

## Preserve the Protections Provided by the Affordable Care Act

The Affordable Care Act (ACA) brought about much-needed reforms for health insurance, addressed systemic discrimination, and expanded coverage to millions of Americans who had previously been uninsured. Many of the reforms established by the ACA were a great benefit for people with disabilities, including the millions of individuals and families who may acquire disabilities at some point or for some period in their lives. While the ACA is not perfect, it still went a long way in ending the discrimination that existed in the health insurance industry towards people with disabilities, so any efforts to amend the ACA must take the following protections into account and ensure that they are maintained. The National Disability Navigator Resource Collaborative (NDNRC) calls on the new administration and the next Congress to preserve the following protections included in the ACA.

1. Prohibition against Denial of Coverage for Pre-Existing Conditions. One of the most popular and bipartisan provisions in the ACA is the prohibition against the discrimination that existed pre-ACA when insurance companies were permitted to deny coverage to individuals solely because they had a disability or some other pre-existing condition. It is estimated that prior to the ACA's enactment about 3.5 million people between the ages of 16 and 65 who had had pre-existing medical conditions and/or disabilities were uninsured. For those with a pre-existing condition who did have coverage, there was always the fear that if they lost their job or source of insurance they would be unable to get other coverage. Some have suggested that people with disabilities who cannot get coverage through traditional health insurance could be covered in a "high risk pool." However, high risk pools were an experiment that was tried once before and failed. They covered few individuals, charged enrollees a very expensive premium while providing very little coverage, and lost states considerable amounts of money when the expense of premiums paid by the enrollees still did not cover costs.<sup>1</sup> The ACA prohibition against denial of coverage for pre-existing conditions represented a huge step in eliminating one of the last areas of discrimination against people with disabilities. Taking away the protection now would be unconscionable.

2. Guaranteed Renewability of Coverage. A companion to the prohibition against denying coverage for pre-existing conditions, the guaranteed renewability of coverage is needed to make sure that insurance companies cannot cancel someone's plan just because they start costing too much or simply because they acquire a health condition. The protections for people with disabilities and other chronic medical conditions is important both for beginning coverage and for maintaining coverage.

3. Prohibition against Individual Underwriting. The first two points above are meaningless if insurance companies are permitted to underwrite health insurance policies based on an individual's health status. The ACA made sure that the guaranteed issue of the health insurance policy actually meant something by prohibiting individual underwriting. Requiring that insurance companies use community rating for all individual policies is a needed reform that must be continued because what good is the right to buy health insurance if the insurance industry can simply price you out of the market?

4. Essential Health Benefits Required in Every Qualified Health Plan. For the same reasons that the prohibition against individual underwriting is needed, the ten Essential Health Benefits (EHBs) are needed to make sure that insurance companies are not allowed to charge more just because you require a certain prescription medication, mental health treatment, durable medical equipment or other medical device, or rehabilitation and/or habilitation benefit, among others. Maintaining the EHBs is necessary to make sure that everyone has the comprehensive coverage they may need and that no one can be priced out of the market simply because they have special health care needs.

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<sup>1</sup> <http://files.kff.org/attachment/Issue-Brief-High-Risk-Pools-For-Uninsurable-Individuals>

5. Prohibition against Lifetime Monetary Caps. The above protections also do not mean anything if an insurance company is permitted to limit the benefits to which someone is entitled. Continuing the prohibition against lifetime monetary caps is a necessary provision to ensure that an individual with complex medical needs need not worry about their benefits running out. Individuals and families who have paid for health insurance needs to know that needed medical treatment extends for their entire lifespan.

6. Prohibition against Discrimination in Health Programs. The nondiscrimination provision in the ACA (§1557) was an important step toward addressing one of the most entrenched areas of discrimination against people with disabilities. Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act went a long way towards eliminating discrimination against people with disabilities, but they did not fully address healthcare and health insurance. Section 1557 of the ACA was an important step forward for the disability community as it applied existing disability nondiscrimination protections to the U.S. healthcare system in a broad, direct and detailed manner. Individuals with disabilities need to know that they can participate in the health care world without any barriers as they do in all other areas of their lives such as employment, transportation, public services, voting and education.

7. Extension of Mental Health Parity to the Individual and Small Group Market. When the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted, it represented a large step forward towards making sure that large group insurers would address mental health needs on a par with medical needs. By bringing mental health parity to the large group market, the MHPAEA began the process of reforming the way we view, treat and pay for mental health treatment. The ACA made sure that this protection would be expanded to those who relied on coverage through individual or small group plans. Removing these protections would represent a catastrophic step back in the treatment of mental health.

8. Medicaid Expansion. The Medicaid expansion was also an important part of the ACA for people with disabilities as it provides greater flexibility to the disability community in seeking employment. No longer do people with disabilities need to worry about losing Medicaid with their disability benefits if they return to the workforce. Many individuals with disabilities who received disability benefits and Medicaid were reluctant to rejoin the workforce for fear that they would lose their Medicaid benefits. If they then subsequently lost their job and with it employer-sponsored health insurance, an individual with a disability faced the potential reality of not having health insurance coverage which, for someone with complex medical needs, could be potentially devastating. The Medicaid expansion took away that fear for those individuals who lived in states where Medicaid had been expanded as they knew they would be able to fall back on the Medicaid expansion for coverage should they lose their job and any employer-sponsored plan.<sup>2</sup>

The protections listed above are critical to people with disabilities and any future health reform efforts need to take these into consideration and preserve the advancements we've made. For those reasons, the NDNRC calls upon the incoming Trump administration and Congress to maintain these protections and guarantee the coverage on which millions of Americans now rely.

The NDNRC is an initiative aimed at providing cross-disability information and support to Navigators and other enrollment specialists thereby ensuring people with disabilities receive accurate information when selecting and enrolling in insurance through the Affordable Care Act Marketplaces. The NDNRC website can be found at: <http://www.nationaldisabilitynavigator.org/>. For more information, contact Karl Cooper, NDNRC Project Manager at (301) 545-6140 x204 or [kcooper@aahd.us](mailto:kcooper@aahd.us).

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<sup>2</sup> Hall, J.; Shartzter, A.; Kurth, N. & Thomas, K.; "Effect of Medicaid Expansion on Workforce Participation for People with Disabilities". *American Journal of Public Health*. (In Press).