



COALITION ON HUMAN NEEDS

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House and Senate Budget Committees Move Toward FY20, but with Different Tactics and in Different Directions

While the Senate Budget Committee recently passed a budget resolution for FY20, its House counterpart abandoned the idea in favor of pushing forward a deal to lift spending caps.

The Senate Budget Committee on March 28 adopted (11-9) a five-year budget resolution along party lines. According to Senate Budget Committee Ranking Member Bernie Sanders (I-VT), the Republican [budget plan](#) would cut Medicare, Medicaid, and other health care programs by \$360 billion over the next five years, including by repealing the Affordable Care Act; cut \$55 billion from Pell Grants and other

financial aid programs affecting 7 million students; eliminate housing assistance for 700,000 families by cutting \$36 billion from housing programs; and in total “cut more than \$1.1 trillion from education, health care, affordable housing, child care, transportation, and other programs that working people desperately need over the next five years.” Committee Chairman Mike Enzi (R-WY), author of the budget, praised the blueprint [saying](#) it, “...starts the process to rein in deficits and debt and provide the foundation for a stronger future...” The budget adheres to the draconian 2011 Budget Control Act spending caps, but according to Enzi, it “creates the infrastructure to adjust these levels if an agreement on revised funding levels is reached to fully meet defense needs.” It is unclear if the Senate budget will get a vote by the full chamber. A resolution is a plan through which Congress sets certain spending and taxation rules for itself; it does not go to the President for his signature and does not become law. Getting a budget resolution passed by both chambers of Congress is challenging – even more so in years when the two chambers of Congress are controlled by different parties.

Reports are that divides even among Democrats on tax increases, spending levels, and big issues like climate change and health care led House Budget Committee Chairman John Yarmuth (D-KY) to make the decision to abandon efforts to move forward with a budget proposal in that chamber. Instead, the House Budget Committee on April 3 approved ([19-17](#)) legislation that would raise discretionary (annually-appropriated) spending caps for fiscal years 2020 and 2021. According to *CQ*, the plan would raise the FY20 nondefense spending cap to \$631 billion, up \$34 billion over FY19 levels, and the defense cap to \$664 billion, \$17 billion over FY19 levels. Both caps would increase further in FY21. The House Budget Committee’s [Investing for the People Act](#) also includes up to \$69 billion in spending outside the caps for defense spending through the controversial Overseas Contingency Operations (OCO) account, and up to \$8 billion for OCO nondefense spending outside the caps during both years (both these figures are unchanged from current year OCO spending). In addition, \$7.5 billion in funding for the 2020 decennial Census is placed outside the cap for nondefense discretionary spending. All of the plan’s supporters were Democrats; 14 Republicans and three Democrats opposed the measure.

According to the [Center on Budget and Policy Priorities](#), without a new deal to raise tight spending caps and automatic cuts (also known as sequestration) put in place by the 2011 Budget Control Act, non-defense discretionary programs would be cut by \$55 billion and defense by \$71 billion in FY20, compared to FY19 levels. Democrats have been firm in their position that the principle of parity must be maintained in spending; that is, any additional money given to defense programs should be matched by money for nondefense programs. The House proposal adheres to parity by increasing funding for defense and nondefense programs by \$88 billion above the capped levels in FY20 and \$90 billion above the caps in FY21.

New [analysis](#) from CHN shows the importance of lifting the spending caps in order to prevent serious losses in human needs programs. CHN’s work showed that out of 184 programs tracked, 131 of the programs, or 71 percent, lost ground since FY 2010. Fifty-four programs were cut by 25 percent or more. You can download CHN’s funding analysis and appropriations tables [here](#). Without a spending deal in place, staying at the very low capped levels would mean that far fewer people would be served by the

184 human needs programs CHN looked at. President Trump reportedly remains opposed to lifting the spending caps.

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Disaster Aid Bill Remains Stalled in the Senate

Efforts to get billions of dollars in disaster aid to Americans in Puerto Rico, other U.S. territories, and states across the mainland affected by natural disasters remained stalled after two proposals failed to advance past a procedural vote in the Senate on April 1. The Senate failed ([46-48](#)) to advance the House-passed bill (H.R. 269) along party lines, and a Republican version also fell [44-49](#) (60 votes needed).

Funding for Puerto Rico was one of the main sticking points in the failure of both bills. While the Republican bill included \$600 million in nutrition assistance for Puerto Rico, Democrats and advocates say much more is needed to help the island. In March, all 1.35 million Puerto Ricans who receive benefits through the island's Nutrition Assistance Program (NAP, the island's version of SNAP) began to see their benefits cut as funding ran out. Unlike SNAP in the states and other territories besides Puerto Rico, NAP does not automatically expand in the event of a natural disaster or economic downturn. Rather, Puerto Rico's NAP relies on a fixed block grant that can only increase to meet need if Congress appropriates additional funds.

