175 the high cost of this issue both on the individual and on
2176 their family caregivers. It seems particularly unwise now to
2177 force more people into this situation where they have to
2178 choose between going to work and caring for a relative who
2179 has lost their Medicaid coverage. We call this the sandwich
2180 generation, because many times these are families with
2181 children to look after. We have been talking about children
2182 in the previous amendment, but they also have elderly parents
2183 who are much on their minds and requiring their care and
2184 oversight.

2185 And that is why I have introduced the amendment before
2186 you. It is very clear. It simply ensures that seniors and
2187 individuals with disabilities who would qualify for medical

2188 assistance for nursing facilities or home- and community-
2189 based services are not dropped if this bill is enacted. It
2190 makes it clear that we will be determined not to allow these
2191 vulnerable groups be hurt by our desire to play politics with
2192 health and wellbeing.

2193 So I urge my colleagues to think about their
2194 constituents for whom this program is so desperately
2195 important. I urge a ``yes'' vote on my amendment and I yield
2196 back the balance of my time.

2197 Mr. {Pitts.} The chair thanks the gentlelady. Is there
2198 further discussion on the amendment? The chair recognizes
2199 Dr. Gingrey for 5 minutes.

2200 Dr. {Gingrey.} Well, Mr. Chairman, thank you. And I am
2201 not going to take 5 minutes to voice my opposition to the
2202 Capps' amendment. I have great respect for the gentlewoman
2203 from California, a registered nurse, a healthcare
2204 professional before coming to Congress, and I understand the
2205 compassion in her heart.

2206 But look, you know, once again, what the Democrats with
2207 the previous amendment, this amendment, probably the next
2208 amendment, they want to say that Republicans with this
2209 particular Maintenance of Effort disregarding that section of
2210 ObamaCare, they want to hurt the poorest, most vulnerable,
2211 young, pregnant, and disabled Americans. Nothing could be

2212 further from the truth. Nothing could be further from the
2213 truth. We just simply want to say that those in any of those
2214 categories who can afford in these tough economic times that
2215 they can afford maybe to do this through their work, to say
2216 to a governor, for example, or a state, well, you know, you
2217 can't look at the rolls very carefully; you can't ask the
2218 proper questions; you can't make sure that all income is
2219 counted in regard to eligibility. Oh, you work on Saturdays?
2220 Well, we are not going to count that as income. You know, so
2221 we are going to make you eligible whether it is 350 percent,
2222 400 percent of federal poverty level, 185 percent as it has
2223 been in our State for the Medicaid program for many years
2224 under 1115 waiver. We are just simply saying, look, let the
2225 governors in the respective states be the incubators, be the
2226 pilot programs, look and make sure that those with the
2227 greatest need have a healthcare benefit that is worth
2228 something.

2229 As my colleagues have said earlier, what good is having
2230 a Medicaid card if you can't find a provider and you have to
2231 show up at a charity health clinic or under EMTALA in the
2232 emergency room and be treated by a hospitalist who knows
2233 nothing of your family history or your prior medical history.
2234 And when you get out of the hospital, if you are a kid, a
2235 young child, elderly disabled, then who is going to get that

2236 information? Who is going to take care of you after the
2237 hospitalization? Nobody.

2238 Mrs. {Capps.} Would the gentleman yield?

2239 Dr. {Gingrey.} Well, I will yield. Absolutely.

2240 Mrs. {Capps.} Thank you. Thank you very much for
2241 yielding me time, Mr. Gingrey.

2242 You know, I want to just remind us that we did have--it
2243 is being called our hearing on this topic, but we had
2244 Governor Barber here saying that he was determined he would
2245 not drop children and pregnant women from his Medicaid rolls,
2246 but who is that left? Who is left and who is by far the
2247 largest share of Medicaid expenses are seniors and let us not
2248 forget the substantial number of individuals with
2249 disabilities who are covered in states by Medicaid for whom
2250 there is no protection for their end-of-life care--talking
2251 about seniors now--and for those with disabilities who seek
2252 to have additional care then they can be provided at home
2253 under Medicaid.

2254 I would pose this to you, Mr. Gingrey, or anyone on the
2255 other side. What is the alternative for how they are going
2256 to seek care if this program--if they are dropped--

2257 Dr. {Gingrey.} Well, reclaiming my time and I yielded a
2258 minute to the gentlewoman from California gladly.

2259 But again, as I have said earlier in the previous

2260 amendment, Mr. Pallone's amendment, when Mr. Weiner said,
2261 well, what is your plan? Well, our plan is just simply go
2262 back to what we originally allowed our states to do, to be
2263 granted in some instances, maybe be denied in some instances
2264 by CMS for an 1115 waiver to expand the coverage, be more
2265 generous if you will. Those waivers, by the way, are
2266 supposed to be revenue-neutral. I will guarantee you they
2267 are not revenue-neutral.

2268 So, you know, when it is time to tighten the belt, let
2269 us let the governors tighten the belt if necessary and
2270 preserve a good program, whether it is SCHIP for our
2271 children, our needy children, our neediest children, or the
2272 Medicaid program so we can preserve a decent program and
2273 provide the things that they need, not deny dental care, not
2274 deny vision care, not deny things that we want to do. But we
2275 can't if there are handcuffs as there are with this
2276 Maintenance of Effort provision in ObamaCare. We just simply
2277 say repeal that section and allow the governors the freedom
2278 to not only balance their budgets and not cut deeply into
2279 public education and public safety and provide a healthcare
2280 benefit for our children, our elderly, and our needy
2281 disabled.

2282 And I yield back.

2283 Mr. {Pitts.} The chair thanks the gentleman and

2284 recognizes the ranking member of the full committee, Mr.
2285 Waxman, for 5 minutes on the amendment.

2286 Mr. {Waxman.} I think the gentleman from Georgia is
2287 being disingenuous when he says his plan, Republican plan is
2288 to go back to what Medicaid used to be before this
2289 Maintenance of Effort provision was put it. The Republican
2290 plan in the budget they adopted in the House is to block
2291 grant Medicaid. It is to reduce the federal dollars for
2292 Medicaid. Now, we are saying in the debate here on the
2293 Republican side of the aisle we just can't afford these
2294 things. Don't you think the governors are going to say the
2295 same thing to people who are going to be permitted to be
2296 dropped from insurance coverage under Medicaid?

2297 The Capps amendment would protect seniors and
2298 individuals with disabilities. These are people who need
2299 nursing home care or home- and community-based care. They
2300 are not going to get that care under their private insurance.
2301 They are not going to get that care at their job in the
2302 insurance that is covered while they are employed. This is
2303 something that they are eligible for when they are absolutely
2304 poor and you don't have private insurance to cover this.

2305 Medicaid provides care tailored to meet the needs of
2306 this very vulnerable population. For example, Medicaid
2307 provides care for activities of daily living such as

2308 dressing, eating, using the toilet, showering. No private
2309 insurance, unless it is a long-term care insurance plan
2310 covers that except on the circumstances where they might be
2311 covered for a short-term stay after a hospitalization.

2312 49 states and the District of Columbia have coverage
2313 allowing people to live independently. These are the people
2314 that the Capps amendment would protect. The gentleman from
2315 Georgia said we want to let the governors in the states be
2316 able to count income in a correct manner so that they really
2317 are poor enough. Nothing prevents that from happening under
2318 existing law. What the Republican proposal is is to reduce
2319 the Maintenance of Effort, and then reduce the amount of
2320 federal dollars from Medicaid next, and then have the
2321 governors say we love you; we care about you; it is so sad
2322 that we have no choice.

2323 And when these people are dumped from insurance
2324 coverage, they have nowhere else to go. They just have no
2325 other options. Private health insurance doesn't cover them
2326 and nursing home care--they are asking their families to help
2327 pay for it--costs \$72,000 a year. Assisted living facilities
2328 averages \$38,000. Home healthcare services averages \$21 an
2329 hour. Few people who would be eligible anywhere in this
2330 country have that kind of money. It is time to stop this
2331 attack on the seniors.

