FLORIDA LEGAL SERVICES, INC.

MIAMI ADVOCACY OFFICE
3000 Biscayne Boulevard, Suite 102
Miami, Florida 33137
Telephone: 305-573-0092
Fax: 305-576-9664

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FEDERAL FUNDING FOR COVERAGE OF FLORIDA'S UNINSURED IS CRITICAL TO OFFSET COUNTY AND SAFETY-NET HEALTH PROVIDER LOSSES

I. INTRODUCTION

Two Medicaid funding streams created to help ensure the economic stability of safety-net providers are being significantly reduced. First, Florida's non-profit and charity medical facilities that serve low income uninsured face a loss of almost $2 billion in annual revenue when the state's Low-Income Pool Program (LIP) is scheduled to end June 30, 2015. The $240 million of annual funding for the state's Medicaid Disproportionate Hospital Program (DSH), while not as substantial or imminent, is also being reduced. As a result of these cuts, Miami-Dade County will likely lose approximately $600 million per year.

These losses threaten both the safety-net's viability and the health of low-income uninsured county residents that rely on safety-net facilities. The threats, however, could be averted if the Florida Legislature accepts funding allocated under the Patient Protection and Affordable Care Act (ACA) for covering an expanded population of low-income adults. The funding for covering these newly insured Miami-Dade residents would more than offset the county's projected loss of LIP and DSH.

This paper will first provide a background on LIP and DSH[1] as well as the "coverage gap" created by the prior Legislature's decision to reject federal expansion funding. It will then

look at the projected economic losses both statewide and in Miami-Dade County as a result of DSH and LIP cuts. **Notably, these cuts will occur with or without the Legislature accepting federal funding to expand coverage for low income Floridians.** Finally, the paper will describe the substantial economic gains to health care providers that would more than offset these losses if the Legislature accepts expansion funding.

II. BACKGROUND

A. *Low Income Pool Program (LIP)*

Beginning June 2015, Florida's safety-net hospitals face a tremendous loss of revenue when approximately $1.8 billion[2] in LIP funding is eliminated, pursuant to the Centers for Medicare and Medicaid Services announcement.[3] LIP was originally established as part of Florida's Medicaid Reform 1115 Demonstration Waiver (The Waiver).[4] It is a jointly funded state/federal program intended to "ensure continued government support for the provision of health care services to Medicaid, underinsured, and uninsured populations."[5] Since the program's inception in 2005, it has distributed between $1-2 billion annually to support safety-net providers throughout the state.[6]

Throughout the several year negotiation over the Waiver's extension,[7] state officials sought both an extension and an expansion of LIP to $4.5 million.[8] The press reported "optimism" about both a continued and expanded LIP program.[9] However, in July 2014 the Centers for Medicare and Medicaid Services (CMS) announced it would grant a three year extension of the state's 1115 waiver request with the **explicit exception of LIP**.[10]

B. *Disproportionate Share Hospital Program (DSH)*

Congress established the Medicaid Disproportionate Share Hospital Program (DSH) in the early 1980s.[11] The purpose of DSH was to provide additional financial support to hospitals that serve a "disproportionate share" of the poor.[12] Since DSH was established, hospitals that serve a high rate of Medicaid or uninsured patients have received this funding. In 2014, Florida will receive almost $240 million in DSH funding.[13]

The ACA significantly reduced DSH because the Act's provisions for Medicaid expansion would considerably reduce the number of uninsured individuals. [14] Covering low income uninsured adults through this expansion funding would thus reduce the amount of uncompensated care and the need to maintain the safety-net at the same level.[15] However, while the Supreme Court's decision that states were not required to expand Medicaid[16] effectively undermined this *quid pro quo*, the DSH reductions were left intact. While this situation is of no consequence in states that have expanded their Medicaid program pursuant to the ACA, it poses adverse fiscal implications in states like Florida, which have not. Therefore, because the DSH reduction is not being offset with expansion funding as contemplated by the ACA, Florida's safety-net is facing the loss of DSH revenue.[17]

C. Florida's Coverage Gap

The ACA, as passed by Congress and signed into law by President Obama, established two paths to affordable coverage for the uninsured. First, subsidies for purchasing insurance in the marketplace were provided to people between 100 and 400% of the federal poverty level (FPL). Second, Medicaid was expanded to cover those up to 138% of the FPL (in 2014, this would be $16,106 annually for an individual and $21,707 annually for a household of two). In

