

Leadership Day, May 14-15, 2019

Expand Coverage and Stabilize the Insurance Market

Congress should pass legislation to help expand coverage and stabilize the individual health insurance market, including funding state reinsurance programs; increasing cost sharing assistance eligibility to purchase insurance in the exchanges; and rolling back harmful regulations that seek to undermine or eliminate existing essential health benefits and consumer protections, as described below in the “What is ACP Asking of Congress” section.

What’s it all about?

Millions of Americans have gained coverage and access to much-needed health care as a result of the Affordable Care Act (ACA), which has been the law of the land since 2010 but improvements are needed, including ones that ACP believes should have broad bipartisan support.

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. It also established marketplaces (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. Yet health insurance marketplaces have been struggling over the past few years, due to many factors. Premiums have risen and health insurers have pulled out of the exchanges. The administration has taken actions that non-partisan researchers have stated that destabilize the market by increasing premiums, undermining patient protections, and result in “adverse selection” in the individual market. For more information, [view](#) the 2018 report on Individual Insurance Market Performance in Mid-2018. On April 16 2019, ACP published a position paper in the *Annals of Internal Medicine* titled “[Improving the Affordable Care Act’s Insurance Coverage Provisions.](#)” This paper explores common-sense approaches to improve the ACA even as internists continue to advocate for universal health care for all patients. While the ACA has made health care more accessible and affordable for millions of Americans, especially patients with pre-existing conditions, many still remain uninsured or face significant gaps in coverage.

What’s the current status?

All Americans should have access to affordable health coverage that provides essential benefits and patient protections. While the ACA is a step toward achieving these goals, it can be improved to reduce gaps in coverage. Meanwhile, [legal challenges](#) and federal regulations are being used to weaken or ultimately strike down current-law benefits and coverage protections, which would lead to higher costs and millions losing health coverage.

In December 2018, a federal district judge ruled the entire ACA is unconstitutional. The judge’s ruling stated that the ACA’s “individual mandate”—a requirement that most Americans maintain “minimum essential” coverage or face a tax penalty—was no longer constitutional and the rest of the law cannot stand without it. The ACA remains in place pending appeal. In March 2019, the U.S. Department of Justice filed a brief supporting the decision that invalidated the ACA. In April 2019, the U.S. House of Representatives filed a brief that warns of chaos in the health care system if the ruling is upheld. If the decision is upheld, all of the ACA would be terminated without a replacement; no federal dollars for Medicaid expansion, no premium subsidies, no coverage of preventive services at no cost to seniors, no essential benefit requirements, annual and lifetime limits on coverage would return, and insurers could again turn down people with pre-existing conditions. ACP, together with the American Medical Association, the American Academy of Family Physicians, the American Academy of Pediatrics, and the American Academy of Child and Adolescent Psychiatry, joined in an [amicus curiae brief](#) which urged the courts to consider the impact on tens of millions of patients who will lose coverage or other

patient protections if the judge's decision is not reversed on appeal, both prior to the judge's ruling and now on appeal. We joined again with other organizations in the filing of another [brief](#) for the appeal in April 2019.

In 2018, the Department of Health and Human Services finalized regulations allowing for the expansion of short-term, limited-duration health plans (STLD) and association health plans (AHPs), which are not required to comply with certain ACA consumer protections. STLD plans and AHPs expose individuals who buy them to undue financial risk with no assurance of adequate health coverage if they get sick. The CMS Office of the Actuary estimates that broadening access to extended STLD plans will cause marketplace premiums to increase and federal spending to rise by over \$38 billion over the next 10 years.

ACP also appreciates that the U.S. Senate Committee on Health, Education, Labor and Pensions (HELP) had been working in a bipartisan fashion to develop legislation to address market stabilization, but that those negotiations have subsequently faltered. We hope those efforts in the Committee will once again resume.

Why and how should Congress address this issue?

Fortunately, legislation has been introduced in the 116th Congress that takes important steps toward universal coverage, helps provide stability to the health insurance marketplace while also protecting the current law's essential benefits and consumer protections. ACP [supports](#) the *Protecting Pre-existing Conditions and Making Health Care More Affordable Act of 2019*, H.R. 1884, because it:

- Expands eligibility for premium tax credits beyond 400 percent of the federal poverty line (FPL), and would increase the size of the tax credit for all income brackets, on a sliding scale, beginning January 1, 2021. It would also fix the so-called "family glitch" under current law, which has prevented some workers from being able to expand their employer-provided insurance to their families.
- Establishes a state-based reinsurance program that would allow states to set up their own reinsurance programs, or to use the funds to provide premium subsidies or cost-sharing support. It also provides a federal default reinsurance program for states that do not opt to run their own reinsurance programs, in order to ensure that residents of all 50 states and the District of Columbia benefit from reduced premiums. One non-partisan [study](#) estimates that a well-funded reinsurance fund, enough to reduce age-specific premiums by 19 percent, would cost \$34 billion in FY2020, while a standard reinsurance fund, reducing age-specific premiums by four percent would, cost \$6.2 billion.
- Rescinds two final regulations issued by the administration in 2018 on STLD plans and AHPs that allowed for the proliferation of these skimpy insurance plans that do not meet current law coverage/benefit requirements and consumer protections. These harmful regulations would leave those with pre-existing conditions extremely vulnerable to financial hardship.

What is ACP asking of Congress?

Congress should step up its efforts to help stabilize the health insurance marketplace and expand coverage by passing legislation inclusive of the policies below:

Both Senators and Representatives should seek introduction and enactment of bipartisan legislation based on ACP's recommendations for improving the ACA, including funding for reinsurance and lifting the income cap on premium subsidies.

Representatives should specifically cosponsor and pass in the U.S. House the *Protecting Pre-existing Conditions and Making Health Care More Affordable Act of 2019 (H.R. 1884)*, which strengthens and expands tax credits; stops skimpy health plans that do not cover essential benefits and discriminate against people with pre-existing conditions; and provides funding for reinsurance programs. Senators should introduce and pass similar legislation in the Senate.

Who can I contact to learn more?

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