2332 And when the gentleman from Georgia says that we want
2333 these people who are vulnerable to have less coverage,
2334 nothing could be further from the truth. I think that is a
2335 statement that is not an accurate statement. These are the
2336 people who would be protected if we adopt the Capps
2337 amendment. If we don't, they are standing in line to be the
2338 victims of the cuts coming down the road.

2339 And I have a minute and a half if anybody else wants it.
2340 If not, I will yield it back.

2341 Mr. {Pitts.} The chair thanks the gentleman. Is there
2342 further discussion on the amendment? The gentlelady from
2343 Washington, Ms. McMorris Rodgers, for 5 minutes is
2344 recognized.

2345 Mrs. {McMorris Rodgers.} Thank you, Mr. Chairman. And
2346 I have heard my colleagues on the other side of the aisle say
2347 that states currently have flexibility, but I would suggest
2348 that the states do not believe that they have enough
2349 flexibility if they do have flexibility because they are
2350 asking for more flexibility when it comes to the Medicaid
2351 program.

2352 As we think about the future of Medicaid, I have been
2353 meeting with a number of disability groups to look for ways
2354 that we could improve the program and the way that it
2355 delivers services to those that are most vulnerable, those

2356 with disabilities. And you know, many will agree that this
2357 program is flawed, that it could be improved, and yet I hear
2358 on the other side that it is as if the program is set in
2359 stone and this is the way that it serves them best and there
2360 is no willingness to look that there might be ways that a
2361 program could be improved to actually meet the needs of the
2362 most vulnerable, those that we are intending to provide that
2363 safety net. I still can't help but think back to welfare
2364 reform.

2365 Mr. {Waxman.} Gentlelady, what do you suggest?

2366 Mrs. {McMorris Rodgers.} In the mid-'90s with welfare
2367 reform what we did was we gave the states the flexibility to
2368 set up programs in a way that would best meet the needs of
2369 the poor, and we gave the states flexibility to provide them
2370 transportation, education, childcare, but it wasn't this is
2371 the amount you get to spend for each category with no
2372 flexibility.

2373 And I would submit that welfare reform has been a
2374 success. People have been better served. They were given
2375 the opportunity to be independent, self-sufficient. That
2376 should be our goal when it comes to Medicaid, too, not
2377 confining them to a program that is really limited and does
2378 not give states flexibility to truly meet the needs at
2379 different times.

2380 Mr. {Waxman.} Gentlelady, would you yield?

2381 Mrs. {McMorris Rodgers.} I suppose so.

2382 Mr. {Waxman.} When Medicaid was first adopted and
2383 seniors, disabled people became eligible, they were only
2384 eligible for nursing home care.

2385 Mrs. {McMorris Rodgers.} Um-hum.

2386 Mr. {Waxman.} Which meant that we pushed people into
2387 nursing homes that really didn't want to be there and didn't
2388 need to be there because it is cheaper to care for somebody
2389 at home or--

2390 Mrs. {McMorris Rodgers.} Um-hum. Um-hum.

2391 Mr. {Waxman.} --in an assisted living facility or at a
2392 daycare center for a couple hours a day. So over the years,
2393 Medicaid has changed--

2394 Mrs. {McMorris Rodgers.} Um-hum.

2395 Mr. {Waxman.} --to try to meet these needs.

2396 Mrs. {McMorris Rodgers.} Yes.

2397 Mr. {Waxman.} And I just want to say that to you
2398 because you expressed a concern that we are not willing to
2399 try to figure out how to make this program serve those needs
2400 more effectively. We do want to work with you on that. I
2401 think we have a disagreement because if you give the states
2402 the flexibility to cut these people off eligibility, many of
2403 us fear that that is not an improvement. It will be

2404 retrogression. That is the difference.

2405 Mrs. {McMorris Rodgers.} I agree with your comment
2406 about community-, home-based care. That is a great example
2407 of improving a program. I believe that this program could
2408 even be improved more. And I also believe that the states,
2409 if given the flexibility, we might be able to come up with
2410 better ways to meet the needs of the most vulnerable. I
2411 don't believe that the states are going to quickly cut people
2412 off. What they are going to try to do is determine how best
2413 to provide that safety net. And I believe that that is
2414 better done at the state level than a Federal Government,
2415 top-down, this is the way that it is, with little or no
2416 flexibility.

2417 And I yield back.

2418 Mrs. {Capps.} Would my colleague have the ability to
2419 yield?

2420 Mrs. {McMorris Rodgers.} Sure.

2421 Mrs. {Capps.} Thank you very much. And I just want to
2422 pick up and go into this at great length because it is a
2423 whole other topic--long-term care is what my colleague, Mr.
2424 Waxman, brought up. And actually, what we are talking about
2425 here, no one is saying that this is the optimum long-term
2426 care solution the way we have handled adults having to spend
2427 down so that they qualify for Medicaid so that they can have

2428 this security of life at the end of their time. Long-term
2429 health insurance is prohibitive in cost for the way we treat
2430 it. To me, we are talking about something that gets us to
2431 2014. There are many aspects of the new healthcare law that
2432 bring us to the point where we can, with flexibility to
2433 states and communities, come together around ways of
2434 providing what I have long championed from my role both
2435 living in a community and being a health profession is a
2436 continuity of care for people as we age, as we become more
2437 frail so there are supports in place that should really be
2438 designed by communities to provide the needs so that they can
2439 do this and with the kind of resources from every level of
2440 government to assist seniors as they get into their old
2441 golden years.

2442 We have not done this. It begs for us to deal with this
2443 in Congress. I believe the healthcare law is one step in
2444 this direction but we need to get to the point where we can
2445 see how it unfolds. I want to underscore what my colleague
2446 said about Medicaid. When it was first enacted, it only
2447 allowed for nursing home care, and now we have seen over time
2448 so all of these things over time will be examined. We are an
2449 aging country. People are living longer. We need to address
2450 the needs of people as we age.

2451 This legislation will do harm now in my opinion and in

2452 the opinion of those of us who have been offering amendments,
2453 particularly now as I had offered this one on behalf of
2454 seniors.

2455 Mrs. {McMorris Rodgers.} In reclaiming my time, I would
2456 simply say that what our bill would do is allow Medicaid to
2457 be more of a design by states. You talked about long-term
2458 care being designed by communities and it being a success for
2459 the communities to be able to have the options of in-home or
2460 community care. What we want to do is provide design-by-
2461 state Medicaid options. And I yield back the balance of my
2462 time.

2463 Mr. {Pitts.} The chair thanks the gentlelady,
2464 recognizes the ranking member of the subcommittee, Mr.
2465 Pallone, for 5 minutes on the amendment.

2466 Mr. {Pallone.} Yeah, again, I am not trying to be
2467 critical of the gentlewoman from Washington in that, you
2468 know, I understand that she has an approach here, but part of
2469 my problem today in listening to her and also to Mr. Gingrey
2470 is it seems like they think that Medicaid itself is the
2471 problem. I mean, Medicaid isn't the cause of the budget
2472 problem for the states. It is the level of unemployment; it
2473 is the recession, it is the lost tax revenue that has caused
2474 these fiscal challenges for the states.

2475 And you know, Mr. Gingrey keeps mentioning education. I

2476 mean, I would remind the other side that when the Democrats
2477 are in the majority, we had the FMAP program that basically
2478 gives an enhanced match to the states for Medicaid. We had
2479 the program that gave money back to the states for teachers
2480 and for support staff for education. I mean, there is a very
2481 simple answer here which obviously the Republican leadership
2482 doesn't want to do, and that is simply to lengthen the FMAP
2483 program. I think it expires on--

2484 Dr. {Gingrey.} If the gentleman will yield?

2485 Mr. {Pallone.} No, I want to continue here. I have a
2486 lot to say. It expires I think on June 30. Why don't you
2487 continue with it? Same thing if you are worried about
2488 education, then something like we did that previous August
2489 and we gave money back to the states for education.

2490 I mean, I guess what I am concerned about now is I am
2491 starting to hear comments suggesting that somehow Medicaid
2492 itself is a bad program, that it is not efficient, that it
2493 needs to be reformed like welfare. You know, I don't want to
2494 compare Medicaid to welfare. The problem with welfare, one
2495 of the major problems was you wanted to encourage people to
2496 work. That is not the issue here. In fact, one of the
2497 issues when we reformed the welfare program was to make sure
2498 that if people worked they didn't lose their Medicaid. I
2499 mean, there is not an issue of, you know, people not working

2500 or people not doing the right thing for Medicaid. I mean, it
2501 is not about efficiency.