Florida, there are approximately 1.1 million individuals eligible for Medicaid Expansion.[18] However, as noted, the Supreme Court made the adult Medicaid expansion provision a state option. Because the Florida Legislature has, to date, declined federal funding to cover low-income adults, an estimated 764,000 Floridians, fall into a "coverage gap."[19] In other words, individuals whose income is below 100% FPL ($11,670 for an individual and $15,730 for a household of two) make *too little* money to qualify for assistance in buying insurance in the Marketplace and do not qualify under Florida's restrictive Medicaid eligibility rules for adults.[20]

III. DISCUSSION

While LIP (and to a lesser extent DSH) funding losses pose potentially dire economic consequences for the state, and certain counties in particular, the loss of local safety-net funding could be more than offset if the Florida Legislature accepted federal funds for expansion. Funding for the expansion population[21] will likely be remitted as per member per month (PMPM) payments to managed care organizations (MCOs).[22] An assumption can also be made that 80-85% of the PMPM funding will then be paid to local health care providers for medical services rendered to county residents.[23]

A. Miami-Dade County Background

Miami-Dade County has the largest number of low-income uninsured in the state,[24] the largest number of individuals eligible for Medicaid expansion,[25] and the largest number of people who fall into the coverage gap.[26] Approximately 190,000 individuals[27] are eligible for Medicaid Expansion and approximately 140,000 are in the coverage gap.[28]

Additionally, hospitals in Miami-Dade receive the largest amount of DSH and LIP funding in the state.[29] Jackson Memorial Hospital (JMH) serves as the primary safety-net

hospital in Miami-Dade, and will receive more than $570 million in DSH and LIP funding in 2014, of the approximately $635 million Miami-Dade County receives.[30] Other Miami-Dade hospitals, including University of Miami Hospital and Mt. Sinai Hospital, will receive more than $60 million in DSH and LIP funding combined in 2014-15.[31]

B. Miami-Dade County Loss of Funding

As noted above, more than $2 billion is currently allocated to support safety-net programs throughout the state. Florida's total DSH payments in 2014-15 will be almost $240 million and total LIP payments will be more than $1.8 billion.[32] Reduction of this funding will be particularly profound in communities like Miami-Dade County that have received large amounts of DSH and LIP funding annually.[33]

For Miami-Dade County, DSH payments in 2014-15 will be slightly more than $75 million.[34] The total amount of LIP payments in Miami-Dade in 2014-15 will be nearly $560 million.[35] This amounts to nearly $635 million in funding to Miami-Dade County. Again, under the current terms of the Waiver, the LIP program is scheduled to end on June 30, 2015.[36] Even assuming that the county can maintain the local safety-net tax revenue,[37] and not withstanding potential provisions for increasing safety-net rates pursuant to the forthcoming 2015 rate study recommendations,[38] the changes to the of DSH and LIP programs represent a tremendous loss of federal funding to the county.

C. South Florida Loss of Funding

In addition to the significant cuts that will occur in Miami-Dade County, a nearly equivalent amount will be cut across the region. Hospitals in Broward, Palm Beach, and Monroe Counties currently receive more than $500 million in LIP funding annually, and more than $65 million in DSH.[39] This amounts to more than $565 million in funding to supplement indigent

care in these three counties. Furthermore, when combined with the funding that Miami-Dade County receives, South Florida stands to lose more than $1.2 billion as LIP is eliminated and DSH is reduced.

D. Risk to Miami–Dade Safety-Net: Even Current Indigent Care Funding is Inadequate

These cuts pose a threat to the ability of Miami-Dade's safety-net to continue to provide services to indigent and uninsured residents, particularly Jackson Health System (JHS). JHS, which is the sole beneficiary of both local sales tax funding for indigent care and county funding,[40] is already being challenged for alleged deficiencies in providing charity care to low-income uninsured county residents.[41] JHS has responded to those complaints by, in part, claiming that there are inadequate funds available to cover the large number of uninsured in the county.[42] The current "inadequacy" of JHS' charity care funding will be exacerbated exponentially with the cuts described above. Further, it is reasonable to expect that cuts of this magnitude will also have a profoundly adverse impact on the county's economy and jobs—separate and apart from the threat to the safety-net's viability.[43]

The chart below illustrates the composition of funding for charity care at Jackson Health System. As depicted, LIP and DSH comprise 63% of funding allocated to cover the cost of uninsured patients. Therefore, when this funding is significantly reduced it will have a considerable impact on Jackson's ability to continue its provision of indigent care.

