

September 2018

2018 Healthcare Reform Brief

Update on Rollbacks of Pre-Existing Conditions Protections

Did you know that half of the U.S. population lives with at least one chronic disease?¹ 2018 saw many changes to healthcare insurance policy, including new rules that roll back protections on pre-existing conditions. These new changes to health plans, outlined in this brief, may threaten access to quality insurance.

Are you concerned about health plans discriminating against person with pre-existing conditions?

Take action now!

Federal policies should not put persons with chronic illnesses at risk of discrimination or unmanageable costs. Here are several steps you can take:

- Ask your U.S. Representative and Senators what they are doing to protect coverage for persons with pre-existing conditions
- Share your story on social media using #DefendPreex and #ProtectPatientsNow
- Email advocacy@crohnscolitisfoundation.org to share your outreach and for other ways to get involved

What's at stake?

The Affordable Care Act (ACA) included many protections for persons with pre-existing conditions to ensure that

chronically ill people have access to quality coverage and are protected from unbearable out-of-pocket costs. Below are key patient protections from the law:

- **Guaranteed issue** – Insurers may not refuse to cover people because they are sick
- **Community rating** – Insurers may not charge higher premiums based on health status (whether a person is ill), gender, and other factors that protect against discrimination
- **Annual and lifetime caps** – Insurers cannot set an annual or lifetime dollar limit at which they will stop paying for services which are identified as Essential Health Benefits. This protects patients from bearing the full cost of their care after they've paid for insurance
- **Pre-existing conditions exclusions** – Insurers cannot refuse to cover services for health conditions which the patient had before enrolling in the new plan

Expansion of Short Term Limited Duration Health Plans (STLDHPs)

An August 2018 administrative rule expanded STLDHPs from the original three-month limit to one year with the option to renew for up to three years.

Concern: STLDHPs are allowed to refuse coverage and charge higher premiums to persons with pre-existing conditions. Additionally, STLDHPs do not have to cover the Essential Health Benefits, like prescription drug coverage and hospitalizations, which could leave patients unable to afford needed care.

Impact: The Administration estimates that 200,000 people will purchase an STLDHP in 2019, and 1.6 million people by 2024. These consumers will not have comprehensive coverage and will be at risk of surprise and potentially unaffordable costs.

Timing: STLDHPs are expected to reach the insurance market in 2019 and 2020.

The **Essential Health Benefits** are 10 categories of services that health plans on the Exchanges must cover. They include outpatient services, emergency services, hospitalization, pregnancy and childbirth, mental health services, prescription drugs, rehabilitative services, laboratory services, chronic disease management, and pediatric services. Specific services covered in each category vary by state. Learn more at www.healthcare.gov.

Texas v. Azar Court Case

The Trump Administration took the unusual step of deciding not to defend provisions of the ACA in a federal court case levied against the federal government. The case, Texas v. Azar, consists of 20 states suing the government, claiming that several provisions of the ACA are unconstitutional.

Concern: The Administration claimed that health plans should be allowed to refuse to cover or charge higher premiums to persons with pre-existing conditions.

Impact: Striking the pre-existing protections from the ACA would impact the individual and small group markets across the nation unless states pass their own laws. Approximately 7 percent of the U.S. population, or 22.8 million people, access individual health plans.

Timing: The hearing for Texas v. Azar ended on September 6, 2018 and a judgement is expected soon. The case may be appealed to higher courts.

S. 3388, Ensuring Coverage for Patients with Pre-Existing Conditions Act

A group of 10 Senators introduced S. 3388 to reinstate some of the existing patient protections in the event that Texas v. Azar strikes down provisions of the ACA. This bill is widely considered to be a tool for political messaging.

Concern: S. 3388 would reinstate some, but not all, of the current protections for persons with pre-existing conditions. It would reinstate the prohibition on plans charging higher premiums or refusing to cover people with pre-existing conditions. However, it would allow pre-existing condition exclusions (where a health plan can decide not to cover services for a condition the patient had prior to enrollment), and it would allow plans to charge higher premiums based on gender and other factors.

Impact: This bill could leave the 22.8 million Americans that access insurance on the individual or small group market subject to limited coverage for pre-existing conditions.

Timing: This bill is unlikely to pass unless the ACA is struck down. It is widely considered a political messaging tool.

Expansion of Association Health Plans (AHPs)

A June 2018 administrative rule expanded the kinds of employers that can offer AHPs.

Concern: AHPs do not have to provide coverage for the Essential Health Benefits, like prescription drug coverage or hospitalizations, which could mean patients pay more out of pocket for their medical needs. Additionally, AHPs can charge higher premiums based on gender, location, and type of employment. AHPs have historically been subject to fraud, leaving consumers stranded with unpaid claims.

Impact: The Administration estimates that approximately 4 million Americans will purchase an AHP. State exchange premiums are estimated to rise by 2-4 percent.

Timing: AHPs are expected to reach the insurance market in 2019 and 2020.