

May 23-24, 2017

## First Do No Harm, Protect Affordable Coverage and Consumer Protections

**Congress should *first, do no harm* and abandon the effort, as proposed in the American Health Care Act, to: 1) cap or cut the Medicaid program and eliminate the higher federal contribution to expansion states; 2) eliminate or weaken key consumer protections by allowing states to waive community rating and essential health benefits; and 3) replace existing premium and cost-sharing subsidies with tax credits that will raise premiums and deductibles for older, sicker, and poorer patients. Instead, Congress should work on bipartisan solutions to improve and stabilize insurance markets, expand coverage, and develop other reforms, as outlined below in the “What is ACP Asking of Congress” section.**

### What’s it all about?

Before the Affordable Care Act (ACA), almost 50 million people went without any health insurance coverage. Many couldn’t afford coverage because they had a pre-existing condition, and plans sold in the individual market often had skimpy benefits that left people vulnerable to high out-of-pocket costs. The ACA addressed these problems in several ways. It established marketplaces (also called exchanges) where individuals could, during an annual open enrollment period, purchase one of four levels of coverage as well as receive *progressive* income-based premium subsidies (meaning the lower one’s income, the higher the subsidy) if their incomes fall between 100 and 400 percent of the federal poverty level (FPL), and cost-sharing subsidies for persons with income up to 250 percent of the FPL. The law also sets actuarial value requirements to ensure that each plan offered through the marketplaces covers a minimum set percentage of total costs to the enrollee (deductibles, premiums and co-payments combined). It requires all persons to purchase a federally-qualified plan or pay a tax penalty, with exemptions for those who cannot afford it. It provides a higher federal contribution to encourage states to expand Medicaid for persons up to 138 percent of the federal poverty level. Under the ACA, the federal contribution to help fund Medicaid expansion cannot go lower than 90 percent, which is much higher than the usual federal contribution (match) to support Medicaid. The ACA also established basic consumer protections including: no lifetime or annual dollar limits on coverage; prohibits insurers from denying, cancelling, or charging higher premiums to people with pre-existing conditions; requires all health plans to cover 10 categories of essential health benefits; and prohibits insurers from charging higher premiums to women based solely on their gender.

### What’s the current status?

Largely because of the ACA, the uninsured rate has declined to the lowest level in decades, from 18.2 percent in 2010 to 10.3 percent in 2016. Currently, there are 16 state-based ACA marketplaces and 34 federally-facilitated or partnership ACA marketplaces covering about 11.5 million enrollees. Approximately 10 million are estimated to have coverage through subsidized plans offered through the marketplaces. There are 31 states and the District of Columbia that have expanded Medicaid through the ACA covering an estimated 14 million people. Many millions more have gained protections from the ACA because it bans insurers from putting annual and lifetime limits on coverage, turning down or charging more to people with pre-existing conditions (almost one out of four Americans has a pre-existing condition that made them “declinable” for coverage in most states before the ACA). It also requires insurers to cover essential benefits including physician and hospital visits, prescription drugs, cancer screening and other preventive services, childbirth and contraception, and other needed services.

The ACA is not perfect and improvements are needed: several marketplaces have seen the number of insurers decline and leaving those states that use [healthcare.gov](http://healthcare.gov) (the federally-run marketplace for states that have not set up their own) with an average of 3.9 insurers in 2017, down from 5.4 in 2016. In 2017, the premiums for benchmark plans (second-lowest Silver plan) have generally increased (although they have decreased in some areas). However, independent studies show that the ACA is not “collapsing” or in a “death spiral” and that premiums and insurer participation was actually beginning to stabilize in 2017, although uncertainty about the future of the ACA is causing more insurers to propose higher premiums for 2018 or to consider leaving the marketplaces altogether.