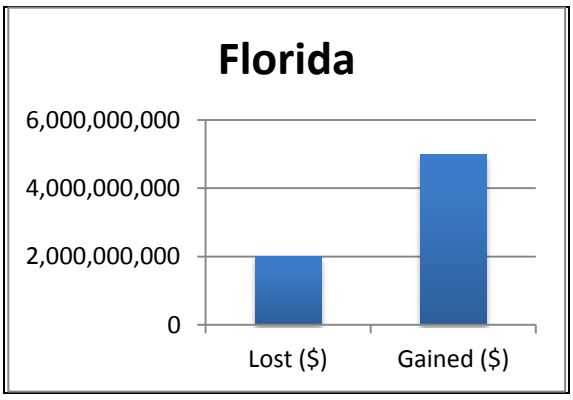
E. Acceptance of Federal Funding for the Uninsured Will Offset Losses

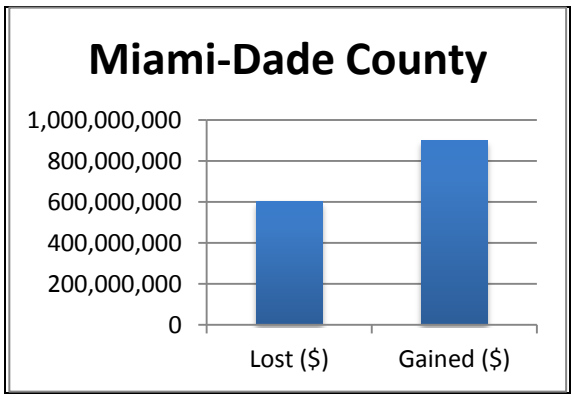
The impending loss of DSH and LIP funding will be more than offset if the Florida Legislature accepts federal funding to expand coverage for uninsured low-income adults. In 2013, the Social Services Estimating Conference (SSEC) predicted that the expansion of

Medicaid would provide coverage to over 600,000 people in 2014-15, over 900,000 in 2016-17, and over 1,000,000 people by 2022-23.[44] The SSEC also famously estimated that coverage of the expansion population over that time period would result in a net influx of over $51 billion in federal funding to cover the cost of health care for the newly enrolled.[45] This data was derived by estimating the per member per month (PMPM) cost of health care coverage for a childless adult times the number of newly eligible adults in the Medicaid expansion population expected to enroll.[46]

The same methodology can be applied to estimate the potential net gain in revenue to Miami-Dade County for coverage of uninsured adults in the gap. Specifically, multiplying a conservative estimate of the number of county residents in the coverage gap (140,000)[47] times the annual cost of paying for their coverage ($543[48] x 12) amounts to approximately $910 million. As noted, this is a conservative estimate,[49] and it more than covers the county's potential loss of $600 million per year in DSH and LIP funding.

The charts below compare the scheduled loss of annual DSH and LIP funding with the potential funding that would be gained through coverage expansion in Florida and Miami-Dade County.[50]





F. *Accepting Federal Funding for the Uninsured Will Decrease Hospital Uncompensated Care and Strengthen Hospital Financial Viability*

A recent report from the Urban Institute compared earning reports from several hospital chains with facilities in both expansion and non-expansion states.[51] Even at this early date, facilities in expansion states showed an increase in earnings as uncompensated care decreased and Medicaid revenue increased.[52] While the over $900 million in health care coverage funding for the county's coverage gap population will be dispersed among a variety of providers, a significant portion of that expansion funding can be expected to go towards hospital reimbursements.[53] The projected increase in hospital reimbursement in Florida with expansion funding is estimated at $2.1 billion in 2016.[54] Given that Miami-Dade represents 18.2% of the state's recipients and applying a comparable percentage to the state-wide hospital reimbursement, county hospitals would receive an additional $382 million per year for providing services to currently uninsured county residents.[55]

IV. CONCLUSION

With the scheduled cuts to DSH and LIP, Miami-Dade County will lose significant funding currently used to cover the cost of the county's uninsured. However, if the Legislature accepts federal funding for the uninsured, low income county residents would have coverage[56] to access appropriate care from a variety of local health care providers, and the county would be in a far stronger financial position overall.

