



July 10, 2019

The Honorable Elijah E. Cummings
 Chairman
 2157 Rayburn House Office Building
 U.S. House of Representatives
 Washington, D.C. 20515

The Honorable Jim Jordan
 Ranking Member
 2105 Rayburn House Office Building
 U.S. House of Representatives
 Washington, D.C. 20515

Dear Chairman Cummings and Ranking Member Jordan:

Our organizations write collectively in advance of your upcoming hearing regarding the *Texas v. United States* litigation, currently pending before the Fifth Circuit Court of Appeals, which has the potential to strike down all or some of the patient protections provided under the Affordable Care Act (ACA). On April 1, 2019, a subset of our groups filed an amicus curiae brief before the Fifth Circuit Court of Appeals to assist the court in understanding the importance of the ACA’s protections to millions of patients and consumers. A copy of the brief is attached¹ and we respectfully request the brief be included as part of the Committee’s record.

This brief makes clear that the ACA contains critical protections that provide an essential lifeline for millions of Americans who experience serious illnesses and conditions, like cancer, pregnancy, lung and heart disease, diabetes, cystic fibrosis, neurological and chronic respiratory conditions. Absent affordable health insurance, people with the diseases and conditions represented by our groups have poorer health outcomes and require more costly care.

Prior to the ACA, individuals who were in the most need of health insurance coverage – including older and sicker Americans – often found it difficult, if not impossible, to obtain health insurance that provided the coverage they needed. Many individuals were denied coverage due to their pre-existing conditions or were charged outrageous premiums and/or were left with inadequate benefit packages. A survey conducted before passage of the ACA found that 36 percent of those who tried to purchase

¹ The *amicus brief* is also available at <https://www.fightcancer.org/sites/default/files/National%20Documents/Amicus%20Filing.pdf>

health insurance directly from an insurance company in the individual insurance market were turned down, charged more, or had a specific health problem excluded from their coverage.²

Without access to comprehensive health coverage they could afford, many patients with serious and chronic conditions were often forced to delay or forego necessary health care. Before the patient protections provided under the ACA, more than half of heart patients reported difficulty paying for their care and of those patients more than 40 percent said they had delayed care or had not filled prescriptions.³ Uninsured patients with diabetes were six times as likely to forgo necessary medical care than those with coverage.⁴ Uninsured patients were less likely to be screened for cancer and more likely to be diagnosed with later stage disease which is harder to survive and more costly to treat.⁵

Since the law went into effect, individuals with pre-existing conditions have been able to access comprehensive health insurance. The uninsured rate among nonelderly patients with newly diagnosed cancer declined substantially, particularly among low-income people who resided in Medicaid expansion states – where it decreased six percent.⁶ Recent research shows that states which expanded Medicaid under the ACA improved the health of women of childbearing age by increasing access to preventive care, reducing adverse health outcomes before, during and after pregnancies, and reducing maternal mortality rates.⁷ In addition, there is already a small but statistically significant shift that has been found toward early-state diagnosis for colorectal, lung, breast, and pancreatic cancer in states that have increased access to health care through Medicaid because of the ACA.⁸ Access to health insurance improves numerous health outcomes for children with asthma, including reductions in the number of asthma-related attacks and hospitalizations.⁹ Furthermore, provisions of the ACA have increased access to care, decreased the number of costly hospitalizations, and improved outcomes of individuals with mental health and substance use disorders.¹⁰

Our organizations appreciate that members of Congress share our concerns about the potential impact of *Texas v US* on people with pre-existing conditions. Several bills have been introduced in response to

² Doty MM, Collins SR, Nicholson JL et al. *Failure to Protect: Why the Individual Insurance Market is not a Viable Option for Most US Families*. The Commonwealth Fund, July 2009.

³ *Affordable Access to Health Care: Top Priorities of Heart Disease and Stroke Patients: Results from an American Heart Association Patient Survey*, Am. Heart. Ass'n (2010). Available at https://www.heart.org/idc/groups/heart-public/@wcm/@adv/documents/downloadable/ucm_432322.pdf.

⁴ J.B. Fox et al., *Vital Signs: Health Insurance Coverage and Health Care Utilization—United States, 2006-2009 and January-March 2010*, 59 *Morbidity & Mortality Wkly. Rep.* 1448, 1448 (2010).

⁵ E Ward et al., "Association of Insurance with Cancer Care Utilization and Outcomes, CA: A Cancer Journal for Clinicians 58:1 (Jan./Feb. 2008), <http://www.cancer.org/cancer/news/report-links-health-insurance-status-withcancer-care>.

⁶ Ahmedin Jemal et al., *Changes in Insurance Coverage and State at Diagnosis Among Nonelderly Patients With Cancer After the Affordable Care Act*, 35 *J. Clinical Oncology* 3906 (2017).

⁷ *Medicaid Expansion Fills Gaps in Maternal Health Coverage Leading to Healthier Mothers and Babies*, Georgetown University Health Policy Institute Center for Children and Families, May 9, 2019. Available at: <https://ccf.georgetown.edu/2019/05/09/medicaid-expansion-fills-gaps-in-maternal-health-coverage-leading-to-healthier-mothers-and-babies/#heading-4>

⁸ *Id.*

⁹ Szilagyi PG et al., *Improved Asthma Care After Enrollment in the State Children's Health Insurance Program in New York*. *Pediatrics*, 2006. 117(2): 486-496.

¹⁰ <https://aspe.hhs.gov/system/files/pdf/255456/ACAOpoid.pdf>

the case, some of which attempt to provide protection to people with pre-existing conditions should the ACA be invalidated. We recognize and appreciate the sponsors' efforts. However, we remain concerned that the policies outlined in these bills fall far short of the comprehensive protections and coverage expansion included in current law.

As you are aware, current law requires issuers to comply with a set of provisions that work together to promote adequate, affordable, and accessible coverage for people with pre-existing conditions. A holistic approach that includes – but is not limited to - community rating, guaranteed issue, essential health benefits, cost-sharing limits, a prohibition of lifetime and annual limits, allowing young people to stay on their parents' insurance to age 26, the ban on pre-existing condition exclusions, and other important provisions protect people with serious health care needs from discriminatory coverage practices and promote access to affordable coverage. Medicaid expansion also brought coverage to millions of Americans who were previously uninsured, many of whom went without vital care. These policies are inextricably linked and repealing any of them threatens access to critical care for people with life-threatening, disabling, chronic, or serious health care needs.

We hope that you will keep these critical patient protections and the interlocking functions of current law that safeguard coverage for consumers, patients, and individuals with pre-existing conditions at the front of your mind. We are grateful that Congress is committed to exploring both immediate and long-term approaches that can be taken to shore up and strengthen the individual insurance market and we remain ready and willing to work with Congress to achieve that goal and provide all Americans with the health care they need and deserve.

We look forward to working with members of the committee to ensure that individuals with pre-existing conditions continue to enjoy the protections provided under the ACA. If you have any questions, please contact Katie Berge at the American Heart Association at katie.berge@heart.org.

Sincerely,

American Cancer Society Cancer Action Network
American Diabetes Association
American Heart Association
American Lung Association
Crohn's & Colitis Foundation
Cystic Fibrosis Foundation
Epilepsy Foundation
Hemophilia Federation of America
Leukemia & Lymphoma Society
March of Dimes
National Alliance on Mental Illness
National Multiple Sclerosis Society