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A Supreme Court Ruling Finding the Affordable Care Act Unconstitutional Would Have Widespread Negative Implications

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Since it passed in March 2010, the Affordable Care Act (ACA) has withstood numerous legal challenges, including several that landed in front of the Supreme Court. In November 2020, the Supreme Court will hear oral arguments in *California v. Texas*, where the plaintiff argues that the entire ACA is unconstitutional without the individual mandate penalties, which the Tax Cuts and Jobs Act of 2017 eliminated as of 2019. If the ACA is overturned, the consequences will be devastating for millions of Americans. According to the Urban Institute's Health Insurance Policy Simulation Model, nearly 20 million people would lose insurance coverage, and health care providers would experience large revenue losses combined with dramatic increases in demand for uncompensated care.[1] Some of the most popular ACA provisions, including protections for people with preexisting conditions and the extension of dependent coverage to young adults up to age 26, would be eliminated. Major federally financed coverage expansions would also be repealed, including the Medicaid expansion in 36 states plus the District of Columbia and availability of comprehensive and subsidized marketplace coverage.

Researchers in the Urban Institute's Health Policy Center have spent much of the past decade compiling evidence on how these and other ACA provisions have affected individual and family health care coverage, access, and affordability, as well as their implications for hospital finances and national health expenditures. Our findings indicate that overturning the law would have widespread implications for Americans overall and for certain demographic and socioeconomic groups. Here, we highlight several key products by Urban Institute researchers that demonstrate what is at stake in *California v. Texas*.[2]

If the Affordable Care Act is overturned:

Nearly 20 million Americans would lose health insurance coverage, and health care providers would experience dramatic increases in the demand for uncompensated care.[1]

Urban Institute estimates show the number of uninsured Americans would have grown to more than 50 million, an increase of nearly 20 million people, if the ACA were repealed in 2019. The uninsurance rate among nonelderly Hispanic people would have increased from 21 percent to 31 percent and would have nearly doubled among nonelderly Black people (from 11 percent to 20 percent). Federal spending on health care would have shrunk by $135 billion per year because of elimination of marketplace subsidies and Medicaid expansion, and health care providers would have faced an increasing demand for uncompensated care totaling just over $50 billion per year. States that expanded Medicaid under the ACA would have lost more than $100 billion in federal funding for health care, and they would have seen their number of uninsured residents nearly double.

Americans with preexisting health conditions will once again find it impossible or exorbitantly expensive to purchase insurance coverage in the individual market.[3]

The ACA has several provisions that make individually purchased insurance coverage more accessible and affordable for people with health problems, including guaranteed issue of all products, modified community rating, essential health benefits requirements, and cost-sharing limits. Together, these rules protect people with health problems from being denied coverage, offered coverage with limited benefits and/or very high cost-sharing requirements (e.g., deductibles, co-insurance), denied coverage for specific conditions, or from facing exorbitant premiums to enroll. The law also includes premium subsidies that increased the size of the insurance pool, adding many healthy enrollees and thereby reducing average premiums. Without these combined measures in place, any promise to protect people with preexisting conditions would be unable to ensure access to adequate and affordable coverage.

Millions of Americans will lose access to the affordable and comprehensive insurance options available through the ACA marketplaces.[4]

The ACA marketplaces faced early challenges and then considerable turmoil in 2018, following elimination of federal support for cost-sharing reductions. However, the marketplaces have been increasingly stable in recent years.

Premiums were stable or even declined in 2019 and 2020, and the number of insurers has steadily increased. Though in some states people living in rating regions with a single insurer still experience high premiums, more than 10 million Americans had coverage in the marketplaces in 2020. Most of them received federal premium subsidies, and all of them had a comprehensive benefits package and protections against extreme out-of-pocket costs. Repealing the ACA would subject people to the vagaries of the nongroup market as it existed before 2014, a market with none of these protections where insurers competed for enrollees with the lowest health care needs.

Young adults will lose access to coverage through their parents and through Medicaid expansions that helped cut their uninsurance rate by nearly 40 percent.[5]

Young adults ages 19 to 25 had the highest uninsurance rate before the ACA, but the law provided this population with multiple coverage options. The extension of dependent coverage to young adults up to age 26 took effect in late 2010, and uninsurance among young adults with moderate and high incomes fell by 29 percent and 61 percent, respectively, by 2013. Young adults with low incomes did not gain coverage through 2013, but their uninsurance rate declined by 22 percent in early 2014, after implementation of the Medicaid expansion. By the middle of 2014, uninsurance among all young adults had fallen by 37 percent. Repealing the ACA would threaten these coverage gains.

More adults may lack a usual source of care and forgo medical care because of cost.[6]

Alongside their impressive insurance gains under the ACA, nonelderly adults experienced significant improvements in health care access and affordability. Between the third quarter of 2013 and first quarter of 2017, the shares of adults who had a usual source of care or had a routine check-up in the past year increased significantly. Problems affording care declined over the same period, as the shares of adults reporting an unmet need for medical care due to cost and problems paying family medical bills both fell. These improvements in access and affordability were largest among adults with low and moderate incomes, because of the ACA's Medicaid eligibility expansion and subsidization of private insurance coverage through the marketplaces. Without the ACA, these gains are in jeopardy.