For more information please contact

Charlotte Joseph Cassel
Equal Justice Works Fellow
Sponsored by the Florida Bar Foundation
& Greenberg Traurig
Florida Legal Services, Inc.
3000 Biscayne Blvd. Suite 102
Miami, FL 33137
charlotte@floridalegal.org
786-618-9050

Miriam Harmatz
Senior Health Law Attorney
Florida Legal Services, Inc.
3000 Biscayne Blvd. Suite 102
Miami, FL 33137
miriam@floridalegal.org
786-618-9046

Appendix

LIP and DSH Payments to Miami-Dade Hospitals, FY2014-15

All Amounts in USD	LIP 2014-15	DSH 2014-15
Provider Name	Total LIP	Total DSH
ANN BATES LEACH EYE HOSPITAL	**3,753,034**	**0**
BAPTIST HOSPITAL OF MIAMI	**1,220,091**	**0**
UNIVERSITY OF MIAMI HOSPITAL	**17,353,202**	**1,319,747**
CORAL GABLES HOSPITAL	**41,320**	**0**
LARKIN COMMUNITY HOSPITAL	**3,672**	**1,088,481**
HIALEAH HOSPITAL	**251,529**	**7,862**
HOMESTEAD HOSPITAL	**417,436**	**5,630**
JACKSON MEMORIAL HOSPITAL	**505,260,965**	**67,804,334**
KENDALL REGIONAL MEDICAL CENTER	**438,884**	**0**
MIAMI CHILDRENS HOSPITAL	**4,575,997**	**399,858**
MT. SINAI MEDICAL CENTER	**14,168,992**	**3,314,300**
NORTH SHORE MEDICAL CENTER	**89,269**	**12,567**
PALMETTO GENERAL HOSPITAL	**296,451**	**1,088,481**
UNIVERSITY OF MIAMI HOSPITAL & CLINICS	**11,374,261**	**0**
WESTCHESTER GENERAL HOSPITAL	**0**	**0**
Totals for Miami-Dade County	**559,245,103**	**75,041,260**

SOURCE: FL. S. & FL. H.R., MEDICAID HOSPITAL FUNDING PROGRAMS, FISCAL YEAR 2014-2015, FINAL CONFERENCE REPORT FOR HOUSE BILL 5001, at 21-24 & 33-38 (Apr. 29, 2014), http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=Medicaid%20Hospital%20Funding%20Programs%20-%204-29-2014.pdf&DocumentType=Conf&BillNumber=5001&Session=2014.

[1] Both programs are jointly funded with federal and state dollars. The federal match, or "FMAP", for Florida is 58%. In other words, 58 cents of each dollar spent for these programs comes from the federal government, and 42 cents from the state. *See* THE HENRY J. KAISER FAMILY FOUNDATION, FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) FOR MEDICAID AND MULTIPLIER, *available at* http://kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/ (last visited Sept. 17, 2014).

[2] FL. S. & FL. H.R., MEDICAID HOSPITAL FUNDING PROGRAMS, FISCAL YEAR 2014-2015, FINAL CONFERENCE REPORT FOR HOUSE BILL 5001, at 21-24 (Apr. 29, 2014), http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=Medicaid%20Hospital%20Funding%20Programs%20-%204-29-2014.pdf&DocumentType=Conf&BillNumber=5001&Session=2014 [hereinafter *Hospital Funding Data*].

[3] Letter from Cindy Mann, Director, Centers for Medicare and Medicaid Servs., to Justin Senior, Deputy Secretary for Medicaid, Fl. Agency for Health Care Administration (July 31, 2014) [hereinafter *CMS Letter*], *available at* http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/fl/fl-medicaid-reform-ca.pdf ("The approved 2014 extension of the demonstration continues the improvements authorized in the June 2013 amendment and extends all portions of this demonstration for three years, **except for the Low Income Pool (LIP) which will be extended through June 30, 2015.**") (emphasis added).

