



**Statement on  
“Strengthening Our Health Care System: Legislation to  
Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections**

**Submitted to the  
House Energy and Commerce Committee  
Subcommittee on Health**

**February 13, 2019**

America’s Health Insurance Plans (AHIP) is the national association whose members provide coverage for health care and related services to millions of Americans every day. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities, and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers.

Every American deserves affordable, comprehensive coverage—regardless of their income, health status, or pre-existing conditions. This has been a core principle for health insurance providers and a constant commitment by our industry. Every day health insurance providers act on that commitment by working to improve coverage, affordability, and access to high-quality care. We strongly believe that by working together, we can ensure that America’s health care markets deliver strong patient protections, as well as robust competition and choice that lead to greater affordability.

Our statement for today’s hearing focuses on the following:

- Our commitment to ensuring that every American has access to affordable, comprehensive health coverage, including recommendations we have offered to improve affordability for individuals who buy coverage on their own, without support from an employer contribution

or if their income is too high to qualify for premium tax credit assistance;

- Our support for protecting Americans with pre-existing conditions; and
- Our comments on developments surrounding short-term plans, section 1332 state innovation waivers, and funding for outreach and education activities that encourage enrollment in health insurance coverage.

### **Ensuring Affordable, Comprehensive Health Coverage for All Americans**

Health insurance providers are committed to providing high-quality, affordable coverage that improves the health and wellness of all Americans. Our members work every day to address the significant cost drivers of chronic disease and poor health, give consumers the power to choose the care and coverage that works best for them and their families, and improve patient care with innovative tools, treatments, and technology.

Approximately 180 million Americans rely on the protection and peace of mind provided by employer-provided coverage. Nearly 15 million Americans purchase their health coverage through the individual market—but high costs are a significant challenge for many who buy coverage on their own, without support from an employer contribution or if their income is too high to qualify for premium tax credit assistance.

To address this concern, AHIP released a report<sup>1</sup> in November 2018 outlining 12 recommendations that can be implemented, by federal and state policymakers, to make premiums more affordable for Americans who buy coverage on their own in the individual market.

The solutions in our report focus on helping hardworking Americans who fall into a gap—earning too much to qualify for financial support, but still struggling to pay their monthly premiums. Our recommendations are categorized into three areas: (1) addressing rising health care costs and drug prices; (2) offering premium savings to families making over 400 percent of the federal poverty level; and (3) increasing the number of consumers who buy coverage, which will balance the individual market risk pool to bring costs down for everyone.

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<sup>1</sup> <https://www.ahip.org/12-solutions-to-lower-premiums-for-hardworking-americans-who-buy-their-own-coverage/>

Our specific recommendations, as explained in the report, would accomplish the following:

- Reduce surprise doctor bills;
- Increase competition in prescription drugs;
- Expand the use of telehealth;
- Create reinsurance programs;
- Provide savings to consumers who participate in wellness programs;
- Repeal the ACA health insurance tax;
- Provide tax parity for Americans who buy individual market coverage;
- Expand Health Savings Account (HSA) options;
- Curb inappropriate third-party premium payments;
- Increase flexibility for reference pricing;
- Create state premium discount programs; and
- Support marketing and outreach efforts to increase enrollment and strengthen the risk pool.

### **Americans With Pre-Existing Conditions Should Be Protected**

The position of health insurance providers is clear: Every American deserves affordable, comprehensive coverage—regardless of their income, health status, or pre-existing conditions. No one should be denied or priced out of affordable coverage because of their health status.

Moreover, to make coverage more affordable for everyone, it is important to combine pre-existing condition protections with provisions that incentivize broad-based continuous coverage and a balanced risk pool. In a statement we submitted for the subcommittee’s February 6 hearing, we highlighted four types of policies that address this goal: (1) continuous coverage requirements; (2) defined open enrollment and special enrollment periods; (3) premium assistance; and (4) a platform for consumers to shop for and compare coverage.

We are seriously concerned that current pre-existing condition protections, as well as policies that promote broad market participation, may be threatened by pending litigation. In February 2018, a lawsuit—*Texas v. United States*—was filed that challenges the constitutionality of the ACA. In December 2018, the United States District Court for the Northern District of Texas issued a broad ruling that would invalidate *all* of the Affordable Care Act—including provisions relating to the individual market (e.g., pre-existing condition protections), the employer market, Medicare Advantage, Medicare Part D, and Medicaid expansion.

