



Nine Things to Know About the Cassidy-Collins 'Replacement'

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Senators Cassidy and Collins have prepared a bill to replace the Affordable Care Act (ACA) called the Patient Freedom Act (PFA). **The PFA is a totally inadequate substitute for the ACA.** Here are the most important 9 things to know:

1. **Millions of people would lose coverage.** The PFA gives states three options. They can: (1) continue to use the ACA, (2) use ACA funds to set up their own program, or (3) drop participation entirely. In states that drop out, millions of current Marketplace enrollees would lose their subsidies, and most (if not all) would lose coverage. In states that take the first two options, other provisions will cause additional thousands, perhaps millions, to lose coverage. For example, many individuals with pre-existing conditions would be locked out of coverage (see #4 below).
2. **The benefits would be much worse.** The PFA would repeal numerous critical ACA protections, including the requirement that health plans cover essential benefits, such as pediatric services, maternity and newborn care, preventive services, and hospitalization (unless the state chose to keep the ACA standards). The default HSA plan has very low coverage (see #6). The PFA would also repeal the actuarial value provision that requires plans to spend a fair amount of consumer premiums on actual health care services, thus diluting access to services further.
3. **Costs would spike for older enrollees.** The PFA would also repeal the "age band" requirement that protects older enrollees. Under the ACA, if a plan charges a 25-year old \$200, it can only charge a 55-year old three times more – \$600. The PFA would eliminate that ACA protection, meaning plans could go back to charging people much, much more if they are older. Many older individuals would be priced out of coverage and become uninsured when age discrimination returns.

4. **They are not telling the whole truth about pre-existing conditions.** In his press release, Senator Cassidy says, “[t]his proposal keeps essential consumer protections, including [the] prohibition of pre-existing condition exclusions.” That is not accurate. Under the PFA, consumers who go without insurance for more than 63 days would only be guaranteed enrollment in the lowest level plans, which, paradoxically, would not offer sufficient coverage for someone with a pre-existing condition. This falls far short of the airtight protection in the ACA prohibiting all issuers from denying coverage for pre-existing conditions. Millions of consumers would be shut out of pre-existing condition protections if they failed to enroll on time, lost coverage between jobs, went uninsured after a move, or many other reasons.
5. **Costs would increase for most enrollees.** The PFA reduces ACA funding 5% right off the top, even if a state chooses to continue using the ACA. Thus the dollars available for subsidies will be lower even in states that “keep the ACA.” If states design their own plan, the PFA provides subsidies to some (higher income and employed) individuals that did not get subsidies under the ACA. This means states would have 5% *less* money available for *more* subsidy enrollees. Individuals currently subsidized under the ACA will get less than they do now. Low-income individuals will fare particularly worse, because the sliding-scale subsidy formula the PFA uses favors higher-income individuals compared to the ACA. It is unclear if there would be any limit on costs like copayments, and the default plan in the PFA is a high-deductible plan, meaning most individuals would have huge upfront costs.
6. **Consumers will be unable to use their coverage.** The default enrollment under the PFA is into high-deductible plans tied to Health Savings Accounts (HSAs). Most consumers will have no knowledge about such accounts. For example, consumers will need to know how their HSA gets funded, which costs are paid through an HSA, how to manage their accounts, and how to actually pay for insurance. Moreover, consumers with no experience using a high-deductible plan will have no way to estimate their expected HSA contributions. Ultimately, consumers will miss or forego needed care because their accounts are confusing and underfunded.
7. **The PFA includes a shocking violation of consumer choice.** At the request of the insurance companies, the PFA includes a provision that allows states to enroll consumers into an insurance plan *without a consumer’s knowledge or permission*. (If consumers find out, they can disenroll.) Insurance companies love this type policy because many individuals never find out and it guarantees insurers high enrollment of individuals who, of course, do not use their insurance. Under the PFA, individuals who do not know about the coverage would have an HSA account *created for them* and managed by a fiduciary (like a bank) – all without their knowledge or consent.

8. **Consumer information will be reduced.** The ACA mandates that plan information be available in a consistent format on a common web portal, allowing consumers to fairly compare plans. The PFA would allow but not require states to use a transparent marketplace, meaning consumers might end up losing that ACA support.
9. **Implementation will fail.** The PFA timeline proposes that implementation begins in 2018. This is totally unrealistic for such a complex law. For example, states would have to establish the mechanisms and regulations for HSAs. Even Senator Cassidy has admitted the timeframe might need to be extended, but has offered no details.