The day after the failed votes, Senate Majority Leader Charles Schumer (D-NY) and Sen. Patrick Leahy (D-VT) introduced a package that would appropriate \$16.7 billion to help Puerto Rico and a number of states that experienced natural disasters and flooding in 2018 and 2019. According to *CQ*, the proposal would add to the Republican measure an additional \$431 million for Community Development Block Grants (CDBG) to help states and territories cover matching funds for FEMA assistance; a provision that would require the Department of Housing and Urban Development to release billions of dollars in previously appropriated CDBG funds, much of which is for Puerto Rico; an additional \$250 million to help affected states and territories fix damaged water systems; and Medicaid funding for the Northern Mariana Islands, Guam and American Samoa, which advocates say is desperately needed.

While the White House has agreed to support the \$600 million in nutrition assistance for Puerto Rico, President Trump remains opposed to any additional funding going to the island. Advocates are hopeful an agreement with adequate money for Puerto Rico and for the other U.S. territories and states can be reached before Congress recesses for two weeks beginning later this week.

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Court Strikes Down Medicaid Work Requirements; Appeals Expected

In late March, a U.S. District Judge in Washington, D.C. blocked the Trump Administration from allowing two states to impose work requirements on Medicaid recipients, a policy that [experts say](#) would deny basic health coverage to millions of Medicaid enrollees if implemented nationwide.

The rulings by U.S. District Judge James Boasberg blocked the states of Arkansas and Kentucky from imposing the requirements. In Arkansas, more than 18,000 recipients already have been stripped of coverage; thousands more were expected to be similarly affected beginning April 1, when the first wave of 2019 disenrollments were to have taken effect. In Kentucky, where the rule had not yet taken effect, state officials estimated that 100,000 people would be affected.

But the ink on Judge Boasberg's two rulings had barely dried when the Trump Administration, through the Centers for Medicare and Medicaid Services (CMS), gave Utah permission to impose similar (albeit slightly less harsh) work requirements. The move, experts say, is a clear indication of the Administration's intent to fight and appeal the district judge's decisions.

Putting aside the [public policy impairments](#) of work requirements, the legal issue involved in the Arkansas and Kentucky cases is Congress' intent when it created Medicaid. CMS Administrator Seema Verma said in the federal government's [approval letter to Utah](#) that requiring Medicaid enrollees to work is legal because it helps make them healthier.

"Therefore we believe an objective of the Medicaid program, in addition to paying for services, is to advance the health and wellness needs of its beneficiaries, and that it is appropriate for the state to structure its demonstration project in a manner that prioritizes meeting those needs," she wrote.

But that language seems counter to Boasberg's rulings. [In his Kentucky ruling](#), he wrote that using health as an objective would be "arbitrary and capricious" and an overreach of executive branch power – an overreach that also did not take into account the number of people who would be harmed.

"The Court cannot concur that the Medicaid Act leaves the Secretary so unconstrained, nor that the states are so armed to refashion the program Congress designed in any way they choose....The Secretary, most significantly, did not weigh health gains against coverage losses in justifying the approval."

Boasberg's two rulings applied only to Arkansas and Kentucky, not to Utah and the other six states (Arizona, Indiana, Michigan, New Hampshire, Ohio, and Wisconsin) where CMS has approved waivers for work reporting requirements.

Legal experts warn that the Trump Administration could be on shaky legal grounds.

Allison Hoffman, a law professor at the University of Pennsylvania, told [Kaiser Health News](#) that getting a federal judge to accept the premise that the primary purpose of Medicaid is improving health, as opposed to "reimbursing certain costs of medical treatment for needy persons," as Boasberg wrote, is vital to getting work requirements through the courts. Federal officials "need a judge to buy that," Hoffman said. "They are going to fish for a different jurisdiction to push this opinion."

And Sara Rosenbaum, professor of health law and policy at George Washington University, told Kaiser Health News that the Trump Administration is "doubling down" by allowing a state (Utah) to add work

requirements. “This is such a remarkable example of sticking a finger in the eye of the court,” she said. “We will see what happens. Because when you disrespect a court, it can backfire.”

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Trump Intervention Renews Spotlight on ACA Lawsuit

The cast of characters working either to overturn or defend the Affordable Care Act in federal court continues to evolve and expand. More states are intervening to join the legal effort in the ACA’s defense, two states are rethinking their effort to overturn the law, and a sweeping array of state and national hospital associations, medical groups, consumers, and even the insurance industry are joining the fray.