[4] Agency for Health Care Administration, LOW INCOME POOL BACKGROUND, *available at* http://www.fdhc.state.fl.us/Medicaid/medicaid_reform/lip/background.shtml.

[5] *Id.*

[6] *See, e.g.*, *Hospital Funding Data*, *supra* note 2, at 21-24; *See also* THE HENRY J. KAISER FAMILY FOUNDATION, THE FLORIDA HEALTH CARE LANDSCAPE (Nov. 2013), *available at* http://kff.org/health-reform/fact-sheet/the-florida-health-care-landscape/; *see also* Joan Alker, *Florida Legislature Adjourns with Unfinished Medicaid Business: Federal Hospital Funding to Run Out in 2015 Putting the Pressure on for Next Year*, A CHILDREN'S HEALTH POL'Y. BLOG (May 5, 2014), http://ccf.georgetown.edu/all/florida-legislature-adjourns-with-unfinished-medicaid-business-federal-hospital-funding-to-run-out-in-2015-putting-the-pressure-on-for-next-year/.

[7] Joan Alker & Jack Hoadley, MEDICAID MANAGED CARE IN FLORIDA: FEDERAL WAIVER APPROVAL AND IMPLEMENTATION (Oct. 2013), *available at* http://ccf.georgetown.edu/wp-content/uploads/2013/10/Florida-Medicaid-Brief_Fall2013.pdf.

[8] *See e.g.*, Letter from Rick Scott, Fl. Gov., to Kathleen Sibelius, Secretary, U.S. Dept. Health and Human Servs., 36-37 (Nov. 26, 2013), *available at* http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/fl/fl-medicaid-reform-pa.pdf.

[9] *See e.g.*, Tia Mitchell, *After saying no to feds on Medicaid expansion, Florida may ask for more money*, MIAMI HERALD, Oct. 17, 2013, http://www.miamiherald.com/2013/10/17/3695586/after-saying-no-to-feds-on-medicaid.html.

[10] *CMS Letter*, *supra* note 3.

[11] Corey Davis, NATIONAL HEALTH LAW PROGRAM, Q&A DISPROPORTIONATE SHARE HOSPITAL PAYMENTS AND THE MEDICAID EXPANSION 2 (July 2012) [hereinafter *NHeLP DSH*], *available at* http://www.healthlaw.org/component/jsfsubmit/showAttachment?tmpl=raw&id=00Pd0000006EJLlEAO.

[12] Centers for Medicare and Medicaid Services, DISPROPORTIONATE SHARE HOSPITAL (DSH), *available at* http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/dsh.html.

[13] *Hospital Funding Data*, *supra* note 2, at 21-24.

[14] Robin Rudowitz, THE HENRY J. KAISER FAMILY FOUNDATION, HOW DO MEDICAID DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS CHANGE UNDER THE ACA? (Nov. 2013) [hereinafter *Kaiser DSH Issue Brief*], *available at* http://kff.org/medicaid/issue-brief/how-do-medicaid-disproportionate-share-hospital-dsh-payments-change-under-the-aca/.

[15] *Id.*

[16] *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 132 S. Ct. 2566 (2012).

[17] Protecting Access to Medicare Act, H.R. 4302, 113th Cong. § 221 (2014) (extending the implementation of DSH reductions from 2014 to 2017); s*ee also, Kaiser DSH Issue Brief, supra* note 14, at 2-3. The federal government delayed implementation of the DSH reductions until 2017 and will follow the DSH Health Reform Methodology specified in the final rule. This methodology takes 5 factors into account in determining DSH cuts across states: (1) Is the state a Low-DSH or a Non-Low DSH State?; (2) How will the reductions be allocated for the Low-DSH and Non-Low DSH States?; (3) How will the pool amounts be allocated across the states?; (4) What is a state's total reduction?; and (5) What other factors are considered?

[18] Stan Dorn, et. al., Robert Wood Johnson Foundation & Urban Institute, WHAT IS THE RESULT OF STATES NOT EXPANDING MEDICAID, Table 2 at 4 (Aug. 2014) [hereinafter *Dorn Report*], *available at* http://www.urban.org/UploadedPDF/413192-What-is-the-Result-of-States-Not-Expanding-Medicaid.pdf.

