



M E M O R A N D U M

TO: Indiana Legislators and Conservative Health Policy Leaders

FROM: Jonathan Ingram, Director of Research

RE: Debunking Governor Mike Pence's Medicaid Expansion Promises

DATE: June 11, 2014

In May, Governor Mike Pence (R-IN) announced his plan to implement an ObamaCare Medicaid expansion in Indiana, dubbed "Healthy Indiana Plan 2.0." Over at [Forbes](#), we highlighted a few of the major flaws in Gov. Pence's ObamaCare expansion plan.

Gov. Pence's staff responded to us and our criticism. From the first few paragraphs of their response, it's clear the governor's staff is tasked with creating a smokescreen of buzzwords to disguise this ObamaCare expansion rather than addressing the serious policy failures that we and others have highlighted. You can read their full correspondence [here](#).

Never content to leave false policy claims unchecked, the Foundation for Government Accountability has issued this response to their response.

Gov. Pence's expansion plan is not "conservative" Medicaid reform

According to Gov. Pence's staff, his plan represents the "most conservative plan to reform Medicaid." This fawning over the plan would have one believe Indiana was putting forward a top-to-bottom Medicaid transformation. Not so.

Pence's ObamaCare expansion actually creates a massive new entitlement for able-bodied adults; most of whom have no dependent children and do not qualify for other types of welfare, such as cash assistance or long-term food stamps. Many have prior involvement with the criminal justice system. Pence's "reforms" largely apply only to this new entitlement class. Although his plan does include able-bodied adults who *currently* qualify for Medicaid by rolling them into the new and improved Medicaid expansion program, the truly needy patients Medicaid was designed to protect – poor children, seniors and individuals with disabilities – are stuck languishing in Old Medicaid.



No matter how clever the disguise, a new entitlement for able-bodied adults through ObamaCare expansion is not a “conservative” plan. Real reformers know the difference between Medicaid expansion and Medicaid reform. The fact that Gov. Pence doesn’t yet grasp that distinction is disappointing.

Other leaders, like Louisiana Governor Bobby Jindal and Kansas Governor Sam Brownback, have implemented true patient-centered Medicaid reforms—and they didn’t have to expand ObamaCare to do it.

Federally-financed entitlements are still entitlements

In response to our charge that Gov. Pence is creating a new entitlement for able-bodied adults, his staff claims the governor’s plan is not an entitlement, but rather a “fiscally sustainable program” that “will not increase taxes for Indiana taxpayers at any time.” Regardless of the rhetoric, Gov. Pence’s plan is an entitlement program.

Here’s how the [Glossary of Political Economy Terms](#) defines entitlement programs:

The kind of government program that provides individuals with personal financial benefits (or sometimes special government-provided goods or services) to which an indefinite (but usually rather large) number of potential beneficiaries have a legal right (enforceable in court, if necessary) whenever they meet eligibility conditions that are specified by the standing law that authorizes the program.

Is Pence’s plan a government program? Yes. Does it provide personal financial benefits? Of course. Are there an indefinite (and large) number of potential beneficiaries? Absolutely. Does it provide a legal right to benefits whenever they meet eligibility conditions? Yes, it does. Even in politics, some words are not up for debate. Pence’s plan is literally a textbook entitlement.

Federally-financed entitlements are still entitlements, after all. The fact that Gov. Pence’s new entitlement relies on theoretically unlimited ObamaCare money doesn’t change the nature of the program. And increasing the national debt to finance his ObamaCare expansion plan doesn’t sound too “fiscally sustainable” either.

Pence’s plan could lock Indiana into ObamaCare’s Medicaid expansion forever

Gov. Pence’s staff defended their ObamaCare expansion by saying the state will “automatically terminate” the expansion if federal funding promises are broken. They’re right to be worried about the feds reneging on the deal. Obama has already proposed shifting more Medicaid costs to states in his budgets and during negotiations over the debt ceiling. And when was the last time states actually received all of the special education funding the federal government promised?

But Pence’s plan doesn’t alleviate this concern at all. Any ObamaCare expansion, including Pence’s, could end up as a [one-way street](#). [Federal law](#) classifies the expansion population as a



new “mandatory population” for states that opt into the expansion, which authorizes Washington to take away all federal Medicaid funds if Indiana were to ever try to roll back eligibility for that group. The mandatory nature of this population—once a state opts into expansion—has been [codified into regulation](#) and even [appears on the forms that states must submit](#) in order to accept expansion.