President Trump and the Republican-majority Congress have pledged to “repeal and replace” the ACA. A major step in this direction occurred when The American Health Care Act (AHCA), H.R. 1628, was narrowly passed by the House of Representatives on May 4, 2017, where it awaits action by the U.S. Senate. The ACP opposes this legislation because it violates the physician principles of “[first do no harm](#),” as outlined to Congress in January. Furthermore, [six leading organizations](#), including ACP, representing over 560,000 front-physicians and medical student members, also stand in opposition to the AHCA.

- **The AHCA would make [radical changes](#) to the Medicaid program’s structure and financing, resulting in the rollback of coverage for many millions of the most vulnerable Americans.** Specifically, the bill drastically caps, block grants and cuts the federal contribution to Medicaid (the bill would cut the federal contribution to Medicaid by more than \$839 billion, a near 25 percent cut, over the next 10 years), ends federal funding for Medicaid expansion, and eliminates the requirement that Medicaid cover essential health benefits.
- **The AHCA replaces income-based premium and cost-sharing subsidies with regressive age-based tax credits that result in higher premiums and deductibles for millions of patients, with persons aged 50 and over being most at risk of having to pay thousands of dollars more out-of-pocket (premiums and deductibles combined).** For many of them, insurance would simply become unaffordable.
- **The AHCA will allow states to obtain waivers to allow insurers to opt-out of federal requirements that insurers cover [essential health benefits](#) and that premiums be based on [community rating](#) rather than an individual’s health status.** As a consequence, insurers in waiver states would also once again be able to charge more to people with pre-existing conditions who are unable to maintain continuous coverage. The Brookings Institution has [concluded](#) that “*As a result, community rating would be eviscerated—and with it any meaningful guarantee that seriously ill people can access coverage.*” [Emphasis added in italics]. Waiver states might also allow insurers to exclude from their benefits essential health care services like physician and hospital visits, maternity care and contraception, mental health and substance use disorder treatments, preventive services, and prescription drugs.

### Why should the 115<sup>th</sup> Congress address it?

Steps should be taken by Congress and the administration to stabilize premiums and deductibles, to ensure sufficient insurer participation in the marketplaces, to address concerns about network adequacy, and to make other improvements in the ACA. However, repealing it and replacing it with the policies proposed in AHCA will do great harm to patients, causing an estimated 24 million to lose coverage, make premiums and deductibles unaffordable for older, sicker and poorer patients, and eviscerate Medicaid coverage, putting many of the more than 70 million now covered by Medicaid at great risk of losing eligibility and benefits.

### What is ACP asking of Congress?

Congress should abandon the AHCA and instead start over to achieve a bipartisan consensus on real reforms that will not rollback coverage and essential consumer protections for millions of Americans, as the AHCA would do. Specifically:

- ✓ **Protect the health care safety net** by rejecting policies that would cap, block grant and cut Medicaid; and by continuing to provide the higher federal funding for states that have expanded Medicaid or might want to do so in the future. Congress should reauthorize the Children’s Health Insurance Program (CHIP) for the long-term.
- ✓ **Stabilize the insurance market** by continuing to fund the cost-sharing reduction payments to health plans that allow them to offer lower deductibles/co-payments to low-income persons as required by law.
- ✓ **Ensure continuation of premium and cost-sharing subsidies** required by current law and ensure that the value of such subsidies is not eroded, especially for older and sicker patients, causing coverage to become unaffordable.
- ✓ **Maintain patient protections** by rejecting proposals to allow states to obtain waivers so that insurers could again deny coverage or increase premiums to those with pre-existing conditions, not cover essential benefits, and impose annual or life-time caps on benefits.

Rather than rolling back coverage and protections, Congress should instead work to achieve consensus on a bipartisan agenda to make real improvements in health care.

### Who can I contact to learn more?

[advocacy@acponline.org](mailto:advocacy@acponline.org)

Digital version of this issue brief can be found at: <https://www.acpservices.org/leadership-day/policy-priority-issues>

View ACP’s Prescription for Better Health Care: [acponline.org/2017](http://acponline.org/2017)