



Protect and Strengthen: ACA Coverage Expansions and Consumer Protections

The Affordable Care Act (ACA) strengthened Medicare and Medicaid and created important coverage avenues and consumer protections for people of all ages. Despite these successes, the health law remains under attack in Congress, the states, and the courts.

From expanding access to affordable care to preventing discrimination based on health status, as well as improving Medicare's financial outlook, the ACA made significant improvements to the nation's health care infrastructure. These advances are especially important for older adults, who are more likely than younger adults to have health problems that cause them to rely on the ACA's consumer protections.

Protections Built into the ACA.

- **Medicaid Expansion:** The ACA gave states the option to expand their Medicaid programs to include coverage for low-income, non-elderly adults (ages 19-64) without dependent children. Studies indicate this led to historic coverage gains, improved enrollee health and financial security, and generated economic benefits for states and providers.ⁱ
- **Age-Based Discrimination:** The ACA prevents insurers from charging older consumers more than 3 times what younger people pay. Before the ACA, there was no limit on this disparity; health insurance companies were typically free to set significantly higher and often cost-prohibitive premiums based on age, among other factors.
- **Pre-Existing Conditions, Community Rating, and Guaranteed Issue:** The ACA does not allow insurance plans to deny, limit, or charge people more for coverage based on a pre-existing condition. These protections are especially important for older adults who could be denied coverage or charged an unaffordable rate absent the ACA.ⁱⁱ
- **Elimination of Lifetime and Annual Limits:** The ACA prevents private insurance plans from placing annual or lifetime limits on coverage. This helps protect consumers from catastrophic health expenses and bankruptcy. Before the ACA, insurers could simply stop paying for an enrollee's health care expenses after their costs reached a certain amount—often leaving the sickest patients responsible for extremely high costs.ⁱⁱⁱ
- **Essential Health Benefits:** To help promote access to comprehensive coverage, the ACA requires most insurers to cover, at a minimum, a set of 10 essential health benefits (EHB). Previously, consumers were often unable to find affordable coverage for many of these services—nearly 1 in 5 Americans lacked coverage for mental health care, for example, and almost 1 in 10 didn't have any prescription drug coverage, despite 60% of the population needing at least one medication per year.^{iv}
- **Access to Preventive Services:** Under the ACA's EHB requirements, insurance plans generally must cover a range of preventive health services without requiring any patient cost-sharing (co-payments,

The ACA: Just the Facts

Medicaid expansion has benefited at least 17 million people directly. In 2017, 17 million people were enrolled in Medicaid expansion. 37 states (including D.C.) have expanded Medicaid.

Protection from age-based discrimination benefits millions. In 2017, over 60 million people were between 50 and 64 years old.

Pre-existing conditions are common. Just over half of people under 65 may have a pre-existing condition. This likelihood increases with age and affects up to 84% of those aged 55 to 64.

deductibles, or co-insurance). Importantly, the ACA also improved access to no-cost preventive services within Medicare and Medicaid. These changes—in particular when considered alongside the ACA’s coverage expansions—have effectively increased access to clinical preventive services and improved public health.^v

Threats to ACA Protections.

While legislative attempts to repeal the ACA are unlikely to succeed soon, some lawmakers remain committed to this goal and could prioritize it again in future years. This Administration also continues to support the law’s elimination, presenting plans to do so in the President’s 2019 and 2020 budget requests, advancing harmful regulatory changes and Medicaid waivers, and asking a federal court to invalidate it entirely.

- **Non-Compliant Plans:** The Administration has promoted the availability of two coverage options—Association Health Plans and Short-Term Limited Duration Insurance—that are not required to adhere to the ACA’s consumer protections or coverage requirements. These plans can, in part, charge higher premiums based on health status, impose annual or lifetime limits, exclude coverage for the essential health benefits, and, in the case of Short-Term Limited Duration Insurance, openly decline coverage for pre-existing conditions. Such skimpy benefit packages and strict coverage limitations can allow for attractively low premiums which can lure unsuspecting consumers who think they are getting a bargain. Their appeal to younger, healthier people could upend the ACA’s risk pools and increase costs for those who rely on the law’s consumer protections—including older adults and people with pre-existing conditions.^{vi}
- **Texas v US:** In a departure from previously stated Administration policy, in May 2019 the Department of Justice asked a federal court to invalidate the entirety of the ACA.^{vii} Previously, the Administration sought to strike some of the law while preserving its more popular consumer protection provisions.^{viii} The case is currently pending; the Fifth Circuit Court of Appeals will hear oral arguments in early July 2019.^{ix}
- **Medicaid Waivers:** States seeking additional flexibility to operate their Medicaid programs may ask the Centers for Medicare & Medicaid Services (CMS) to approve a Section 1115 demonstration waiver. These waivers generally allow states to test new approaches in Medicaid service delivery, provided the state’s strategy continues to promote the statutory objective of the Medicaid program, which is to furnish medical assistance to low-income individuals. Troublingly, in recent years CMS has approved waivers that allow states to impose burdensome eligibility requirements and restrict Medicaid coverage—seemingly in conflict with the program’s goals.

ⁱ Larisa Antonisse, et al., Kaiser Family Foundation, “The Effects of Medicaid Expansion under the ACA: Updated Findings from a Literature Review (March 28, 2018): <https://www.kff.org/medicaid/issue-brief/the-effects-of-medicare-expansion-under-the-aca-updated-findings-from-a-literature-review-march-2018/>

ⁱⁱ ASPE Issue Brief, “Health Insurance Coverage for Americans with Pre-Existing Conditions: The Impact of the Affordable Care Act” (January 5, 2017): <https://aspe.hhs.gov/system/files/pdf/255396/Pre-ExistingConditions.pdf>

ⁱⁱⁱ Loren Adler, et al., USC-Brookings Schaeffer on Health Policy, “Health Insurance as assurance: The importance of Keeping the ACA’s limits on enrollee health costs” (January 17, 2017): <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2017/01/17/health-insurance-as-assurance-the-importance-of-keeping-the-acas-limits-on-enrollee-health-costs/>.

^{iv} Families USA, “10 Essential Health Benefits Insurance Plans Must Cover Under the Affordable Care Act” (February 9, 2018): <https://familiesusa.org/blog/10-essential-health-benefits-insurance-plans-must-cover>.

^v Nadia Chait and Sherry Glied, Annual Review of Public Health, “Promoting Prevention Under the Affordable Care Act” (April 2018): <https://www.annualreviews.org/doi/full/10.1146/annurev-publhealth-040617-013534# i7>.

^{vi} Linda J. Blumberg, et al., The Urban Institute, “Updated: The Potential Impact of Short-Term Limited Duration Policies on Insurance Coverage, Premiums, and Federal Spending” (March 14, 2018): <https://www.urban.org/research/publication/updated-potential-impact-short-term-limited-duration-policies-insurance-coverage-premiums-and-federal-spending>.

^{vii} Texas, et al., v. United States, Brief for the Federal Defendants (May 1, 2019): <https://affordablecareactlitigation.files.wordpress.com/2019/05/5c-us-brief.pdf>.

^{viii} Letter from the Office of the Attorney General to House Speaker Paul Ryan re: Texas v. United States (June 7, 2018), <https://www.justice.gov/file/1069806/download>.

^{ix} Inside Health Policy, “Court Grants DOJ Motion, Texas v Azar Hearing” (April 10, 2019): <https://insidehealthpolicy.com/daily-news/court-grants-doj-motion-texas-v-azar-hearing-set-week-july-8>.