2502 I will just give you some examples here about Medicaid's
2503 efficiency. This is interesting. Medicaid is far less
2504 expensive than private health insurance. For children,
2505 Medicaid costs 27 percent less than private coverage, only
2506 \$900 per year. For adults, Medicaid costs 20 percent less
2507 than comparable private insurance. So now I am starting to
2508 think that what you really want to do is somehow revamp the
2509 Medicaid program. Well, it is very efficient. It doesn't
2510 cost as much. It is not an issue like welfare.

2511 And when you talk about Ms. Capps' amendment, which is,
2512 you know, what I am here to support at this time, my real
2513 concern again is that just like the children, there are going
2514 to be seniors and the disabled who fall above the mandatory
2515 level. Now, if they fall above the mandatory level, states
2516 may--and some have already suggested they will--simply take
2517 them off the Medicaid program. And then what do they do?
2518 Well, some may just be kicked out of the nursing home. Or
2519 others that have these community-based programs or home
2520 healthcare programs, which have grown quite a bit and make a
2521 lot of sense because they are preventative care essentially,
2522 they would be thrown out of those programs.

2523 So we are talking about real people here. We are

2524 talking about practically what is going to happen if you get
2525 rid of the Maintenance of Effort. It means that the people
2526 that fall above that mandatory level may either be kicked out
2527 of a nursing home; they are going to have to stay home. If
2528 they stay home, they don't get the community healthcare or
2529 the home healthcare or the personal attendant healthcare that
2530 some of my colleagues have talked about. What is going to
2531 happen to them then? They are either going to die or they
2532 are going to get sick and end up going to the hospital.

2533 I mean, these are the consequences of what you are doing
2534 here today. And again, I am not suggesting that you want
2535 people to die or you want them to end up in a hospital, but
2536 it doesn't matter because you don't have an alternative. You
2537 simply say, well, the states will deal with it. How are the
2538 states going to do it? And if you don't give them the
2539 enhanced match, if you don't give them extra money, if you
2540 don't provide them with the means to provide for these
2541 people, then their alternative in many cases will be we will
2542 simply turn them loose.

2543 Now, again, maybe they will go to the hospital. Maybe
2544 they won't all die. But I mean these are the consequences of
2545 your actions. And practically, you know, you may not want to
2546 do that. I am not suggesting anybody wants to do that. But
2547 that is what is going to happen. It is an inevitable result

2548 of this Republican bill. And that is my concern here. So
2549 please, let us--

2550 Mrs. {McMorris Rodgers.} Would the gentleman yield
2551 briefly?

2552 Mr. {Waxman.} Let us support--yes, certainly.

2553 Mrs. {McMorris Rodgers.} Just to respond regarding
2554 Medicaid being efficient, I would suggest that Medicaid has
2555 been abused by many who it was never intended to serve in
2556 long-term care facilities.

2557 Mr. {Waxman.} I understand that.

2558 Mrs. {McMorris Rodgers.} And we all know that--

2559 Mr. {Waxman.} Reclaiming my time. I understand there
2560 is always abuse, but I am trying to point out to you that
2561 this is a very efficient program compared to everything else,
2562 and it shouldn't be compared to welfare and it shouldn't be
2563 suggested that what you are trying to do here today is make
2564 the program more efficient. This is about money and who is
2565 going to pay.

2566 Mr. {Pitts.} The chair thanks the gentleman. Is there
2567 further discussion of the amendment on this side? The chair
2568 recognizes the ranking member emeritus, Mr. Dingell, for 5
2569 minutes on the amendment.

2570 Mr. {Dingell.} Thank you for your courtesy. I have
2571 listened, my dear friends and colleagues, to this debate and

2572 I have had governors in my office to talk to me about this
2573 business of flexibility. I happen to know that at this time
2574 the country has a very severe economic problem shared by the
2575 feds, shared by the states, local communities are all in a
2576 very tough situation for money and to meet the needs that we
2577 have. But the one thing that I have learned as I have
2578 listened to everybody talk about what we ought to do about
2579 Medicare and Medicaid, governors have come into my office to
2580 talk to me and say we need flexibility. And every time I
2581 listen to that, I check it out and I find that flexibility is
2582 the flexibility to cut, not to add, not to offer new benefits
2583 or new opportunities for care or treatment.

2584 Now, we are talking this morning about the most
2585 vulnerable of our people. Medicaid is an inherently
2586 unpopular and perhaps even obnoxious problem. And the reason
2587 is it is a welfare program. It is not something that you buy
2588 and pay for like Medicare. Everybody pays something in for
2589 Medicare and this is a great program. It is mine. But there
2590 is nobody to say that for the kids in SCHIP and there is
2591 nobody to say that for the people who are old or sick or
2592 disabled. So we essentially provide charity to those people.
2593 And it is always unpleasant to do this because those are the
2594 folk who have the least to speak for them and the most to say
2595 but no way of making themselves heard. So I don't think that

2596 this is good legislation. Each state has got these problems.

2597 As we have drafted Medicaid and SCHIP over the years, we
2598 have tried to see to it that these programs provide wide
2599 discretion to the states. The discretion that is not
2600 provided, however, is to cut and to cut essential parts of
2601 the program that we as a matter of national policy have
2602 thought should be carried forward.

2603 And one of the problems that we find here is that we
2604 can't give but so much discretion to the people in the
2605 legislatures and in the governor's office because we find
2606 they will cut back. One of the reasons that the Federal
2607 Government is in this business is that the states were never
2608 able or willing to do what they had to do. And so Medicaid
2609 was passed when we had a Democratic guy by the name of--well,
2610 he was the chairman of the Ways and Means Committee, Wilbur
2611 Mills. And he wanted to have something to substitute for
2612 Medicare and something to head off the dreadful threat of a
2613 program of national health insurance where people began to
2614 pay for this kind of expenditure.

2615 Well, we passed it and everybody said great. Now, we
2616 are going to solve the problems. And we have heard nothing
2617 but criticism from the states and everybody else about this,
2618 which was accepted in part by people who were willing to go
2619 along with it, not because it was good but because it was

2620 something that would substitute for something that they
2621 didn't want a whole heck of a lot more.

2622 Now, having said these things, we have already rejected
2623 an amendment which said you can't cut the kids. I was
2624 chairman for a long time and during the interim in my time in
2625 holding that job, the then-President Bush came up with the
2626 idea that we ought to pass SCHIP. And by golly, we did. It
2627 turned out to be a great thing. And we labored for years to
2628 try and get all of our kids covered. Now, the kids, again,
2629 are important to us. They are 25 percent of our population
2630 that can't speak for themselves, but they are 100 percent of
2631 the future of this country. If you don't take care of those
2632 kids and you don't educate them and you don't give them the
2633 healthcare they need, they are not going to be economic
2634 units. They are not going to be valuable to us in a world
2635 competition.

2636 The case I think cannot be made quite so well for the
2637 rest of the Medicaid beneficiaries. They are just people who
2638 are down on their luck suffering and they don't have any way
2639 of getting healthcare, except they do one thing. They run to
2640 the emergency rooms where they get care. Somebody is paying
2641 for that and nobody is going to kid me to tell me that you
2642 and I in this room who have healthcare programs that we pay
2643 for aren't paying on that money. Because we are. So don't

2644 kid yourselves. These programs that we have before us, these
2645 to repeal Medicare or cut back on Medicare or SCHIP are
2646 simply going to shift the costs around because we aren't
2647 addressing the big problem which really bothers us all, and
2648 that is the fact that we don't bother to reform the
2649 healthcare system in the United States.

2650 Mr. {Pitts.} The chair thanks the gentleman. Is there
2651 further discussion on this amendment? The gentleman from New
2652 York, Mr. Weiner, is recognized for 5 minutes on the
2653 amendment.

2654 Mr. {Weiner.} I will make it quick. Mr. Waxman is
2655 telling me to move on. You know you are in trouble when that
2656 starts happening.