Back in December, U.S. District Judge Reed O’Connor declared the entire ACA invalid, as a Texas-led coalition of plaintiff states had requested. In late March, the Trump Administration stunned legal observers when it announced that, far from its previous position of wanting to overturn the part of the ACA that protects people with pre-existing conditions, it is now seeking to have the *entire* law overturned.

That announcement seemed to launch the litigation into overdrive. On Monday, April 1, the [Republican attorneys general in Montana and Ohio](#) filed briefs arguing that a U.S. district judge in Texas erred in concluding that the entire ACA must be struck down because the law’s individual mandate is unconstitutional and cannot be severed from the rest of the law.

The two state officials oppose the requirement to purchase coverage, but argue that the rest of the law should be allowed to stand. They warn of disastrous consequences to people in their states if it is overturned.

“The fact that a ruling has negative consequences does not mean it is wrong,” argue Attorneys General Dave Yost of Ohio and Timothy Fox of Montana. “Let justice be done, though the heavens may fall. But the District Court’s ruling *is* wrong, and its errors threaten harm to millions of people in the Buckeye and Treasure states.”

Meanwhile, one state that was part of the original lawsuit – Maine – has filed a motion asking for permission to withdraw, and another state -- Wisconsin – is considering following suit. And four states – Colorado, Iowa, Michigan, and Nevada – [have been granted permission](#) to join the litigation in defense of the ACA. These developments, linked to changes in the political composition of many states’ executive branches after the November 2018 elections, mean that the states defending the ACA now outnumber the states who wish it overturned.

Finally, also on Monday, April 1, the nation’s largest hospital associations and 24 state hospital associations filed a [joint amicus brief](#) urging the 5th Circuit Court of Appeals to reject the Texas court’s “judicial repeal” of the ACA. “If upheld, it will unwind eight years of progress under the ACA’s broad set

of reforms,” states the brief, submitted by the American Hospital Association, Federation of American Hospitals, the Catholic Health Association of the United States, and the Association of American Medical Colleges. “And if upheld, it will cause tens of millions of patients to lose their health insurance, returning them to the ranks of the long-term uninsured and putting their health at risk.”

The joint brief [was quickly joined by a slew of other pro-ACA amicus briefs](#) filed on the same day by groups representing doctors, insurers, hospitals, consumers, cities and counties, and including such groups as the American Medical Association, the American Cancer Society, AARP and the pro-industry American Health Insurance Plans.

So what’s next for the ACA litigation? The Trump Administration has until March 25 to file its intervening brief in the case. Plaintiffs’ response will be due on April 24, and reply briefs will then be due on May 15. All of this means that oral arguments before the 5th Circuit will not be held until the summer at the earliest. A ruling could come in the fall – or be pushed into 2020 – and only then would the litigation be ripe for U.S. Supreme Court consideration.

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71,000 Weigh in on SNAP Rule; Comment Period Extended

The USDA has extended the comment period on a proposed rule that could result in 755,000 very poor Americans losing SNAP benefits. The original deadline for submitting comments was Tuesday, April 2. But due to a technical glitch, USDA on April 3 announced it will re-open the comment period for 72 hours, beginning Monday, April 8 and ending Wednesday, April 10.

The Food Research & Action Center (FRAC) reported that USDA had received 71,000 comments by the original deadline.

Under the rule, food benefits would be time-limited for unemployed and underemployed people who cannot document sufficient weekly work hours. These recipients would only be able to receive three months of benefits every three years because states would have far less flexibility to waive the time limits for areas with limited employment opportunities. (For more about the rule, see our [March 4 Human Needs Report](#).) CHN, FRAC, Feeding America, Center for American Progress, the Center on Budget and Policy Priorities, and allies have engaged in a joint campaign urging members of the public to submit comments to USDA in opposition to the rule.

Meanwhile, in a [letter](#) to Agriculture Secretary Sonny Perdue sent on Tuesday, April 2, House Democrats demanded that the Trump administration withdraw its proposed rule change.

"SNAP recipients are our nation's most vulnerable—nearly 20 million are children, almost 5 million are low-income seniors, and 1.5 million are military veterans," reads the Democrats' letter, which was signed by Reps. Rosa DeLauro (D-CT), Alexandria Ocasio-Cortez (D-NY), Ayanna Pressley (D-MA), Ro

Khanna (D-CA), and more than a dozen others. "The proposed rule is a continued pursuit of the flawed political ideology that was resoundingly rejected by Congress in the 2018 Farm Bill."