The U.S. Supreme Court held that states could forego Medicaid expansion altogether without placing their existing Medicaid funding at risk. It did not hold that separate federal requirements on maintaining eligibility for mandatory populations would not apply after a state agrees to expand Medicaid. The federal government could do this without ever filing a lawsuit, as it has statutory authority to do so under the Medicaid program.

While the federal government has said in non-binding letters that states may enter or exit the expansion as they please, states should be wary that this non-binding promise has never been codified into law or regulation and Medicaid beneficiaries may have standing to litigate the matter in federal court (a provision, we remember, is consistent among all entitlements). Ultimately, the state will be held to the requirements of the law, not to opinions and views expressed in non-binding letters.

Gov. Pence’s waiver may be temporary, but his plan to expand Medicaid could be forever.

The Pence Medicaid expansion discourages work and shrinks the economy

Gov. Pence has defended his ObamaCare expansion on the grounds that it’s a “hand-up, not a hand-out.” His staff claims that the proposal requires job training and work search referrals and that the program will prepare them for the private sector. The biggest problem with all this? The program’s design discourages work and shrinks the economy.

Few of the people made eligible by Pence’s plan are full-time workers to begin with. According to the [Census Bureau](#), fewer than 14 percent of the people expected to sign up for Healthy Indiana work full-time jobs for the entire year. Nearly half of them don’t work at all.

Gov. Pence’s plan to expand Medicaid is sure to make more of these individuals reduce their hours or drop out of the labor force entirely. Unlike cash-assistance programs, Gov. Pence’s proposal has no work requirement for individuals enrolling in the program. Worse yet, it creates a massive tax cliff, where enrollees who earn just \$1 more in income potentially lose thousands of dollars in benefits.

Individuals right below 138 percent FPL, for example, will contribute a maximum of just \$300 per year to their POWER accounts under Pence’s plan, assuming the federal government allows Indiana to charge even that much. But if those individuals earn just \$1 more and go into the ObamaCare exchange, they’ll be on the hook for at least \$531 in annual premiums if they pick the benchmark Silver plan. If they choose more expensive Silver plans, they could owe thousands of dollars more in premiums, even after accounting for subsidies. Those individuals

would also be responsible for up to \$2,250 in deductibles, copayments, coinsurance and other out-of-pocket costs.

The design of Pence's expansion ensures that individuals will face a massive incentive to reduce their hours or income to remain eligible for the program, as earning a single dollar in additional income could cost enrollees several thousand dollars in lost Medicaid benefits.

A [new study](#) released by the National Bureau of Economic Research confirms that previous Medicaid expansions to able-bodied, working-age adults reduced employment and earnings among this population. According to researchers at Texas A&M University, Georgetown University and the University of Illinois, expanding Medicaid eligibility to childless adults could lower the likelihood of working by up to 10 percentage points. The researchers further found that Medicaid expansions could reduce earnings by up to \$1,200 per year. For context, that's more than 10 percent of the federal poverty line.

This builds on [existing research](#) that found previous expansions reduced full-time employment and led to able-bodied adults dropping out of the labor market. Researchers at Emory University and the University of Colorado, for example, previously found that full-time employment among the new Medicaid population declined by more than eight percent after expansion, while the share who did not work at all increased by nearly 11 percent. The [Congressional Budget Office](#) recently highlighted these problems, finding that ObamaCare's Medicaid expansion and exchange subsidies will discourage work. When able-bodied adults work fewer hours or drop out of the labor force entirely, the economy ultimately suffers.

The Pence plan moves people out of the exchanges and into Medicaid

One early criticism we had of Gov. Pence's expansion proposal was that it increased the Healthy Indiana Plan's current income threshold from 100 percent to 138 percent FPL. That doesn't make a lot of sense, when you understand that [individuals above 100 percent FPL already qualify for subsidies on the ObamaCare exchanges](#). Pence's plan would move [nearly 100,000 people](#) eligible for ObamaCare exchange subsidies into the Medicaid program.

So how did Gov. Pence's staff respond? By saying that individuals between 100 percent and 138 percent FPL don't qualify for federal subsidies. And this isn't the first time Gov. Pence has made this mistake. His many presentations on his plan call this population part of the "coverage gap."

That's an interesting interpretation, but a wrong one. [Federal law](#) expressly states that this group qualifies for subsidies. [Federal regulations](#) confirms this fact. That's why the [Congressional Budget Office](#) includes those individuals in its cost estimates of ObamaCare exchange subsidies in states that do not expand Medicaid.

Gov. Pence is all alone in believing that this group of individuals do not already qualify for ObamaCare exchange subsidies. It looks like one of his major justifications for his plan can be chalked up to nothing more than a fundamental misunderstanding of federal law.