Families with low incomes will face increased risk of medical debt and personal bankruptcy.[7]

By 2015, the ACA Medicaid expansion had reduced the probability of having one or more recent medical bills go to collections and of having a medical collection balance of more than $1,000 among nonelderly adults in states that expanded Medicaid. The ACA's effects also extend beyond medical debt; the Medicaid expansion led to improved credit scores and a reduction in new bankruptcy filings among nonelderly adults. Without the financial protection of the ACA Medicaid expansion, these improvements in financial stability could be reversed.

American adults without a college degree could face major coverage losses, particularly those who are people of color.[8]

Between 2010 and 2015, about 14 million adults without a college degree gained coverage under the ACA, constituting 90 percent of all adult coverage gains over this period. The uninsurance rate among Hispanic and nonwhite adults without a college degree fell from 37.9 percent in 2010 to 24.4 percent in 2015, reducing the number of uninsured adults in this population by almost 8 million. The uninsurance rate for white adults without a college degree also fell from 20.0 percent in 2010 to 12.2 percent in 2015. The populations gaining the most coverage because of the ACA will likely experience the greatest increases in uninsurance if it is overturned.

Millions of workers with low incomes and their families could lose insurance coverage, and unemployed adults will have few coverage options.[9,10]

As the Medicaid expansion and availability of marketplace coverage provided new pathways to insurance, an estimated 9.5 million workers and 5.2 million family members gained insurance coverage between 2010 and 2015. These increases in coverage were largest for people in lower-wage jobs and occupations with historically low coverage rates. Moreover, the uninsurance rate among nonelderly unemployed workers decreased by 35 percent under the ACA. Overturning the law would once again leave few options for people without access to employer coverage, putting low-wage workers and unemployed people at high risk of becoming uninsured. This may be especially true given the COVID-19 pandemic, which has disproportionately affected these same populations.

Insurance coverage for nearly 6 million women of reproductive age, including many new mothers with low incomes, will be at risk.[11,12,13]

Between 2010 and 2016, the uninsurance rate for women ages 15 to 44 fell from 21.4 percent to 11.6 percent, with particularly large coverage gains among women under 35, single mothers, and Black and Hispanic women. Coverage also increased more in states that expanded Medicaid under the ACA, where the expansion reduced uninsurance for both mothers and childless women with low incomes. And by 2017, the ACA Medicaid expansion had reduced the uninsurance rate for citizen new mothers living in poverty by 28 percent. Not only would these gains be jeopardized if the ACA is overturned, but women would also lose the protection of the law's benefit standards, which made maternity care and other preventive care required benefits in private, individually purchased insurance and insurance sold to small employers. Moreover, gender rating, a practice that increased premiums for women in this age group before the ACA even while health plans routinely excluded maternity benefits, will likely be reinstated.

Parents and their children may be less likely to get needed care, and parents with low incomes will be at increased risk of health care affordability problems and psychological distress.[14,15]

Between 2013 and 2018, both parents and children experienced significant increases in insurance coverage and receipt of a routine check-up in the past 12 months. Over the same period, parents were less likely to report an unmet need for care due to cost or problems paying their family's or their child's medical bills in the past 12 months, and they felt more confident that their child could get needed health care. In addition, by 2015, the ACA Medicaid eligibility expansions reduced problems paying family medical bills and lowered the rate of moderate or severe psychological distress among parents with low incomes living in states that expanded Medicaid.

Hospitals in states that have expanded Medicaid will face significant financial distress.[16,17]

The ACA Medicaid expansion lowered hospitals' uncompensated care burdens, increased Medicaid revenue, and improved profit margins. By 2015, the Medicaid expansion had increased Medicaid revenue by $5.0 million per hospital, reduced uncompensated care costs by $3.2 million per hospital, and improved average operating margins by 2.5 percentage points. The benefits were strongest for small hospitals, for-profit hospitals, and hospitals in nonmetropolitan areas. Amid national concerns about hospitals' financial viability, reversing the Medicaid expansion would erode the financial health of these institutions, which are at the frontlines of addressing the pandemic.

National health spending growth could accelerate, putting additional pressure on other domestic priorities.[18]

Despite concerns that the law did little to address the high cost of health care, national health spending has grown considerably more slowly than expected under the ACA, even as 20 million Americans gained coverage. In 2010, the Centers for Medicare & Medicaid Services estimated that national health spending under the ACA would total $23.7 trillion between 2014 and 2019. In 2017, the spending forecast for the same period was $20.8 trillion, a reduction of $2.9 trillion. Though the sluggish economic recovery from the Great Recession helped slow health spending growth, several ACA provisions also appear to have contributed. These include Medicare payment rate reductions, which reduced health care utilization and spilled over to other payers, as well as the managed competition structure of the marketplaces and aggressive cost-containment efforts in Medicaid. Eliminating these reforms could return health care spending to a faster growth trajectory.

Conclusion

Some people would benefit from repealing the ACA, such as those with high incomes whose tax burdens would be reduced and healthy people who prefer less generous coverage with lower premiums. However, these benefits may be temporary given that health can change rapidly and unexpectedly, whereas the negative health and financial implications for individuals, families, and health care providers described above would be devastating for many of the most disadvantaged Americans at a moment when they are already facing the brunt of the pandemic and economic crisis.

ENDNOTES

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