2657 You know, I just want to just echo just one thing that
2658 was brought up earlier. This has actually been a fairly
2659 interesting conversation because I think that perhaps one of
2660 my Republican colleagues can answer the question whether
2661 there should be any minimum standards required at all in
2662 Medicaid.

2663 Mrs. {McMorris Rodgers.} I can answer it.

2664 Mr. {Weiner.} I am sorry. I feel responsible for that.
2665 I would gladly yield to the gentlelady from Washington.

2666 Mrs. {McMorris Rodgers.} Thank you. And I do believe
2667 that there should be minimum standards.

2668 Mr. {Weiner.} Reclaiming my time. I think that we all
2669 do, right? So then the question simply is are you going to
2670 have minimum standards that bind the hands of the governors
2671 and make it so that they can't do anything, or do you have
2672 minimum standards that represent something that is necessary
2673 so you don't have a race to the bottom? The reason you might
2674 have an accelerated race to the bottom in this environment is
2675 this prospect that the Federal Government is going to come in
2676 in 2013 and '14 and beyond and pick up a lot of the burden.
2677 So you can see legislatures and governors not saying it is
2678 necessarily the best thing for their people, but it is a way
2679 to shift responsibility from the state share to an entirely
2680 federal share. That is why it was put into the law to begin
2681 with.

2682 So the question becomes, then, if you believe there
2683 should be some standards--and we all agree that there should
2684 be--the gentlelady from Washington, I believe the gentleman
2685 from Georgia probably agrees with that--the only question
2686 then becomes do we want the standards to be what the states
2687 have all set, the governors have all set recently? How do
2688 you decide what the standards should be so there is not a
2689 race to the bottom? Do you choose New York--

2690 Dr. {Gingrey.} Will the gentleman yield?

2691 Mr. {Weiner.} Certainly.

2692 Dr. {Gingrey.} Thank you to the gentleman. We do
2693 agree. And I think Ms. McMorris Rodgers just answered you in
2694 the affirmative that we agree that there should be minimum
2695 standards. And the minimum standards should be set certainly
2696 at 100 percent of the federal poverty level in the original
2697 law. We agree with those minimum standards. The 138 percent
2698 of the federal poverty level and the expansion of
2699 medications, they agree with those minimum--

2700 Mr. {Weiner.} Yeah, but let me just reclaim. Now, you
2701 say 100 percent. Well, what if we decide or someone else
2702 decides it should be at 101 percent or 102 percent? It is
2703 just a matter of what the line is that you draw, and the
2704 reason that you need to pick a snapshot of time and freeze it
2705 at least until 2014 is because of this new construct that we
2706 set up. We don't want to have the law of unintended
2707 consequences to say all right, the states are going to have a
2708 race to the bottom. Right now there is not a national
2709 standard, as you know.

2710 The reimbursement rate for Georgia is much higher than
2711 it is for New York. You know that, of course, that the
2712 reimbursement rate is much higher than it is for New York
2713 because there is this calculation that the average income in
2714 Georgia is lower so the reimbursement rates are higher. The
2715 governor of Mississippi was here complaining about Medicaid.

2716 He gets an 80 percent reimbursement. 80 percent. That is
2717 pretty darn good. I would love to have an 80 percent--we
2718 don't have it, so what they have tried to do is have a
2719 snapshot in standards that reflect the best we can the values
2720 of the different states.

2721 Dr. {Gingrey.} If the gentleman would yield on that
2722 point just real quick--

2723 Mr. {Weiner.} Sure.

2724 Dr. {Gingrey.} --because the gentleman from New Jersey
2725 talked about, well, look, you know, let us just expand the
2726 FMAP and provide more federal dollars, a higher percentage of
2727 federal dollars and all is well. Yeah, all is well. We
2728 borrow more money so that we can expand these programs to
2729 cover more and more--

2730 Mr. {Weiner.} Well, hold on a quick second there.

2731 Dr. {Gingrey.} --we have more debt, we have more
2732 interest--

2733 Mr. {Weiner.} Well, yeah, but let me reclaim the time.
2734 But you have got to realize and I hope the gentleman from
2735 Georgia understands it is not about whether we pay for
2736 healthcare. It is not whether we pay for these services; it
2737 is how. Do we do it in an efficient low way or do we do it
2738 in an inefficient way? The gentleman from Illinois whose
2739 constituents are here and I just want to tell you you have

2740 got an excellent Member of Congress. The gentleman from
2741 Illinois made the point recently that he had an experience in
2742 the emergency room where people who didn't have emergency
2743 room care were in there getting that care. So the question
2744 is not whether we provide the people in that room with care;
2745 it is how we do it efficiently so they are not in emergency
2746 room care.

2747 Mrs. {McMorris Rodgers.} Would the gentleman yield?

2748 Mr. {Weiner.} Certainly.

2749 Mrs. {McMorris Rodgers.} We are talking about seniors
2750 in this amendment. I would submit in Oregon, 1 out of 5
2751 Medicaid enrollees may not be eligible for the program, but
2752 the MOE restrictions prohibit the state from updating its
2753 eligibility determination procedures to correct the problem.
2754 You said are we going to do it in an efficient, low-cost way
2755 or an inefficient way? And I would submit--

2756 Mr. {Weiner.} Well, wait a minute. But hold on here--

2757 Mrs. {McMorris Rodgers.} Because of the lack of
2758 flexibility, it is inefficient.

2759 Mr. {Weiner.} First of all, let us not say ``lack of
2760 flexibility'' because you yourself I think when you spoke on
2761 this talked--or the gentleman from Georgia talked about the
2762 waivers that are often granted. You can say that the
2763 administration of Medicaid as a function is an inflexible

2764 administration. That can't be said because all 50 states
2765 have dozens of waivers that they always go to say I want to
2766 try to come up with ways. And I have to say this. In
2767 Republican administrations, too, they always try to give the
2768 waivers. They always err on the side of giving those
2769 waivers.

2770 The point that I am making is if we stipulate that there
2771 should be standards, is this a fair way to set the standard
2772 and seeing the way states have set it today seems like a
2773 pretty fair baseline to set it because we all agree now--and
2774 if you can believe it or not, I unified this committee--we
2775 all agree that there need to be minimum standards.

2776 Mr. {Pitts.} The chair thanks the gentleman. Is there
2777 further discussion on the amendment? If that concludes the
2778 debate on the Capps amendment, the ranking member and I have
2779 spoken. We will postpone the vote. We will take the next
2780 amendment. Mr. Engel, do you have an amendment?

2781 Mr. {Engel.} Yes, I have an amendment at the desk, Mr.
2782 Chairman.

2783 Mr. {Pitts.} Thank you. The clerk will report the
2784 amendment.

2785 The {Clerk.} An amendment offered by Mr. Engel of New
2786 York.

2787 Mr. {Pitts.} Without objection, the reading of the

2788 amendment is dispensed with.

2789 [The amendment follows:]

2790 ***** INSERT 4 *****

|
2791 Mr. {Pitts.} The gentleman is recognized for 5 minutes
2792 in support of his amendment.

2793 Mr. {Engel.} Thank you very much, Mr. Chairman.

2794 I want to first say that the philosophical difference
2795 here as we have sat and gone back and forth is that we all
2796 realize we have a limited amount of money and the question is
2797 how do we spend it? And I think on this side of the aisle,
2798 we don't believe that healthcare should be cut and that
2799 people's services should be cut. We think there are other
2800 ways of saving money.

2801 So I am disappointed that we are here today to mark up
2802 legislation that would repeal protections for our Nation's
2803 most vulnerable, who rely on Medicaid and CHIP for their
2804 health coverage. It seems that every week the majority is
2805 proposing legislation that seeks to undermine the social
2806 fabric of our Nation. First, it was repealing the Affordable
2807 Health Care Act. Then, it was tinkering with Medicare and
2808 our senior's health in the budget. Now, we are considering
2809 legislation that would yank healthcare away from children,
2810 seniors, and mothers of dependent children. When are these
2811 attacks really going to stop?