[19] THE HENRY J. KAISER FAMILY FOUNDATION, THE COVERAGE GAP: UNINSURED POOR ADULTS IN STATED THAT DO NOT EXPAND MEDICAID (Apr. 2, 2014), *available at* http://kff.org/health-reform/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/ **("The ACA envisioned people below 138% of poverty receiving Medicaid and thus does not provide premium tax credits for the lowest income. As a result, individuals below poverty are not eligible for Marketplace tax credits, even if Medicaid coverage is not available to them. Individuals with incomes above 100% of poverty in states that do not expand may be eligible to purchase subsidized coverage through the Marketplaces.")** (emphasis added).

[20] Centers for Medicare and Medicaid Services, STATE MEDICAID AND CHIP INCOME ELIGIBILITY STANDARDS (July 1, 2014), *available at* http://medicaid.gov/AffordableCareAct/Medicaid-Moving-Forward-2014/Downloads/Medicaid-and-CHIP-Eligibility-Levels-Table.pdf. In 2014, to be eligible for Florida's current Medicaid program, adults must be both very poor and either have minor children or be disabled. Florida's income limit for parents is approximately 35% FPL. A single parent with one child can only earn an income of $453 per month or less ($5,436 annually) to be eligible for Florida Medicaid, and a single disabled adult can only make $721 a month or less ($8,652 annually). Nondisabled adults without minor children are currently ineligible for Medicaid in Florida, regardless of how poor they might be.

[21] The federal government will pay 100% of the cost of funding the expansion population through 2016, and no less than 90% of the costs thereafter. January Angeles & Matt Broaddus, Center on Budget and Policy Priorities, FEDERAL GOVERNMENT WILL PICK UP NEARLY ALL COSTS OF HEALTH REFORM'S MEDICAID EXPANSION (Mar. 28, 2013), *available at* http://www.cbpp.org/cms/?fa=view&id=3161.

[22] THE HENRY J. KAISER FAMILY FOUNDATION, QUICK TAKE: KEY CONSIDERATIONS IN EVALUATING THE ACA MEDICAID EXPANSION FOR STATES (Apr. 18, 2013), *available at* http://kff.org/medicaid/fact-sheet/key-considerations-in-evaluating-the-aca-medicaid-expansion-for-states-2/.

[23] CENTERS FOR MEDICARE AND MEDICAID SERVICES, MEDICAL LOSS RATIO, *available at* http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Medical-Loss-Ratio.html (Pursuant to the ACA insurance companies must comply with a medical loss ratio (MLR) standard. This standard, which requires insurance companies to spend 80-85% of premium dollars on the

provision of medical care as opposed to administrative costs, underlies the assumption that 80-85% of funding allocated to MCOs will be paid to local health care providers); *see also* Joan Alker, *Florida's Medicaid Managed Care Waiver Receives Final Approval: Some Strong Consumer Protections Included, Oversight Will Be Critical*, A CHILDREN'S HEALTH POL'Y. BLOG (June 14, 2013), http://ccf.georgetown.edu/all/floridas-medicaid-managed-care-waiver-receives-final-approval-some-strong-consumer-protections-included-oversight-will-be-critical/.

[24] Alan W. Hodges & Mohammad Rahmani, FLORIDA HOSPITAL ASSOCIATION, ECONOMIC IMPACTS OF EXTENDING HEALTH CARE COVERAGE IN FLORIDA, SPONSORED PROJECT REPORT TO THE FLORIDA HOSPITAL ASSOCIATION, at 12 (Mar. 28, 2013) [hereinafter *FHA Economic Impact Report*], *available at* https://www.statereforum.org/system/files/economicimpactsofextendinghealthcarecoverageinflorida-march2013-final_copy.pdf.

[25] *See infra* note 27.

[26] *See infra* note 28.

