

WHAT'S AT STAKE

Affordable Care Act Coverage Expansions and Consumer Protections



Over time, policy ideas gain and lose popularity, including several that threaten the effectiveness of major health care programs like Medicare, Medicaid, and the Affordable Care Act (ACA). In this series—What’s at Stake—we explore some of these reform ideas and how they could affect coverage, care, and outcomes for older adults and people with disabilities.

The ACA strengthened Medicare and Medicaid and created important coverage avenues and consumer protections for people of all ages. Despite these successes, the health law continues to face opposition from some policy corners in Congress, the states, and the courts.¹

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 often have health problems that cause them to rely on the ACA’s consumer protections before becoming Medicare eligible.

The Benefits

- **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. To date, 41 states (including D.C.) have expanded Medicaid.²

¹ See, e.g., Kevin McGill, “Latest attempt to chip away at ‘Obamacare’ questions preventive health care” (March 4, 2024), <https://abcnews.go.com/Health/wireStory/latest-attempt-chip-obamacare-questions-preventive-health-care-107774947>.

² KFF, “Status of State Medicaid Expansion Decisions: Interactive Map” (December 1, 2023), <https://www.kff.org/medicaid/issue-brief/status-of-state-medicaid-expansion-decisions-interactive-map/>.

Studies indicate this has led to historic coverage gains, improvements in access and financial security, and economic benefits for states and providers.³

- **Age-Based Discrimination:** The ACA prevents insurers from charging older consumers more than three times what younger people pay. Prior to 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 an individual's age, among other factors.
- **Pre-Existing Conditions, Community Rating, and Guaranteed Issue:** The ACA does not allow compliant insurance plans to deny, limit, or charge people more for coverage based on a pre-existing condition. Up to 84% of those ages 55 to 64—31 million individuals—have a pre-existing condition for which they could be denied coverage or charged an unaffordable rate absent the ACA.⁴
- **Elimination of Lifetime and Annual Limits:** The ACA prevents private insurance plans from placing annual or lifetime limits on coverage. These important reforms help protect consumers from catastrophic health expenses and medical-bill induced 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.⁵
- **Essential Health Benefits:** To ensure that people with ACA-compliant plans have access to comprehensive coverage, the health law requires most insurers to cover, at a minimum, a set of 10 essential health benefits (EHB). Prior to the ACA, consumers were often unable to find affordable coverage for many of these services—nearly 1 in 5 Americans lacked coverage for mental health care and almost 1 in 10 didn't have any prescription drug coverage, despite 60% of the population needing at least one medication per year.⁶

³ Madeline Guth & Meghana Ammula, "Building on the Evidence Base: Studies on the Effects of Medicaid Expansion, February 2020 to March 2021" (May 06, 2021), <https://www.kff.org/report-section/building-on-the-evidence-base-studies-on-the-effects-of-medicaid-expansion-february-2020-to-march-2021-report/>.

⁴ 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>.

⁵ 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/>.

⁶ 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>.

- **Access to Preventive Services:** Under the ACA's EHB requirements, private health insurance plans generally must cover a range of preventive health services without requiring any patient cost-sharing (co-payments, 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.⁷

Current and Future Risks

Legislative and judicial attempts to repeal the ACA are evergreen, including through efforts to expand non-ACA compliant plans; lawsuits aimed at invalidating various aspects of the law, such as preventive care; and harmful state Medicaid waivers.

- **Short-Term Limited Duration Insurance (STLDI):** STLDI is a type of insurance that is not required to adhere to the ACA's consumer protections or insurance regulations. These non-compliant plans can charge higher premiums based on health status or openly deny coverage for pre-existing conditions, impose annual or lifetime limits, and exclude coverage for the essential health benefits. Because they can offer a less robust benefit package and deny coverage for serious medical needs, these plans typically have lower premiums than ACA plans, leading to shifts from compliant to non-compliant plans.⁸ But these lower costs come at a price; consumers who purchase these alternatives may spend less up front for coverage but find they are not protected if they become sick or injured. The Biden-Harris Administration has finalized a rule that would significantly limit the reach of STLDIs, but this could be reversed through future legislation or rulemaking.⁹
- **Association Health Plans (AHPs):** Like STLDIs, AHPs are non-ACA-compliant insurance products that can charge higher premiums based on jobs, age, and gender, and are not required to cover the essential health benefits. This can keep the premiums lower than compliant plan premiums but can also make the coverage less robust. The Trump

⁷ Nadia Chait & 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.

⁸ Mark Hall & Michael McCue, "Short-Term Health Insurance and the ACA Market" (March 16, 2022), <https://www.commonwealthfund.org/blog/2022/short-term-health-insurance-and-aca-market>; The Leukemia & Lymphoma Society, et al., "UNDER-COVERED: How 'Insurance-Like' Products Are Leaving Patients Exposed" (March 25, 2021), https://www.nami.org/NAMI/media/NAMI-Media/Public%20Policy/Undercovered_Report_03252021.pdf; U.S. House of Representatives Committee on Energy and Commerce, "Shortchanged: How the Trump Administration's Expansion of Junk Short-Term Health Insurance Plans is Putting Americans at Risk" (June 2020), https://drive.google.com/file/d/1uIL3Bi9XV0mYnxpyalMeg_Q-BJaURXX3/view.

⁹ 89 Fed. Reg. 23338.

Administration attempted a large expansion in the availability of AHPs through rulemaking,¹⁰ which was stymied by a federal court.¹¹ The Biden-Harris Administration has finalized a rescission of the Trump Administration’s rule.¹²

- **Braidwood Management Inc. v. Becerra:** Despite the failure of past challenges to the ACA, a new lawsuit argues that the ACA’s preventive services requirements are impermissible, and this argument has won over a federal judge.¹³ The appeal at the Fifth Circuit resulted in a “mixed bag” that reversed some of the trial court’s decision but agreed on other parts, leaving aspects of the preventive services mandates at risk.¹⁴ While it is unclear if Braidwood directly reaches Medicare, it may spur future suits more narrowly challenging Medicare’s preventive services, and it would likely trigger state-by-state determinations on Medicaid or ACA benefits if the trial court’s decision were ultimately upheld.¹⁵
- **Medicaid Waivers:**¹⁶ 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, as long as the state’s approach continues to promote the statutory objective of the Medicaid program, to furnish medical assistance to low-income individuals. Troublingly, CMS has periodically approved waivers that impose employment, administrative, and financial requirements or otherwise restrict Medicaid coverage—seemingly in conflict with the program’s goals.

¹⁰ 83 Fed. Reg. 28912.

¹¹ *New York v. United States Department of Labor*, 363 F. Supp. 3d 109 (D.D.C. 2019).

¹² 89 Fed. Reg. 34106.

¹³ Laurie Sobel, et al., “Explaining Litigation Challenging the ACA’s Preventive Services Requirements: *Braidwood Management Inc. v. Becerra*” (May 15, 2023), <https://www.kff.org/womens-health-policy/issue-brief/explaining-litigation-challenging-the-acas-preventive-services-requirements-braidwood-management-inc-v-becerra/>.

¹⁴ “Appeal from the United States District Court for the Northern District of Texas USDC No. 4:20-CV-283” (June 21, 2024), <https://www.documentcloud.org/documents/24769671-braidwood-decision>.

¹⁵ Noah Tong, “‘A mixed bag’: Fifth Circuit rules on ACA preventive services legal case” (June 21, 2024), <https://www.fiercehealthcare.com/payers/mixed-bag-fifth-circuit-rules-aca-preventive-services-legal-case>.

¹⁶ For more on waivers, see our companion fact sheets focused on that issue and on work requirements.