2812 Preliminary reports from CBO show that if H.R. 1683 is
2813 enacted, up to 300,000 additional people will be left without

2814 health insurance each year. So my amendment would preserve
2815 the eligibility standards for mothers of dependent children.
2816 My amendment protects women who have children under the age
2817 of 19 from the harms of this bill, exempting them from the
2818 repeal of the Maintenance of Efforts for Medicaid and CHIP in
2819 the Recovery Act and the Affordable Care Act.

2820 It makes me sick to know that if this legislation passes
2821 as-is, mothers could be dropped from Medicaid, even those at
2822 40 percent of poverty or less, which is, by the way, where
2823 half the states are now. I just cannot support a bill that
2824 would support dropping mothers of dependent children from
2825 Medicaid. Currently, the only mothers who have guaranteed
2826 eligibility under Medicaid are those in the 60-day period
2827 after labor and delivery and who are 133 percent of the
2828 poverty line. But we all know that motherhood does not end
2829 with delivery or 60 days thereafter. And I think that we can
2830 all agree that right now, just because you might fall above
2831 133 percent of the poverty line, doesn't mean that you have
2832 access to comprehensive affordable healthcare.

2833 My amendment would help support the long-term health not
2834 only of women but also of their dependent children. Data
2835 shows that the children have better health outcomes if their
2836 mothers are in the same health plan that they are in. I
2837 would also argue that a mother who is healthier is critical

2838 to the overall health and success of her children and
2839 families. Healthy mothers are able to focus more attention
2840 on their children's health because they are not struggling
2841 with their own.

2842 In addition, allowing women access to affordable
2843 healthcare can set an example for children to be diligent
2844 about their health, which we all agree is an important
2845 lesson. The impact that mothers have on all of our lives is
2846 both physical and mental. We all know that a mother's impact
2847 is irreplaceable, and we must do all we can to ensure that
2848 our children do not bear the burden of caring for an ill
2849 mother because she cannot access insurance as a result of
2850 this legislation, nor should we force financial burdens and
2851 stress on mothers because they cannot access affordable care.

2852 I must admit that lately I have questioned the
2853 majority's commitment to women's health. Just last week, we
2854 voted to eliminate all insurance coverage for women in need
2855 of health services and abortion services. Now, we are
2856 marking up legislation that could result in eliminating
2857 insurance to low-income women who have children. This is
2858 just wrong.

2859 And I would like to remind my colleagues that this past
2860 weekend we celebrated Mother's Day. For me, it is a day to
2861 reflect on the memory of my mother. I know that I would not

2862 be where I am today without her love and care. I believe it
2863 is hypocritical for us to honor mothers on Sunday and take
2864 away their health insurance on Thursday. So I urge my
2865 colleagues to support this important amendment and I yield
2866 the balance of my time. I yield to Mr. Pallone.

2867 Mr. {Pallone.} I just want to say, you know, I know
2868 that I had the amendment on children, but I totally agree
2869 with the gentleman that the mothers are just, if not more
2870 important.

2871 I know that my own personal experience in my district
2872 talking to people on SCHIP was that when New Jersey only
2873 covered children and didn't cover the mothers that a lot of
2874 parents--or didn't cover the parents I should say, a lot of
2875 parents ended up not signing up because, you know, not to
2876 look at it in a selfish way, but the bottom line is if the
2877 parents can't get health insurance, a lot of times they don't
2878 bother to sign up the kids. And so I think that the
2879 gentleman in zeroing in on the mothers here, that really is
2880 important and that makes a big difference. So I just wanted
2881 to urge my support.

2882 Mr. {Weiner.} Would the gentleman yield?

2883 Mr. {Pallone.} Yes, I yield to--

2884 Mr. {Weiner.} Is it fair to say that a vote against
2885 this amendment means you don't like your mother?

2886 Mr. {Pallone.} You are asking me?

2887 Mr. {Weiner.} I just want to make sure we frame--

2888 Mr. {Pallone.} Well, it might be interpreted that way.

2889 Mr. {Weiner.} --it in the optimum way here.

2890 Mr. {Pallone.} I will let my friends on the other side
2891 of the aisle decide that.

2892 Mr. {Pitts.} The chair thanks the gentleman and
2893 recognizes the gentleman from Georgia, Dr. Gingrey, for 5
2894 minutes.

2895 Dr. {Gingrey.} Well, Mr. Chairman, thank you. And I
2896 certainly rise in strong opposition to the amendment from my
2897 friend from New York. Here we go again. Look at these three
2898 amendments. The first amendment prohibits states from making
2899 any change to eligibility or verification methods for
2900 individuals in or needing long-term care services--the
2901 elderly, the disabled. The second amendment prohibits states
2902 from implementing new eligibility recertification methods or
2903 change in eligibility levels for any mother with children
2904 under age 19. The third amendment prohibits states from
2905 making any changes to eligibility levels or verification
2906 methods for Medicaid or CHIP children under age 19. You
2907 know, I am surprised there is not an amendment in regard to
2908 and on behalf of organized labor.

2909 These are amendments, of course, that are trying to tug

2910 at the heartstrings of the American public, but at the same
2911 time, they are tugging at the purse strings of 50 state
2912 budgets and with absolutely wanton disregard for the fact
2913 that the states are struggling and cannot balance these
2914 budgets with raising, as my friend from New York Mr. Weiner
2915 said, what are minimum standards? Well, certainly, there are
2916 people in this country that need a hand up if you will from
2917 the Federal Government from cradle to grave. They need it.
2918 They have to have it. It is not a matter, though, of they
2919 could just use it. It would be nice if they had it.

2920 And that is where we come in in regard to minimum
2921 standards and to say for the Federal Government to put a
2922 handcuffs on the governors and not allow them even to
2923 question people to maybe have a better computer system than
2924 they had in the past to find out who really is eligible and
2925 needs that hand up from cradle to grave or somebody that is
2926 just there gaming the system. It would be nice if we could
2927 avoid that kind of thing, but clearly, when you have got
2928 \$14.3 trillion worth of debt and a deficit of \$1.6 trillion
2929 over the last 3 years and on into the future, you cannot
2930 afford to do that.

2931 Quite honestly, it seems to me, colleagues, that this is
2932 a giant Ponzi scheme on behalf of this administration in
2933 regard to healthcare. To send up a system such that the

2934 burden of this new healthcare program--patient protection
2935 unaffordable healthcare if you ask me, ObamaCare--to get more
2936 and more folks into Medicaid coverage and SCHIP coverage so
2937 that there will be fewer and fewer of them on the exchanges
2938 and be eligible for a federal supplement. And so that takes
2939 the burden off the Federal Government. They get the credit
2940 for insuring 10 million more people who were uninsured, but
2941 what they have really done is push this burden upon the backs
2942 of state government who are required to balance their budget.
2943 And you know what? We are not going to allow that to happen.
2944 We are simply not going to allow that to happen. And that is
2945 why we are in opposition to all three of these tugging-on-
2946 the-heartstrings amendments because we know that there is a
2947 better way.

2948 Now, my colleagues brought up the question about, well,
2949 all you Republicans want to do is to end up with block grants
2950 of Medicaid. That is what you want. You want block grants
2951 of Medicaid. Well, that accusation is accurate because we
2952 think--and the CBO agrees--that it would save \$750 billion
2953 over 10 years to do it that way, to be innovative and do it
2954 that way. But if we could get rid of these handcuffs, and
2955 that is what this bill does, striking this Maintenance of
2956 Effort requirement, maybe we wouldn't have to block grant
2957 Medicaid to the states. Maybe our governors would, in their

2958 wisdom, figure out a way to be able to have a good, decent
2959 healthcare program for the poor, the elderly, the disabled,
2960 the children and not have a lot of people on the program from
2961 cradle to grave that could just use it but don't absolutely
2962 need it.

2963 So my colleagues, I respect you very much, you know, but
2964 again, these amendments, again, tugging at the heartstrings
2965 when you know we can't afford this. And I yield back.

2966 Mr. {Pitts.} The chair thanks the gentleman and
2967 recognizes the ranking member of the full committee, Mr.
2968 Waxman, for 5 minutes.

2969 Mr. {Waxman.} Mr. Chairman, from the very beginning,
2970 Medicaid has been covering mothers and children. And this
2971 amendment will simply preserve current eligibility for
2972 mothers. It is pretty basic to me. These are the people who
2973 are taking care of the seniors and the children. Mothers
2974 sometimes need healthcare themselves. And taking the
2975 guarantee of Medicaid from these women is just wrong.

