FLORIDA CENTER FOR FISCAL AND ECONOMIC POLICY

Medicaid Managed Care, the Low Income Pool and Medicaid Expansion:
State Leaders' Characterizations and Expectations Are Inconsistent, Vary Dramatically Depending on Their Aim
A Chronological Rundown of Key Events

Review of a timeline of actions taken by Florida's legislative leadership and governors over the past decade on Medicaid reveals how state leaders have inconsistently and selectively used information to simultaneously embrace and undermine the program (and the flexibility/funding provided at the federal level).

2005 Then-Governor Jeb Bush sounded the alarm about skyrocketing Medicaid costs, claiming that Medicaid would swallow the state budget if the state were not granted broad flexibility from the federal government. (Typically, the federal and state shares of Medicaid are lumped together and referred to as "the cost", ignoring the fact that the federal dollars are in fact already paid taxes brought back into the state to match a smaller amount of state dollars.)

The federal Centers for Medicare and Medicaid Services (CMS) approved then-Governor Jeb Bush's request for a five-year, federal Section 1115 Medicaid Demonstration Waiver to implement the **Medicaid Reform Pilot Program** in two (and later five) counties. Under an 1115 waiver and the broad flexibility it provides, the state and CMS negotiate "Special Terms and Conditions" that supersede the usual Medicaid rules. Perhaps most notably, recipients in the Medicaid Reform experiment were required to enroll in an HMO or related managed care plan. This mandatory managed care enrollment and other unprecedented free market elements were described as essential to reining in unsustainable Medicaid costs.

Governor Bush described his proposal for mandatory Medicaid managed care enrollment as "put[ting] the focus back on the patient by encouraging strong patient-doctor relationships and allowing competition in the market to drive access and quality of care."

As a result of the refusal by House leadership to expand Medicaid or consider a reasonable alternative eligible to draw down federal funding, the Medicaid income limit for parents remained (and still remains) at 35 percent of the poverty level. Meanwhile, non-elderly adults without children could not (and still cannot) qualify at any income level. By contrast, accepting the federal funding would have raised the income limit for both groups to 138 percent of poverty.

One of the Florida-specific components authorized under the Medicaid Reform was the **Low Income Pool**, funded at $1 billion annually. More than half of that amount was intended to replace federal hospital funding that was not available under Medicaid managed care. However, LIP funding included a **100% federally funded** supplement of approximately $400 million dollars intended to help offset the cost of uncompensated care provided to uninsured and underinsured patients, primarily by hospitals.

2008 The Florida Legislature passed SB 2534, creating the Florida Health Choices Corporation with the aim of providing more affordable health "coverage" by sidestepping the regulations and protections of the State Insurance Code and by providing a platform for insurers and vendors to offer products that are more limited than traditional coverage. The Florida Health Choices concept was prominently included on a list of "100 Innovative Ideas for Florida's Future," championed by then-House Speaker Marco Rubio with critical drafting support from his chief of staff and current House Appropriations Chair Richard Corcoran.

2010 Congress passed the Affordable Care Act (ACA) that, among other things, extended Medicaid eligibility for most non-elderly adults with household incomes up to 138 percent of the Federal Poverty Level and provided 100% federal funding through 2016, gradually decreasing to 90% in 2020 and beyond.

2011 The expiring Medicaid Reform 1115 waiver (including the Low Income Pool) was temporarily extended while the state and federal CMS negotiated adjustments to the Special Terms and Conditions in response to the serious problems resulting from many of the free market elements of the original experiment.

Statewide Medicaid Managed Care (SMMC), a recasting of the Medicaid Reform experiment, was pushed through the Florida Legislature by the Republican leadership and signed into law by Governor Scott, both of whom again praised Medicaid managed care as the remedy for problems with Medicaid. The primary aim of SMMC (like its predecessor) was to contain costs by requiring most Medicaid recipients in all 67 counties to enroll in a private sector HMO or similar plan paid on a capitated (i.e., fixed amount per enrollee per month) basis.

Upon passage of the SMMC legislation, then-House Speaker Dean Cannon described Medicaid as a "federal entitlement program run amok that has become the single-largest cost driver in our state's budget," adding that "the transformational [SMMC] legislation will reform our state's broken Medicaid system." (Notably, the characterization that Medicaid spending had run amok and others like it were themselves highly misleading. For one, although the percentage of state GR spent on Medicaid *did* increase from 12% to 18% that year, the increase occurred only because billions in federal stimulus funding for Medicaid that the legislature had been using to replace GR were running out. In addition, the same recession that had reduced GR collections and necessitated the passage of the federal stimulus package simultaneously caused the Medicaid rolls to swell as Floridians lost jobs and coverage.)

For his part, Governor Rick Scott offered that "[r]eforming health care for Medicaid recipients (through a waiver)…will lower the cost of health care, increase choice of health plans, and save taxpayers $1.8 billion."

The existing Medicaid Reform waiver (including the Low Income Pool) was extended by federal CMS for an additional three years, although many of the most experimental free market elements that caused problems during the 5-year pilot period were reined in or removed.

Despite the fact that mandatory Medicaid managed care had been implemented in only five counties and for selected recipient groups, growth in Medicaid costs had nevertheless stabilized.

By then an elected state representative, current House Appropriations Chair Corcoran was the primary House sponsor of legislation that updated and expanded the powers of the Florida Health Choices Corporation. The changes laid the groundwork for the Corporation to be able to implement and administer the Florida Health Insurance Affordability Exchange (FHIX) program, the 2015 Senate-proposed alternative to Medicaid expansion that would make maximum use of exactly the same flexibility for which Florida Health Choices was created to allow via **deregulation, unrestricted competition and other free market elements.**

> Provider participation in Florida Medicaid remains below the national average, but this is widely recognized as attributable in large part to provider reimbursement rates that are among the lowest in the nation (currently 57% of Medicare rates on average, down from 65% a decade ago) and differing/burdensome administrative requirements imposed by managed care plans. However, these rates and requirements are under the direct control of the very same legislative leadership that has continuously attacked Medicaid.