AHIP has expressed concern that this ruling is misguided and wrong. This decision, if upheld, would deny coverage to more than 100 million Americans, including seniors, veterans, children, people with disabilities, hardworking Americans with low-incomes, young adults on their parents' plans until age 26, and millions of individuals with pre-existing conditions. Almost everyone, regardless of where they get their health coverage, would be affected by the chaos and pain this ruling would inflict on the American people.

## **Recent Regulatory and Administrative Actions**

We understand that committee members have introduced legislation that would reverse regulations addressing short-term plans and section 1332 state innovation waivers, and restore funding for outreach activities that encourage enrollment in health insurance coverage.

### Short-Term Plans

In August 2018, the Administration issued a final rule that expands short-term, limited duration insurance (STLDI) policies.

We agree that consumers deserve more choices, particularly those who do not qualify for federal subsidies and must pay the full premium on their own. However, we are concerned that consumers who rely on short-term plans for an extended time period will face high medical bills when they exceed their coverage limits or need care that is not covered. In addition, we believe it is essential for consumers to clearly understand what their plan does and does not cover. AHIP submitted detailed comments in April 2018 on the proposed version of this regulation.<sup>2</sup>

### Section 1332 Waivers

In October 2018, the Administration issued updated guidance addressing section 1332 state innovation waivers, with the goal of giving states more flexibility to offer different coverage options.

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<sup>2</sup> <https://www.ahip.org/wp-content/uploads/2018/04/AHIP-Comments-NPRM-on-STLDI-4-20-18FINAL.pdf>

In December 2018, AHIP submitted comments<sup>3</sup> in which we generally expressed support for providing more flexibility for states, while also expressing appreciation for efforts by the Centers for Medicare & Medicaid Services (CMS) to streamline the approval of waiver applications to implement reinsurance programs. We support CMS' emphasis on promoting choice, competition, and multiple options for consumers. However, we oppose the use of pass-through funding for short-term, limited duration insurance plans or other alternative coverage options.

### Other Stability Measures

We believe that providing federal funding for reinsurance programs would be an effective approach to stabilizing premiums in the individual health insurance market. Reinsurance is an effective, proven way to lower premiums. Building on our experience in the states, a federally funded reinsurance program would offset some of the costs of patients who have the most complex health conditions and need the most care. In the last three years, several states have adopted reinsurance arrangements through the use of 1332 waivers. Enacting measures like these can help significantly lower premiums for millions of individuals who rely on the individual market to access care, as long as they are adequately funded and designed to ensure that consumers in all states benefit. This approach also can reduce federal spending on premium tax credits.

### Open Enrollment Outreach and Educational Activities

AHIP appreciates the committee's concerns about recent cuts in funding for outreach and education activities focusing on the annual open enrollment period for the ACA Exchanges.

We believe it is important for the federal government to devote adequate resources to marketing, outreach, and education before and during open enrollment to help consumers understand their coverage options and encourage broad participation. Marketing, outreach, and education activities are critical to ensure that all consumers are aware of the annual open enrollment period and enroll by the deadline. These activities help reduce the number of uninsured Americans. In addition, by encouraging continuous coverage and promoting enrollment of a broad mix of both healthy and less healthy individuals, these activities help to stabilize the risk pool and promote more affordable premiums.

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<sup>3</sup> [https://www.ahip.org/wp-content/uploads/comment\\_letter\\_on\\_state\\_relief\\_and\\_empowerment\\_guidance.pdf](https://www.ahip.org/wp-content/uploads/comment_letter_on_state_relief_and_empowerment_guidance.pdf)

## **Conclusion**

Affordable, comprehensive coverage for everyone requires effective insurance markets with broad-based participation, clear and consistent rules and regulations, and fair competition. The continuing litigation over the individual mandate should not jeopardize important patient protections. Health insurance providers are committed to ensuring that essential consumer protections are not at risk. By working together, we can cover pre-existing conditions, guarantee coverage, and lower premiums for everyone.