2976 Now, I thought we had a pretty revealing view of things
2977 from our colleague from Georgia. He says that block grant
2978 will save so much money. Well, it doesn't, according to the
2979 Kaiser Foundation, at the expense of 44 million people who
2980 will be uninsured. I ask my colleagues not to listen to the
2981 same talking points over and over again. We were told

2982 already that governors won't cut children and they won't cut
2983 the elderly and the disabled. Now, we are being told they
2984 won't cut mothers. Well, they are going to have to cut
2985 someone or this bill is totally pointless.

2986 I just want to make sure that in supporting the Engel
2987 amendment that we keep the most basic coverage for women and
2988 children and not let that be cut.

2989 I am going to yield to Mr. Weiner.

2990 Mr. {Weiner.} I thank Mr. Waxman. There is something
2991 that the gentleman from Georgia has raised several times and
2992 I want to make sure we are clear. There is nothing in the
2993 Affordable Care Act or in the Maintenance of Effort
2994 provisions that you strike that stops any state from making
2995 sure of eligibility, nothing at all. There is nothing at all
2996 that says that the state can no longer see if someone is
2997 actually a mother or that someone actually has an income
2998 requirement or anything else. As a matter of fact, any
2999 antifraud thing that you want to put in, the state is
3000 absolutely permitted to do.

3001 The Maintenance of Effort provisions in the Affordable
3002 Care Act refer to the standards and the foundation on which
3003 the present state law is passed. There is nothing that stops
3004 them, for example, of saying your present state law requires
3005 130 percent of poverty. You have got to submit a tax form or

3006 whatever it is. Of course they can still do that and build
3007 upon that they can add we want to see the 2012 or '11 to '12
3008 tax form.

3009 Now, the second thing I would just say is that yes, the
3010 gentleman is not entirely incorrect that one of the reasons
3011 that we are providing coverage for some of the uninsured
3012 through Medicaid is frankly the Medicaid program--a poverty
3013 rate among Medicaid is not keeping up with the true actual
3014 cost of poverty at this point. And so the idea was to say,
3015 you know what, there are people who make 150 percent of
3016 poverty are still pretty darn poor and we want to make sure
3017 that they are there. However, the very strong incentive on
3018 every state and the Federal Government and every employer is
3019 to have more people getting employer-based healthcare, going
3020 into the exchange because that means they are working, which
3021 is the primary way we lift people out of Medicaid, which is
3022 the final point I want to point out.

3023 Look, we all agreed in my last hearing list of questions
3024 that we all agree there need to be standards. I think we can
3025 also agree we want fewer people to be on Medicaid as a
3026 function of the idea we want less people being poor, right?
3027 If we have an ideal world, there is not a poverty program
3028 because there are fewer poor people. I don't believe
3029 necessarily that poverty is going to be on the rise. I

3030 believe that at the tail end of Obama's first term and well
3031 into his second term there is going to be thriving
3032 employment. You know, we are going to start seeing this
3033 because we are going to defeat many of these Republican
3034 efforts to stop the economic recovery.

3035 But that doesn't mean that we should have no program and
3036 it doesn't mean that we shouldn't try to keep up with the
3037 standards that we have. And I hope there are fewer people
3038 getting Medicaid, more people getting insurance in the
3039 exchange, and more people working as a result of it. But the
3040 idea that somehow, you know, if you don't pass the Gingrey
3041 amendment, this underlying law that you are going to somehow,
3042 you know, like waste and fraud are going to increase.

3043 And let me make one final, final point. The Affordable
3044 Care Act all throughout has provisions that are seeking to
3045 reduce the amount of waste that there is in Medicare. I
3046 wouldn't like there to be any waste in Medicare or Medicaid.
3047 One of the things that we do, for example, is we say that now
3048 this contract that we have with people say you are going to
3049 get paid very quickly? No, we are going to put a brake on it
3050 in certain areas that have been shown to have higher fraud.
3051 There is a bounty program to make sure that you have more
3052 reporting of fraud. There is all kinds of things in there
3053 and I think that if you really want to have a conversation,

3054 you take a look at the Gingrey underlying bill, see any
3055 provision in there that reduces fraud. It is like everything
3056 else. There is no plan. There is no ``there'' there.

3057 Mr. {Waxman.} I am going to reclaim my time and see if
3058 anybody else wants any of it? If not, I yield it back. Oh,
3059 yes, do you want me to yield to you? I would be happy to.
3060 The gentlelady from--

3061 Mrs. {McMorris Rodgers.} Just in response to the
3062 argument about the fraud is the MOE requirements that are
3063 preventing states from implementing antifraud measures. Two
3064 examples, State of Virginia tried to limit the abuse of
3065 taxpayer dollars through financial instruments purchased for
3066 the purpose of sheltering assets--

3067 Mr. {Waxman.} Reclaiming my time only to say--

3068 Mrs. {McMorris Rodgers.} --they are prevented from
3069 doing so--

3070 Mr. {Waxman.} --that if there is anything that we could
3071 do to assure that states have flexibility--and I think we
3072 have adequate flexibility to stop any waste, fraud, or abuse--
3073 -we all could agree on that.

3074 Mrs. {McMorris Rodgers.} Pass this bill.

3075 Mr. {Waxman.} And if you have some suggestions further,
3076 other than cutting mothers off, then I certainly want to work
3077 with you on that.

3078 Mr. {Pitts.} The chair thanks the gentleman. Is there
3079 further discussion on the amendment? Mr. Guthrie of Kentucky
3080 is recognized for 5 minutes.

3081 Mr. {Guthrie.} Thank you very much. I will be fairly
3082 quick. But I was in state government just a few years ago
3083 and Mr. Weiner from New York is correct when you are just
3084 doing the Maintenance of Effort for laws that states have
3085 already passed. I can tell you Medicaid in Kentucky--and you
3086 will love the FMAP I am about to describe--did expand
3087 Medicaid in the late 1990s, early 2000s when states were
3088 growing and money was coming into the state government,
3089 programs would create and people come see you, this program
3090 is only going to cost 30 cents on the dollar because it is
3091 not quite 70 cents federal MAP to the state, but essentially
3092 that. So programs did increase.

3093 And then when you get to tougher times as governors are
3094 now facing and new legislatures are facing and they have the
3095 laws from previous legislatures expanding Medicaid programs,
3096 they are trying to make a balance. And they are trying to
3097 make it balance--the pot can only be so big. You can raise
3098 some taxes, I guess, if that is what your state uses to do,
3099 but not enough for the expansion and the growth of Medicaid.
3100 So where they are taking it out of--and I know where Kentucky
3101 is taking it out of is higher education, in-state tuition has

3102 increased. So the singular argument that you are going to
3103 have difficult choices to make in Medicaid if you let states
3104 have flexibility, without flexibility they are making
3105 difficult choices on what is going to happen in K through 12,
3106 what is going to happen in higher education.

3107 And I think one other member earlier on the other side
3108 said it was just a priority situation. If you took the
3109 President's budget and you go from 35 percent to 39-1/2
3110 percent for people making over \$250,000 a year, which is the
3111 limit he said in his campaign, you still--if you project it
3112 30 years into the future, I am 47, my daughter is 17. When
3113 my daughter is my age, 30 years into the future, if the
3114 traditional revenue coming to the Federal Government, 18
3115 percent of GDP or if you jump into 20 it doesn't make that
3116 much difference, but this is at 18 percent. Every penny that
3117 my daughter pays when she is working will go to Social
3118 Security, Medicare, and Medicaid, every single penny of
3119 revenue to the Federal Government. So we are going to have
3120 to address this. We are going to have to address this issue.

3121 And talking about block granting back to the states, the
3122 budget did do that that we passed. It also gave authority to
3123 this committee to stand and say how do we do that? What
3124 standards go forward? How do we manage it? And we are going
3125 to have to address it. If you today got rid of the

3126 Department of Defense and everything else that the
3127 Appropriations Committee appropriates, we would still have a
3128 \$250 billion budget deficit.