2012 The U.S. Supreme Court's decision in *NFIB v. Sebelius* left the Affordable Care Act intact, but one part of the decision in effect made Medicaid expansion optional for states.

The state and federal CMS began negotiating the state's request to amend the only recently extended Medicaid Reform 1115 waiver and to repurpose it for implementation of the medical care component of Statewide Medicaid Managed Care.

Federal CMS continued its efforts to clarify for states that "Medicaid expansion" under the ACA need not take the form of traditional Medicaid, in particular offering options reliant on private plans in Medicaid managed care or the ACA Marketplace to provide coverage for the newly eligible.

2013 Florida and federal CMS reached agreement on the Special Terms and Conditions for the amended 1115 waiver implementing the medical care component of Statewide Medicaid Managed Care. (Again, the approval came in the form of an amendment to the Medicaid Reform waiver that had been extended earlier by CMS.) As part of the agreement, the Low Income Pool was kept in place through June 2014.

The Florida House blocked a form of Medicaid expansion proposed by the Senate that would have drawn down the federal ACA funding and provided coverage to the newly eligible through the same Medicaid managed care plans hailed by legislative leadership when pushing through Statewide Medicaid Managed Care earlier.

2014 As a result of the refusal by House leadership to expand Medicaid or consider a reasonable alternative eligible to draw down federal funding, the Medicaid income limit for parents remained (and still remains) at 35 percent of the poverty level. Meanwhile, non-elderly adults without children could not (and still cannot) qualify at any income level. By contrast, accepting the federal funding would have raised the income limit for both groups to 138 percent of poverty.

Florida began losing tens of millions of dollars per month in already-paid federal taxes that would fund 100% of the cost of coverage for many of the same consumers served through the Low Income Pool. In addition, Florida began incurring tens of millions in additional *state* funding as a result of rejecting the federal funding that had been made available through the ACA to replace it. (For one, Florida spends hundreds of millions each year to provide short-term coverage for low-income patients with catastrophic medical expenses through the Medically Needy program, with a federal match rate of just 60%. By contrast, under some form of expansion, most would gain real coverage that would be 100% federally funded.) Those losses continue to mount in 2015.

Florida received another short-term extension of the Low Income Pool through June 2015, fully aware of federal CMS' concerns about the structure of the LIP program and its distribution of funding. In particular, the state insisted that CMS continue its special dispensation to Florida for the same 100% federally funded supplement to provide care for the uninsured while rejecting funding for the same purpose as provided to all states on a permanent basis by Congress through the ACA.

After a competitive bidding process and other preparations, Statewide Medicaid Managed Care was rolled out throughout the state over a four-month period.

Well before the rollout of Statewide Medicaid Managed Care commenced, the state's investment of general revenue (GR) funding in the Medicaid program remained stable. For example, the year in which state economists projected that the percentage of GR absorbed by the Medicaid program would reach just **20%** was pushed back, first from 2012-13 to 2013-14, and then to 2017-18.

2015 Florida's Medicaid Director, Justin Senior, reported to the Legislature that the rollout of Statewide Medicaid Managed Care was completed smoothly, and that many of the problems identified in the former (fee-for-service) Medicaid system and the Medicaid Reform experiment have been remedied or significantly ameliorated under SMMC. In short, the position of the Medicaid Director, who reports directly to Governor Scott, is that Medicaid is no longer the "broken system" leaders insisted it was when they demanded that Medicaid decisions be turned over to managed care plans.

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To the surprise of no one familiar with the history, the Legislature learned that federal CMS did not plan to extend the Low Income Pool for a fourth time in its current form. In particular, the special deal through which the state has received hundreds of millions each year in 100% federally funded supplemental amounts for providing care to the uninsured is in jeopardy.

For a third consecutive legislative session, Florida House leadership has refused to consider a Senate proposal to draw down the 100% federal funding available through the Affordable Care Act for Medicaid expansion or an alternative. The Senate's 2015 proposal, which differs from its predecessors, would create the Florida Health Insurance Affordability Exchange program (FHIX). The FHIX would be even more of a free market-driven, private sector-based approach than Medicaid managed care, essentially providing the newly eligible with vouchers that would allow choice from among a range of plans and products offered by insurers and vendors, including some that might not meet ACA requirements. If an enrollee did not spend his or her full voucher amount on monthly premiums would funnel the unspent balance to a health savings account. The FHIX proposal is as distinct from traditional Medicaid as a proposal could be while still laying serious claim to the ACA "Medicaid expansion" funding, using the flexibility provided under a federal 1115 waiver and perhaps other waivers, while making use of all of the forms of flexibility the House had previously demanded.

Note: The FHIX would be an alternative not only to Medicaid expansion as envisioned under the ACA, but also to Medicaid managed care. However, for the first six months of the program, the newly eligible would enroll in already operational Medicaid managed care plans to allow for rapid implementation while the FHIX marketplace is developed.

House Appropriations Chair Corcoran nevertheless blocked consideration of the FHIX legislation from consideration altogether, decrying it as just another form of Medicaid and citing the same "broken system" arguments that others in leadership have insisted are no longer relevant anyway. Perhaps most significantly, he ignored the fact that the FHIX would not only be administered by the Florida Health Choices Corporation he helped create and empower, but that it would operate using precisely the same free market principles he has championed throughout his political career. Indeed, House leaders' own proposal to rework health insurance benefits for state

employees is closely related to the FHIX proposal and is grounded in the same underlying principles.

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