On April 8, FRAC will reactivate its comment platform so that members of the public can submit comments directly from FRAC's website: www.frac.org/timelimitcomments.

Comment templates and other resources are available on the [FRAC website](#) as well as on the joint comment campaign page that FRAC cohosts with Feeding America, Center on Budget and Policy Priorities, and Center for American Progress (accessible via <http://bit.ly/SNAPRuleCampaign>).

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Senate Bills Would Provide Protections for Dreamers and TPS Recipients

A bipartisan bill was introduced in the Senate on March 26 that would create a path to citizenship for Deferred Action for Childhood Arrival (DACA) beneficiaries, also known as Dreamers. Introduced by Sens. Lindsey Graham (R-SC) and Richard Durbin (D-IL), the [Dream Act](#) would allow Dreamers to earn Lawful Permanent Resident status and eventually citizenship if they came to the country as children, graduated from high school or earned a GED, and pursued college, military service, or at least three years of employment, along with other requirements.

Also on March 26, Sens. Chris Van Hollen (D-MD), Ben Cardin (D-MD), Dianne Feinstein (D-CA), and Tim Kaine (D-VA) introduced the Safe Environment from Countries Under Repression and in Emergency (SECURE) Act. This [legislation](#) would allow qualified Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) recipients to apply for legal permanent residency.

As reported in the [March 18 Human Needs Report](#), Reps. Lucille Roybal-Allard (D-CA), Nydia Velázquez (D-NY), and Yvette Clarke (D-NY) on March 12 introduced the Dream and Promise Act ([H.R. 6](#)), which includes elements of both Senate bills. H.R. 6 would provide a pathway to lawful permanent residency and citizenship for Dreamers and provides a pathway to permanent legal protections for immigrants with TPS and DED status. All told, the bill would [reportedly](#) protect more than 2 million people from deportation. To date, 226 House members have signed on to H.R. 6, all Democrats. The [National Immigration Law Center](#), [UnidosUS](#), the [Center for Law and Social Policy](#), and other organizations issued statements supporting the Dream and Promise Act and encouraging its swift passage in Congress.

The latest reports are that H.R. 6 will be taken up in committee the last week in April or early in May and will quickly move to the House floor. Neither of the Senate bills are expected to move before the House takes action on its bill. For more information on H.R. 6, see [this piece](#) from the National Immigration Law Center.

The TPS and DED programs have protected refugees who fled war, natural disasters, and other life-threatening events in their home countries from deportation. President Trump has tried to end the DACA program and terminate TPS for individuals from Sudan, Nicaragua, Haiti, and El Salvador, but

federal courts have thus far blocked him from doing so. Complying with a court injunction, the Department of Homeland Security [announced](#) on Feb. 28 that it was extending TPS for more than 250,000 immigrants from those four countries through Jan. 2, 2020. Immigrant advocates also [filed](#) a federal lawsuit in February to block the Trump Administration from ending TPS for people from Nepal and Honduras. DED protections for individuals from Liberia, set to expire on March 31, were [extended](#) by President Trump for one year on March 28.

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House Moves Bills on Paycheck Fairness and Violence Against Women

The House recently passed two measures to support and protect women. On March 27, the House passed ([242-187](#)) the Paycheck Fairness Act. Sponsored by Rep. Rosa DeLauro (D-CT), H.R. 7 would help to close existing gender pay gaps by eliminating loopholes in the Equal Pay Act, helping to break harmful patterns of pay discrimination and strengthening workplace protections for women. Today, women working full time, year-round typically are paid only 80 cents for every dollar paid to their male counterparts – and compared to white, non-Hispanic men, women of color face even larger wage gaps. For more information on the Paycheck Fairness Act, see these resources from the [National Partnership for Women and Families](#) and the [National Women’s Law Center](#).

Just over a week later on April 4, the House passed ([263-158](#)) a reauthorization of the Violence Against Women Act (VAWA). Introduced by Reps. Karen Bass (D-CA) and Brian Fitzpatrick (R-PA), the bill would reauthorize the 1994 law through FY 2024. According to the [National Network to End Domestic Violence](#), the bill improves lifesaving services for all victims of domestic violence, sexual assault, dating violence and stalking with modest but important improvements to support survivors. The bill expands housing protections, gives more help to Native American women, and enhances law enforcement tools through grants. It also expands the category of persons who could lose the right to possess guns, including those convicted of dating violence or misdemeanor stalking, closing the so-called “boyfriend loophole.” Reports are this last provision makes it unlikely that the Senate will pass the House version of the bill, as the National Rifle Association opposed the measure. In the House, 33 Republicans broke party lines to vote for the bill; only one Democrat opposed it.

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