3129 Mr. {Weiner.} Will the gentleman yield on that point?

3130 Mr. {Guthrie.} I will do that.

3131 Mr. {Weiner.} Let me just ask the gentleman just so we
3132 have an understanding. Let us assume that this bill passes,
3133 state has flexibility and someone gets dropped from Medicaid
3134 as a result of that flexibility. Who do you imagine pays for
3135 that person's healthcare just in your formulation?

3136 Mr. {Guthrie.} What I am saying is the governors put
3137 their programs together--does it say they drop people? Does
3138 it say that they--well, I can tell you what we wrestle with
3139 in Kentucky. What we really wrestle with in Kentucky were
3140 people who were on Medicaid who use the emergency room. We
3141 are trying to figure out how can we address those types of
3142 issues? Currently, the governor of Kentucky is trying to put
3143 in Medicaid managed care where he is not trying to take away
3144 benefits or access to care, which is the scenario you just
3145 described, but how we can best do it efficiently and save
3146 money for the State. So those are the kind of programs that
3147 I would like to see go forward where we are still covering
3148 people, we are still covering the populations that--

3149 Mr. {Weiner.} Would the gentleman yield--

3150 Mr. {Guthrie.} --we have but we would do it in a
3151 managed care way.

3152 Mr. {Weiner.} Right, but would the gentleman yield
3153 again? I am not sure I heard the question. Let us assume
3154 they make a change that leads to a family being dropped from
3155 Medicaid--

3156 Mr. {Guthrie.} Um-hum.

3157 Mr. {Weiner.} --to save money because of the imperative
3158 that you said. Who do you imagine pays that? Who do you
3159 think pays for that charity? Do you think they just don't
3160 get sick or do you think they pay for it out of their own
3161 pocket? Who do you think--

3162 Mr. {Guthrie.} If the gentleman would yield, I guess I
3163 would throw back the question at what percent of poverty?

3164 Mr. {Weiner.} Whatever--

3165 Mr. {Guthrie.} 350 percent of poverty, 200 percent of
3166 poverty?

3167 Mr. {Weiner.} No, but you are asking state flexibility--
3168 -

3169 Mr. {Guthrie.} What is the income level?

3170 Mr. {Weiner.} You are asking state flexibility--

3171 Mr. {Guthrie.} Well, I am just asking--

3172 Mr. {Weiner.} Let us say it is 100 percent--

3173 Mr. {Guthrie.} But is there an income level that we

3174 should have for people, then, to access Medicaid?

3175 Mr. {Weiner.} Yeah, that is the minimum standard you
3176 are trying to eliminate.

3177 Mr. {Guthrie.} My question is at what level do we then
3178 allow people to actually maybe buy their own health
3179 insurance?

3180 Mr. {Weiner.} So you agree there should be a standard?

3181 Mr. {Guthrie.} I think that if you don't consider--

3182 Mr. {Weiner.} You agree.

3183 Mr. {Guthrie.} --percentage of the federal poverty
3184 limit, if you expand it and you don't give the states the
3185 ability to control--you all debate this on cuts. We are
3186 trying to address income qualifications which provide
3187 flexibility to the governors who manage their Medicaid--

3188 Mr. {Weiner.} Let me answer the question. It is a good
3189 question. Because--

3190 Mr. {Guthrie.} I was just asking--what it would be if
3191 you are throwing--

3192 Mr. {Weiner.} But hold on a second--

3193 Mr. {Guthrie.} --a question, what would be the salary
3194 range?

3195 Mr. {Weiner.} You can choose any number you want. You
3196 can choose 250, 300. If they can't afford to pay for their
3197 healthcare, what--

3198 Mr. {Guthrie.} Well, I mean, let us go back to the
3199 other debate on seniors. What about elder law attorneys who
3200 hide senior assets through litigation and they never pay into
3201 it.

3202 Mr. {Weiner.} Will the gentleman from Kentucky answer
3203 my question?

3204 Mr. {Guthrie.} I just did. I am asking you to give us--
3205 -

3206 Mr. {Weiner.} A person who is uninsured--

3207 Mr. {Guthrie.} --is there an income level by which
3208 someone would have to pay other than it being on the
3209 government dole?

3210 Mr. {Weiner.} Yes, but--

3211 Mr. {Pitts.} The gentleman's time has expired.

3212 Mr. {Weiner.} That was close. You almost had to answer
3213 that.

3214 Mr. {Pitts.} All right. Is there any further
3215 discussion on the amendment? If not, that concludes the
3216 debate on the Engel amendment. We will now vote on the Capps
3217 amendment, then the Engel amendment, and then a final
3218 passage. So on the Capps amendment having to do with long-
3219 term care, the clerk will call the roll.

3220 The {Clerk.} Mr. Burgess?

3221 Dr. {Burgess.} No.

- 3222 The {Clerk.} Mr. Burgess, nay.
- 3223 Mr. Whitfield?
- 3224 Mr. {Whitfield.} Nay.
- 3225 The {Clerk.} Mr. Whitfield, nay.
- 3226 Mr. Shimkus?
- 3227 Mr. {Shimkus.} No.
- 3228 The {Clerk.} Mr. Shimkus, nay.
- 3229 Mr. Rogers?
- 3230 [No response.]
- 3231 The {Clerk.} Mrs. Myrick?
- 3232 Mrs. {Myrick.} No.
- 3233 The {Clerk.} Mrs. Myrick, nay.
- 3234 Mr. Murphy?
- 3235 Mr. {Murphy.} Nay.
- 3236 The {Clerk.} Mr. Murphy, nay.
- 3237 Mrs. Blackburn?
- 3238 The {Clerk.} Mrs. Blackburn, nay.
- 3239 Mr. Gingrey?
- 3240 Dr. {Gingrey.} No.
- 3241 The {Clerk.} Mr. Gingrey, nay.
- 3242 Mr. Latta?
- 3243 Mr. {Latta.} No.
- 3244 The {Clerk.} Mr. Latta, nay.
- 3245 Mrs. McMorris Rodgers?

3246 Mrs. {McMorris Rodgers.} No.
3247 The {Clerk.} Mrs. McMorris Rodgers, nay.
3248 Mr. Lance?
3249 Mr. {Lance.} No.
3250 The {Clerk.} Mr. Lance, nay.
3251 Mr. Cassidy?
3252 Dr. {Cassidy.} No.
3253 The {Clerk.} Mr. Cassidy, nay.
3254 Mr. Guthrie?
3255 Mr. {Guthrie.} No.
3256 The {Clerk.} Mr. Guthrie, nay.
3257 Mr. Barton?
3258 [No response.]
3259 The {Clerk.} Mr. Upton?
3260 Mr. {Upton.} No.
3261 The {Clerk.} Mr. Upton, nay.
3262 Mr. Pallone?
3263 Mr. {Pallone.} Aye.
3264 The {Clerk.} Mr. Pallone, aye.
3265 Mr. Dingell?
3266 Mr. {Dingell.} Aye.
3267 The {Clerk.} Mr. Dingell, aye.
3268 Mr. Towns?
3269 [No response.]

3270 The {Clerk.} Mr. Engel?
3271 Mr. {Engel.} Aye.
3272 The {Clerk.} Mr. Engel, aye.
3273 Mrs. Capps?
3274 Mrs. {Capps.} Aye.
3275 The {Clerk.} Mrs. Capps, aye.
3276 Ms. Schakowsky?
3277 Ms. {Schakowsky.} Aye.
3278 The {Clerk.} Ms. Schakowsky, aye.
3279 Mr. Gonzales?
3280 [No response.]
3281 The {Clerk.} Ms. Baldwin?
3282 Ms. {Baldwin.} Aye.
3283 The {Clerk.} Ms. Baldwin, aye.
3284 Mr. Ross?
3285 Mr. {Ross.} Aye.
3286 The {Clerk.} Mr. Ross, aye.
3287 Mr. Weiner?
3288 Mr. {Weiner.} Aye.
3289 The {Clerk.} Mr. Weiner, aye.
3290 Mr. Waxman?
3291 Mr. {Waxman.} Aye.
3292 The {Clerk.} Mr. Waxman, aye.
3293 Mr. Pitts?

