

Threats to the Affordable Care Act and Women's Reproductive Health

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The Affordable Care Act (ACA) is helping millions of women access comprehensive health coverage through Medicaid and the private insurance market.¹ It has also widened the scope of services, increased access, and improved consumer protections with respect to women's reproductive health services. Below are some key elements of the ACA which, if eliminated, would pose serious threats to women's health access and coverage.

1. Medicaid Expansion

The ACA's Medicaid expansion expanded Medicaid eligibility for low-income adults up to 138 percent of the Federal Poverty Level (FPL). Low-income women in the 31 states and the District of Columbia that opted to expand Medicaid now receive comprehensive health coverage, including coverage for their reproductive health needs.² Repeal of the ACA would end federal support for Medicaid expansion, making it impossible for states to continue providing millions of low-income women with access to valuable reproductive and other health services through Medicaid.

2. Health Insurance Marketplaces and Tax Credits

The ACA created Health Insurance Marketplaces where consumers can purchase health insurance that meets specific government standards, including standards on reproductive health coverage. Federal tax credits are available to those with household incomes between 100 and 400 percent FPL (and between 0 and 400 percent FPL for certain lawfully present immigrants). For the coverage year 2016, 6.8 million women and girls were able to access affordable and high-quality coverage through the Health Insurance Marketplaces.³ Repeal of the ACA would eliminate these federal subsidies, making comprehensive health coverage once again unaffordable for millions of individuals and families.

3. Preventive Health Services and Contraceptive Coverage Requirement

Most private health plans must now cover specific preventive health services, including a number of reproductive health services, without cost sharing. Some of the reproductive health services include: contraception; well-woman visits; breastfeeding support, supplies, and counseling; gestational diabetes screenings; and sexually transmitted infection (STI) counseling and testing.⁴ Thanks to this requirement, more than 55 million women now have access to these services without cost sharing.⁵ The contraceptive coverage requirement, which requires plans to cover a wide range of FDA-approved contraceptive methods, as well as related counseling and services, is perhaps one of the most essential ACA-required preventive services. Before the ACA, contraception comprised up to 44 percent of women's out-of-pocket health care costs.⁶ By 2013, most women had no out-of-pocket costs—an estimated \$1.4 billion dollars per year in savings for women.⁷ Repeal of the ACA would remove the ban on cost-sharing for contraceptives and other preventive services, preventing many women from obtaining the health care they require.

4. Maternity and Newborn Services

The ACA requires that all plans in the individual and small group markets cover ten specified essential health benefits. Among these are maternity and newborn services. Prior to the ACA no such requirement existed, and only 12% of individual health plans covered maternity care, resulting in high out-of-pocket costs for pregnant women.⁸ Repeal of the ACA and potential elimination of the essential health benefits requirements could again leave many women without maternity care.

5. Family Planning State Plan Amendments

The ACA includes a provision permitting states to expand eligibility for family planning services and supplies by amending their state Medicaid plans rather than seeking a federal waiver. Since the family planning waivers were time limited to five years, the State Plan Amendments presented a permanent and more expeditious way for states to expand coverage.⁹ More than half the states now operate Medicaid family planning programs through either a waiver or through a State Plan Amendment.¹⁰ Repeal of the ACA could eliminate the State Plan Amendment option for further expansions of family planning coverage.

6. Antidiscrimination Provisions

Section 1557 of the ACA prohibits discrimination or the denial of health services and health coverage based on race, color, national origin, sex, age, or disability by federally operated health programs such as Medicare and ACA marketplaces, as well as health care entities and providers that receive federal funds. Importantly, it is the first federal civil rights law to prohibit discrimination on the basis of sex in health care. In addition, insurers can no longer charge women higher premiums based on their gender, a previously common practice known as “gender rating.”¹¹ Repeal of the ACA would strip women of protection from discrimination in the health care context, leading to higher reproductive health care costs and greater health inequities.

7. Pre-Existing Conditions and Lifetime Caps

Before the ACA, insurers routinely denied coverage to women based on pre-existing conditions such as having had breast cancer or cesarean sections, having received medical treatment due to domestic violence, or even being pregnant. The ACA prohibits insurance denials based on pre-existing conditions and also prohibits lifetime and annual caps on essential health benefits including maternity care. Repeal of the ACA could prevent some pregnant women and women with chronic and other pre-existing conditions from obtaining health insurance.

ENDNOTES

¹ We use the term “women” throughout this fact sheet. However, our intent is to use an inclusive definition of women to include trans women, genderqueer women, and gender nonconforming individuals who are significantly female-identified.

² Kaiser Family Foundation, *Status of State Action on the Medicaid Expansion Decision* (Jan. 1, 2017), <http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act>.

³ Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, ASPE Issue Brief, *The Affordable Care Act: Promoting Better Health for Women* (Jun. 14, 2016), <https://aspe.hhs.gov/sites/default/files/pdf/205066/ACAWomenHealthIssueBrief.pdf>.

⁴ See, e.g., HealthCare.gov, *Preventive care benefits for women*, <https://www.healthcare.gov/preventive-care-women>.

⁵ Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, ASPE Data Point, *The Affordable Care Act is improving access to preventive services for millions of Americans* (May 14, 2015),

<https://aspe.hhs.gov/sites/default/files/pdf/139221/The%20Affordable%20Care%20Act%20is%20Improving%20Access%20to%20Preventive%20Services%20for%20Millions%20of%20Americans.pdf>.

⁶ Nora V. Becker & Daniel Polsky, *Women Saw Large Decrease in Out-Of-Pocket Spending for Contraceptives After ACA Mandate Removed Cost Sharing*, 34 HEALTH AFFAIRS 1204 (2015).

⁷ *Id.*; Adam Sonfield et al., *Impact of the Federal Contraceptive Coverage Guarantee on Out-of-Pocket Payments for Contraceptives: 2014 Update*, 91 CONTRACEPTION 44 (2015).

⁸ National Women’s Law Center, *Women and the Health Care Law in the United States* (May 2013), https://nwlc.org/wp-content/uploads/2015/08/us_healthstateprofiles.pdf.

⁹ Usha Ranji et al., Kaiser Family Foundation, *Medicaid and Family Planning: Background and Implications of the ACA* (Feb. 3, 2016),

¹⁰ Guttmacher Institute, *Medicaid Family Planning Eligibility Expansions* (Feb. 1, 2017), <https://www.guttmacher.org/state-policy/explore/medicaid-family-planning-eligibility-expansions>.

¹¹ National Women’s Law Center, *Turning to Fairness: Insurance Discrimination against Women Today and the Affordable Care Act* (2012), http://www.nwlc.org/sites/default/files/pdfs/nwlc_2012_turningtofairness_report.pdf.