[27] According to the Robert Wood Johnson Foundation and the Urban Institute, there are approximately 1,060,000 Floridians eligible for Medicaid expansion. *See Dorn Report*, *supra* note 18, at 5. According to the Florida Agency for Health Care Administration (AHCA), Medicaid recipients in Miami-Dade account for 18.26% of Medicaid recipients in the state of Florida. FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION, CURRENT COMPREHENSIVE MEDICAID MANAGED CARE ENROLLMENT REPORTS: SEPTEMBER 2014, at table 5 [hereinafter *AHCA Medicaid Enrollment by County*], *available at* http://ahca.myflorida.com/mchq/managed_health_care/MHMO/docs/MC_ENROLL/RF_NR_SMMC/ENR_Sep2014.xls. Assuming that the percent of people eligible for Medicaid expansion, per county, is roughly equivalent to the percent currently on Medicaid, per county, the number of people eligible in Miami-Dade County is derived by multiplying the number eligible statewide, 1,060,000, by 18.26%, totaling approximately 190,000. Additionally, according to a study by Joan Alker, the low estimate of new Medicaid eligible/enrollees in Miami-Dade is 146,600 and the high estimate is 237,300. The average of the low and high estimates, 190,000, comports with the previous calculation. Joan Alker, *Florida's Medicaid Choice: Options and Implications*, GEORGETOWN UNIVERSITY HEALTH POLICY INSTITUTE, at 9 (Feb. 20, 2014), http://ccf.georgetown.edu/wp-content/uploads/2014/02/florida.pdf.

[28] According to the Florida Agency for Health Care Administration (AHCA), Medicaid recipients in Miami-Dade account for 18.26% of Medicaid recipients in the state of Florida. *AHCA Medicaid Enrollment by County*, *supra* note 27, at table 5. Assuming that the percent of people in the coverage gap, per county, is roughly equivalent to the percent currently on Medicaid, per county, the number of people in the coverage gap in Miami-Dade County is derived by multiplying the number in the gap statewide, 764,000, by 18.26%, totaling approximately 140,000. *See FHA Economic Impact Report*, *supra* note 24.

[29] *Hospital Funding Data*, *supra* note 2, at 21-24.

[30] *Id.*

[31] *Id.*; *see also* Appendix A.

[32] *Id.*

[33] Although the details are not yet clear, under the ACA, the Secretary of Health and Human Services is required to cut DSH funding by $14.1 billion from 2014-2019. *NHeLP DSH*, *supra* note 11, at 4. For details on Medicaid DSH reductions, *see* 42 U.S.C. § 1396r-4(f)(7)(B).

[34] *Hospital Funding Data*, *supra* note 2, at 21-24; *see also* Exhibit A.

[35] *Id.*

[36] *CMS Letter*, *supra* note 3, at 1.

[37] Over $200 million local tax dollars are collected pursuant to a half cent sales tax to support Jackson and used as part of the funding for an "intergovernmental transfer" or "IGT," between Miami-Dade County and Tallahassee. Public Health Trust of Miami-Dade County, Florida, FINANCIAL STATEMENTS, SUPPLEMENTARY INFORMATION AND SCHEDULES SEPTEMBER 30, 2012 AND 2011, at 24 (Feb. 25, 2013), *available at* http://www.jacksonhealth.org/library/financials/final-audited-financial-statements.pdf. This local funding is then used by the state to help fund the state match portion of the current DSH and LIP programs. *See* Fla. Stat. §212.055(4) ("Moneys collected pursuant to this [statute] remain the property of the state…"). Jackson receives approximately $400 million in total IGTs. *See Hospital Funding Data, supra* note 2, at 34.

[38] In the July 2014 letter from CMS to AHCA, CMS required AHCA to "commission a report from an independent entity on Medicaid provider payments in the state. *CMS Letter, supra* note 3, at 1. The report will review the adequacy of payment levels, and the adequacy, equity, accountability and sustainability of the state's funding mechanisms for these payments. The report shall recommend reforms to the Florida Medicaid financing system that can allow the state, beginning in state fiscal year 2015-2016, to move toward Medicaid managed care and fee-for-service payments that ensure access for Medicaid beneficiaries to providers throughout the state through such payments rather than through over reliance on supplemental payments."

[39] *Hospital Funding Data, supra* note 2, at 21-24.

[40] Catherine A. Jackson, et. al., RAND, HOSPITAL CARE FOR THE UNINSURED IN MIAMI-DADE COUNTY: HOSPITAL FINANCE AND PATIENT TRAVEL PATTERNS, at xi (2002), http://www.rand.org/content/dam/rand/pubs/monograph_reports/2007/MR1522.pdf.