- 3294 Mr. {Pitts.} No.
- 3295 The {Clerk.} Mr. Pitts, nay.
- 3296 Mr. Chairman, on that there were 9 ayes, 14 nays.
- 3297 The {Clerk.} Mr. Burgess?
- 3298 Dr. {Burgess.} No.
- 3299 The {Clerk.} Mr. Burgess, nay.
- 3300 Mr. Whitfield?
- 3301 Mr. {Whitfield.} Nay.
- 3302 The {Clerk.} Mr. Whitfield, nay.
- 3303 Mr. Shimkus?
- 3304 Mr. {Shimkus.} No.
- 3305 The {Clerk.} Mr. Shimkus, nay.
- 3306 Mr. Rogers?
- 3307 [No response.]
- 3308 The {Clerk.} Mrs. Myrick?
- 3309 Mrs. {Myrick.} No.
- 3310 The {Clerk.} Mrs. Myrick, nay.
- 3311 Mr. Murphy?
- 3312 Mr. {Murphy.} Nay.
- 3313 The {Clerk.} Mr. Murphy, nay.
- 3314 Mrs. Blackburn?
- 3315 The {Clerk.} Mrs. Blackburn, nay.
- 3316 Mr. Gingrey?
- 3317 Dr. {Gingrey.} No.

- 3318 The {Clerk.} Mr. Gingrey, nay.
- 3319 Mr. Latta?
- 3320 Mr. {Latta.} No.
- 3321 The {Clerk.} Mr. Latta, nay.
- 3322 Mrs. McMorris Rodgers?
- 3323 Mrs. {McMorris Rodgers.} No.
- 3324 The {Clerk.} Mrs. McMorris Rodgers, nay.
- 3325 Mr. Lance?
- 3326 Mr. {Lance.} No.
- 3327 The {Clerk.} Mr. Lance, nay.
- 3328 Mr. Cassidy?
- 3329 Dr. {Cassidy.} No.
- 3330 The {Clerk.} Mr. Cassidy, nay.
- 3331 Mr. Guthrie?
- 3332 Mr. {Guthrie.} No.
- 3333 The {Clerk.} Mr. Guthrie, nay.
- 3334 Mr. Barton?
- 3335 [No response.]
- 3336 The {Clerk.} Mr. Upton?
- 3337 Mr. {Upton.} No.
- 3338 The {Clerk.} Mr. Upton, nay.
- 3339 Mr. Pallone?
- 3340 Mr. {Pallone.} Aye.
- 3341 The {Clerk.} Mr. Pallone, aye.

3342 Mr. Dingell?

3343 Mr. {Dingell.} Aye.

3344 The {Clerk.} Mr. Dingell, aye.

3345 Mr. Towns?

3346 [No response.]

3347 The {Clerk.} Mr. Engel?

3348 Mr. {Engel.} Aye.

3349 The {Clerk.} Mr. Engel, aye.

3350 Mrs. Capps?

3351 Mrs. {Capps.} Aye.

3352 The {Clerk.} Mrs. Capps, aye.

3353 Ms. Schakowsky?

3354 Ms. {Schakowsky.} Aye.

3355 The {Clerk.} Ms. Schakowsky, aye.

3356 Mr. Gonzales?

3357 [No response.]

3358 The {Clerk.} Ms. Baldwin?

3359 Ms. {Baldwin.} Aye.

3360 The {Clerk.} Ms. Baldwin, aye.

3361 Mr. Ross?

3362 Mr. {Ross.} Aye.

3363 The {Clerk.} Mr. Ross, aye.

3364 Mr. Weiner?

3365 Mr. {Weiner.} Aye.

- 3366 The {Clerk.} Mr. Weiner, aye.
- 3367 Mr. Waxman?
- 3368 Mr. {Waxman.} Aye.
- 3369 The {Clerk.} Mr. Waxman, aye.
- 3370 Mr. Pitts?
- 3371 Mr. {Pitts.} No.
- 3372 The {Clerk.} Mr. Pitts, nay.
- 3373 Mr. Chairman, on that there were 9 ayes, 14 nays.
- 3374 Mr. Burgess?
- 3375 Mr. {Burgess.} Aye.
- 3376 The {Clerk.} Mr. Burgess, aye.
- 3377 Mr. Whitfield?
- 3378 Mr. {Whitfield.} Aye.
- 3379 The {Clerk.} Mr. Whitfield, aye.
- 3380 Mr. Shimkus?
- 3381 Mr. {Shimkus.} Aye.
- 3382 The {Clerk.} Mr. Shimkus, aye.
- 3383 Mr. Rogers?
- 3384 [No response.]
- 3385 The {Clerk.} Mrs. Myrick?
- 3386 Mrs. {Myrick.} Aye.
- 3387 The {Clerk.} Mrs. Myrick, aye.
- 3388 Mr. Murphy?
- 3389 Mr. {Murphy.} Aye.

- 3390 The {Clerk.} Mr. Murphy, aye.
- 3391 Mrs. Blackburn?
- 3392 Mrs. {Blackburn.} Aye.
- 3393 The {Clerk.} Mrs. Blackburn, aye.
- 3394 Mr. Gingrey?
- 3395 Dr. {Gingrey.} Aye.
- 3396 The {Clerk.} Mr. Gingrey, aye.
- 3397 Mr. Latta?
- 3398 Mr. {Latta.} Aye.
- 3399 The {Clerk.} Mr. Latta, aye.
- 3400 Mrs. McMorris Rodgers?
- 3401 Mrs. {McMorris Rodgers.} Aye.
- 3402 The {Clerk.} Mrs. McMorris Rodgers, aye.
- 3403 Mr. Lance?
- 3404 The {Clerk.} Mr. Lance, aye.
- 3405 Mr. Cassidy?
- 3406 Dr. {Cassidy.} Aye.
- 3407 The {Clerk.} Mr. Cassidy, aye.
- 3408 Mr. Guthrie?
- 3409 Mr. {Guthrie.} Aye.
- 3410 The {Clerk.} Mr. Guthrie, aye.
- 3411 Mr. Barton?
- 3412 [No response.]
- 3413 The {Clerk.} Mr. Upton?

3414 Mr. {Upton.} Aye.

3415 The {Clerk.} Mr. Upton, aye.

3416 Mr. Pallone?

3417 Mr. {Pallone.} No.

3418 The {Clerk.} Mr. Pallone, nay.

3419 Mr. Dingell?

3420 Mr. {Dingell.} No.

3421 The {Clerk.} Mr. Dingell, nay.

3422 Mr. Towns?

3423 [No response.]

3424 The {Clerk.} Mr. Engel?

3425 Mr. {Engel.} No.

3426 The {Clerk.} Mr. Engel, nay.

3427 Mrs. Capps?

3428 Mrs. {Capps.} No.

3429 The {Clerk.} Mrs. Capps, nay.

3430 Ms. Schakowsky?

3431 Ms. {Schakowsky.} Nay.

3432 The {Clerk.} Ms. Schakowsky, nay.

3433 Mr. Gonzales?

3434 [No response.]

3435 The {Clerk.} Ms. Baldwin?

3436 Ms. {Baldwin.} No.

3437 The {Clerk.} Ms. Baldwin, nay.

3438 Mr. Ross?

3439 Mr. {Ross.} No.

3440 The {Clerk.} Mr. Ross, nay.

3441 Mr. Weiner?

3442 Mr. {Weiner.} Nay.

3443 The {Clerk.} Mr. Weiner, nay.

3444 Mr. Waxman?

3445 Mr. {Waxman.} No.

3446 The {Clerk.} Mr. Waxman, nay.

3447 Mr. Pitts?

3448 Mr. {Pitts.} Aye.

3449 The {Clerk.} Mr. Pitts, aye.

3450 Mr. Chairman, 9 ayes, 14 nay.

3451 Mr. {Pitts.} The clerk will clarify.

3452 The {Clerk.} 14 aye, 9 nay.

3453 Mr. {Pitts.} Fourteen ayes, okay. Thank you. Is there

3454 any other business to come before the committee? If not, the

3455 chair thanks all members and staff. This subcommittee stands

3456 adjourned.

3457 [Whereupon, at 1:00 p.m., the Subcommittee was

3458 adjourned.]