

Moving Backward: Efforts to Undo Pre-Existing Condition Protections Put Millions of Women and Girls at Risk

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The Affordable Care Act (ACA) prohibits discriminatory insurance practices in pricing and coverage in the individual market. Before the law was enacted, women routinely were denied coverage or charged more for insurance based on so-called “pre-existing conditions.” For example, in the individual insurance market, a woman could be denied coverage or charged a higher premium if she had experienced HIV or AIDS, diabetes, lupus, an eating disorder, pregnancy or a previous Cesarean birth, just to name a few.¹

Opponents of the ACA are trying to turn back the clock and eliminate protections for women with pre-existing conditions.

In its refusal to uphold the law in *Texas v. United States*, the U.S. Department of Justice (DOJ) argues that the community rating and guaranteed issue provisions of the ACA are unconstitutional. Without guaranteed issue, women could be denied coverage based on their medical history, their age or occupation, or other factors. Without community rating, women could be charged more, or priced out of the insurance market altogether, based on their health status or other factors. Insurance companies could also try to reinstate gender rating, a common pre-ACA practice in which insurance companies charged women higher premiums than men, even though other parts of the ACA protect women from discrimination in the health care system.

In addition, conservative opponents of the ACA in Congress and think tanks are introducing proposals to repeal the law yet again. If implemented, these proposals would similarly put women at risk of being denied coverage or charged more because of their health status.

More than half of all women and girls have “pre-existing conditions.”

We estimate that more than half of women and girls nationally (over 67 million)² have pre-existing conditions. There are also nearly six million pregnancies each year, a common reason for denying women coverage on the individual market before the ACA. Tables 1 and 2 provide state-level detail for the number of women with pre-existing conditions and the number of pregnancies.

Although a high percentage of women have coverage through an employer or Medicaid and would therefore not face discriminatory practices such as medical underwriting or denials based on health conditions, the data make clear that allowing insurers to return to pre-ACA practices could mean millions of women being denied coverage or charged more based on their health status if they ever sought coverage in the individual market.

Table 1. Estimated Number of Women and Girls With Pre-Existing Conditions Who Could Be Charged More or Denied Coverage for Individual Insurance, By State

State	Estimated Number of Women and Girls With Pre-Existing Conditions Who Could Be Charged More or Denied Coverage for Individual Insurance
United States	67,557,000
Alabama	998,000
Alaska	157,000
Arizona	1,420,000
Arkansas	607,000
California	8,353,000
Colorado	1,169,000
Connecticut	747,000
Delaware	197,000
District of Columbia	155,000
Florida	4,086,000
Georgia	2,230,000
Hawaii	289,000
Idaho	350,000
Illinois	2,710,000
Indiana	1,382,000
Iowa	642,000
Kansas	602,000
Kentucky	907,000
Louisiana	985,000
Maine	264,000
Maryland	1,288,000
Massachusetts	1,437,000
Michigan	2,038,000
Minnesota	1,154,000
Mississippi	629,000
Missouri	1,249,000
Montana	206,000
Nebraska	399,000
Nevada	613,000
New Hampshire	269,000
New Jersey	1,883,000
New Mexico	425,000
New York	4,174,000

North Carolina	2,122,000
North Dakota	154,000
Ohio	2,392,000
Oklahoma	808,000
Oregon	838,000
Pennsylvania	2,595,000
Rhode Island	218,000
South Carolina	1,025,000
South Dakota	175,000
Tennessee	1,382,000
Texas	6,069,000
Utah	673,000
Vermont	125,000
Virginia	1,783,000
Washington	1,519,000
West Virginia	358,000
Wisconsin	1,187,000
Wyoming	120,000

Table 2. Estimated Number of Pregnancies, By State

State	Estimated Number of Pregnancies
United States	5,910,000
Alabama	82,000
Alaska	16,000
Arizona	120,000
Arkansas	51,000
California	802,000
Colorado	94,000
Connecticut	61,000
Delaware	19,000
District of Columbia	16,000
Florida	350,000
Georgia	197,000
Hawaii	29,000
Idaho	29,000
Illinois	243,000
Indiana	111,000
Iowa	52,000
Kansas	55,000
Kentucky	71,000
Louisiana	88,000
Maine	18,000

Maryland	125,000
Massachusetts	114,000
Michigan	169,000
Minnesota	94,000
Mississippi	50,000
Missouri	98,000
Montana	17,000
Nebraska	34,000
Nevada	55,000
New Hampshire	19,000
New Jersey	179,000
New Mexico	38,000
New York	442,000
North Carolina	176,000
North Dakota	13,000
Ohio	197,000
Oklahoma	69,000
Oregon	66,000
Pennsylvania	212,000
Rhode Island	18,000
South Carolina	76,000
South Dakota	15,000
Tennessee	114,000
Texas	534,000
Utah	65,000
Vermont	9,000
Virginia	153,000
Washington	128,000
West Virginia	28,000
Wisconsin	90,000
Wyoming	9,000

Methodology

The estimates for “number of women and girls with pre-existing conditions who could be charged more or denied coverage for individual insurance” were based on American Community Survey (ACS) data. First, we used the 2016 ACS to find the total number of females under age 65 in each state. We removed the number of nonelderly women covered by Medicare according to the ACS because women covered by Medicare would not be subject to possible discrimination based on a pre-existing condition. Finally, we calculated the number of women who may have at least one pre-existing condition based on a 2017 U.S. Department of Health & Human Services report that estimated that 51 percent of females have a pre-existing condition that would have subjected them to coverage carve-outs, higher rates or coverage denial prior to the ACA.³

The estimates for “number of pregnancies” is based on the Guttmacher Institute’s 2011 data for the number of pregnancies in each state among women aged 15 to 44.⁴

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- 1 National Women’s Law Center. (2008). *Nowhere to Turn: How the Individual Health Insurance Market Fails Women*. Retrieved 19 June 2018, from <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2015/08/NWLCReport-NowhereToTurn-81309w.pdf>; Kaiser Family Foundation. (2016). *Pre-existing Conditions and Medical Underwriting in the Individual Insurance Market Prior to the ACA*. Retrieved 19 June 2018 from <https://www.kff.org/health-reform/issue-brief/pre-existing-conditions-and-medical-underwriting-in-the-individual-insurance-market-prior-to-the-aca/>
- 2 U.S. Dept. of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. (2017) *Health Insurance Coverage for Americans with Pre-Existing Conditions: The Impact of the Affordable Care Act*. Retrieved 19 June 2018 from <https://aspe.hhs.gov/system/files/pdf/255396/Pre-ExistingConditions.pdf>
- 3 See note 2; Center for American Progress calculations; U.S. Census Bureau. (2016). *2016 American Community Survey 1-Year Estimates: ACS Demographic and Housing Estimates*. Retrieved 19 June 2018, from https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16_1YR/DP05; U.S. Census Bureau. (2016). *2016 American Community Survey 1-Year Estimates: Medicare Coverage by Sex by Age*. Retrieved 19 June 2019, from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_1YR_B27006
- 4 The Guttmacher Institute. *Data Center*. Retrieved on 19 June 2018 from <https://data.guttmacher.org/states/table?dataset=data>

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