Pence's plan reduces personal responsibility

Another major criticism we levied against Gov. Pence's ObamaCare expansion plan was the fact that it actually reduced the skin-in-the-game requirements found in the original Healthy Indiana Plan. Gov. Pence's staff says that's not true, but their own waiver says otherwise.

According to Gov. Pence's staff, the new plan "maintains" the same contributions required under the original Healthy Indiana Plan and that the changes "do not represent a decrease in required contributions."

The [draft waiver request](#), however, states that Pence's plan is cutting required contributions in order to "reduce the financial barrier" to signing up for the ObamaCare expansion. According to the waiver, the average contributions paid in 2012 under the original Healthy Indiana Plan are up to 165 percent higher than the required contributions under Pence's Medicaid expansion for the same income groups.

In fact, Gov. Pence's plan to gut these skin-in-the-game requirements actually conflicts with the state statute authorizing the Healthy Indiana Plan. [State law](#) provided for a minimum contribution of \$160 per year for enrollees in the Healthy Indiana Plan. Under Gov. Pence's proposal, however, individuals can pay nothing and receive benefits under the "Basic Plan" or contribute as little as \$36 per year to receive extra benefits under the "Plus Plan."

But it's actually worse than that. Pence's expansion plan provides less skin-in-the-game than traditional Medicaid. Under his plan, the maximum contribution for someone near the top of the eligibility threshold is \$300 per year. Under federal Medicaid rules, however, cost-sharing for that same individual could reach up to \$805 per year under traditional Medicaid. So, not only has Gov. Pence gutted the original Healthy Indiana Plan's personal responsibility requirements, he's proposed an ObamaCare expansion that has even less skin-in-the-game than traditional Medicaid.

Pence's Medicaid expansion crowds out private insurance for taxpayer-funded Medicaid

One major criticism we had of Gov. Pence's ObamaCare expansion plan was that it actually crowded out private insurance and shifted more of a burden to taxpayer-funded Medicaid. Gov. Pence's staff believes that characterization is unfair, because part of his plan allows enrollees to have taxpayers pay for their employer-sponsored coverage. But this "feature" will likely make this crowd-out effect even worse.

Gov. Pence's expansion plan will incentivize the 170,000 adults who currently have private insurance (mostly through their employers) to suddenly have the taxpayers pay for it as they would become eligible for the new program. These are individuals who are currently paying for their own private insurance. The Pence plan tells them that they can keep that insurance, but let taxpayers pay for it. Those adults could also bring along nearly 115,000 children who are



privately insured, but who may be shifted to Medicaid once their parents are enroll into Pence's Medicaid expansion.

Gov. Pence has gutted all of the provisions in the original Healthy Indiana Plan that would have helped reduce crowd-out, such as the mandatory 6-month waiting period and the exclusion for those with access to employer coverage.

Pence's expansion plan provides generous ObamaCare benefits

Another key criticism of Gov. Pence's ObamaCare expansion plan was that it transformed a program with a limited-benefit package into one with not just generous ObamaCare benefits, but also extra benefits like vision and dental coverage. Gov. Pence's staff believes this is unfair, because those the extra benefits encourage enrollees to sign up for the (more expensive) "Plus Plan" that requires nominal monthly contributions.

Of course, this doesn't change the fact Pence's expansion plan replaces the original Healthy Indiana Plan's limited benefit package with robust ObamaCare benefits, even for the Basic Plan. The "Plus Plan" gets additional goodies, like free dental and vision coverage, that many in the private sector don't receive. In fact, according to Indiana's actuaries, the Pence plan provides Medicaid coverage that is more generous than the original Healthy Indiana Plan and is actually [more generous](#) than even the coverage that state employees receive.

Pence's expansion makes ObamaCare repeal more difficult

Gov. Pence's staff ended their plea for our silence with the claim that Pence "continued to support the full repeal of ObamaCare." But actions speak louder than words. Gov. Pence's decision to implement key provisions of ObamaCare after the Supreme Court ruled that Indiana was under no obligation to do so undermines his alleged commitment to repeal. After all, there's a reason progressives are celebrating Gov. Pence's decision to expand Medicaid. Trust me, it's not because the folks at MSNBC are impressed with such a "conservative" reform plan.

Gov. Pence's staff closes with the statement that his plan represents the "type of state-based innovation we can look forward to" when states are granted more flexibility in designing Medicaid. Does it also represent the type of "innovation" we can look forward to if Gov. Pence ever ascends to the presidency?

If creating new entitlements for able-bodied adults is the best "innovation" the conservative movement has to look forward to, we're in pretty deep trouble.