[41] *See Memorandum in Support of IRS Form 13909 Tax-Exempt Organization Complaint (Referral) Form*, INTERNAL REVENUE SERVICE, at 3 (Aug. 22, 2014), http://op.bna.com/hl.nsf/id/psts-9nej5d/$File/IRS%20Complaint%208.25.14.pdf (noting that despite being heavily supported by tax dollars, the Jackson Health System (JHS), has failed to meet its obligation under the ACA related to adequate notice, transparency and billing); *see also, Administrative Complaint, Office for Civil Rights, Dept. of Health and Human Servs.*, Jackson Health System's Violation of Hill-Burton Community Service Obligation (Aug. 25, 2014) (alleging that JHS "violates its Hill-Burton Community Service Obligation by failing to take the necessary steps to insure admissions and services to persons eligible for the JHS charity care program without discrimination."); *see also Health Advocates File IRS Complaint Against Miami County Non-Profit Health System For IRS Violations*, NATIONAL HEALTH LAW PROGRAM (Aug. 27, 2014), http://www.healthlaw.org/news/press-releases/258-health-advocates-file-irs-complaint-against-miami-county-non-profit-health-system-for-irs-violations.

[42] Daniel Chang, *Advocates for poor say Jackson Health System bars needy from charity care*, MIAMI HERALD, Aug. 28, 2014, http://www.miamiherald.com/2014/08/27/4312867/advocates-for-poor-say-jackson.html.

[43] *FHA Economic Impact Report, supra* note 24. Additionally, it is well established that failing to extend health insurance to uninsured individuals has an adverse impact on death rates and health outcomes. Benjamin D. Sommers et al., *Mortality and Access to Care Among Adults After Medicaid Expansion*, N. ENG. J. MED. (published online July 25, 2012); Sam Dickman et. al., *Opting Out of Medicaid Expansion: The Health and Financial Impacts*, HEALTH AFFAIRS BLOG, (Jan. 20, 2014) http://healthaffairs.org/blog/2014/01/30/opting-out-of-medicaid-expansion-the-health-and-financial-impacts/ (finding that failing to cover these individuals could lead to between 1,158 and 2,221 premature deaths each year in Florida.).

[44] SOCIAL SERVICES ESTIMATING CONFERENCE, ESTIMATES RELATING TO FEDERAL AFFORDABLE CARE ACT: TITLE XIX (MEDICAID) & TITLE XXI (CHIP) PROGRAMS, at 15 (Mar. 7, 2013),

http://edr.state.fl.us/Content/conferences/medicaid/FederalAffordableHealthCareActEstimates.pdf [hereinafter *SSEC*].

[45] *Id* at 16; *see also* THE HENRY J. KAISER FAMILY FOUNDATION, THE FLORIDA HEALTHCARE LANDSCAPE (Nov. 2013), *available at* http://kaiserfamilyfoundation.files.wordpress.com/2013/11/8511-the-florida-health-care-landscape1.pdf.

[46] *SSEC, supra* note 44, at 14 -16. Note that the PMPM of $543 was based on SFY 2013. For the purpose of this report, it has not been adjusted for inflation nor does it reflect the higher PMPM provided to Miami-Dade County as compared to the state average rate.

[47] *See, supra note* 28 (explaining calculation used to obtain 140,000).

[48] *SSEC, supra* note 44, at 14.

[49] This estimate only reflects funding for coverage of those in the Gap (below 100% FPL) and does not include funding for the entire Medicaid Expansion eligible population (100-138%) because those above 100% FPL may have been able to obtain coverage through the federally funded marketplace; *see also, supra* note 45.

[50]*See Hospital Funding Data, supra* note 2, at 21-24 (for Losses); *See also, SSEC, supra* note 44, at 15-16 (for Gains).

[51] *See Dorn Report, supra* note 18.

[52] *Id.* at 2.

[53] *Id*.

[54] *Id*. at 4.

[55] *Id*. at 4, table 2.

[56] As noted under the ACA, states' coverage will be funded 100% by the Federal government until 2016, decreasing over the next 4 years to no less than 90%. 42 U.S.C. § 1396d(y)(1); *see also, supra* note 21.