Statement for Hearing on
"Protecting Americans With Pre-Existing Conditions"

Submitted to the
House Ways and Means Committee

January 29, 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 as we work on efforts to improve coverage, affordability, and access to high-quality care in our health care system. We thank the committee for focusing on protections for individuals with pre-existing medical conditions, and 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 focuses on the following:

- Our support for protecting Americans with pre-existing conditions;

- The importance of protecting consumers while ensuring coverage and care remain affordable, so that all Americans can get the coverage they need to improve their health and financial security; and

- The major challenges posed by the December 2018 court decision in litigation, *Texas v. United States,* which would invalidate the entire Affordable Care Act, including the law's pre-existing condition protections.

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. Health insurance providers that offer comprehensive coverage are required to provide coverage to everyone, including individuals with pre-existing conditions, and must not vary their premiums because of a person's health status or medical history. Through a broad range of innovative products, whether individual market plans or small and large group plans that can be combined with Health Savings Accounts (HSAs), our members provide strong consumer protections to all Americans without regard to health status or pre-existing conditions.

Americans Deserve Both Strong Protections and Affordable Coverage and Care

As we ensure strong protections for consumers and patients, we must also ensure that coverage and care remain affordable for them. It's critical to remember that the current federal pre-existing condition protections were implemented in tandem with provisions to incentivize broad enrollment in continuous coverage and a well-balanced risk pool.

Affordable coverage requires everyone to participate in the market—those who are healthy, as well as those who are sick and are working to manage their chronic conditions. Broad participation leads to a balanced risk pool, which keeps coverage more affordable for everyone.

Below we highlight four types of policies that ensure broad participation to make coverage more affordable:

Continuous Coverage Requirements: Enrollment incentives encourage people to get and stay covered at all times—not just when they are sick and need the most intense and costly kinds of care. While the individual mandate may be the most familiar policy approach to continuous coverage, other policies for promoting continuous coverage before individuals become ill or injured include premium surcharges (or limitations on the availability of premium tax credits), limited plan choices, or waiting periods. Some policy analysts have also suggested creating a

mechanism for "auto-enrollment" in coverage, although such approaches would be operationally and technically complex to administer and raise other concerns (e.g., data privacy).

Defined Open Enrollment and Special Enrollment Periods: As established under current federal law, annual open enrollment periods and special enrollment periods also play an important role in preventing people from obtaining coverage only when they have serious health care needs.

Premium Assistance: As established under current federal law, advance premium tax credits (APTCs) make health coverage more affordable for millions of low- and middle-income Americans who buy health insurance coverage on their own, without the assistance of an employer or through a federal program such as Medicare and Medicaid.

A Platform for Consumers to Shop for and Compare Coverage: As established under current federal and state laws, Health Insurance Exchanges provide consumers an easy way to compare coverage options in their area. Exchanges also provide a central platform to: (1) determine eligibility for premium assistance; (2) identify plan options that cover care regardless of pre-existing conditions; (3) facilitate enrollment; (4) consistently limit enrollment to defined open enrollment and special enrollment periods; and (5) provide consumers with information about plan quality based on a standard set of quality measures.

Pending Litigation Puts Protections and Affordability at Risk

Because of our commitment to affordable, comprehensive coverage for all Americans, health insurance providers are gravely concerned about a recent court decision that puts everyone at risk.

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 (ACA)—including the law's pre-existing condition protections, along with other statutory provisions designed to promote broad market participation. This ruling was issued in litigation, *Texas v. United States*, which challenges the constitutionality of the ACA.

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 Americans with pre-existing conditions.

AHIP submitted an amicus brief[1] in June 2018 opposing the lawsuit filed by Texas and 19 other states. We argued in our brief that the ACA's protections for individuals with pre-existing conditions should remain law regardless of how the court ruled on the constitutionality of the individual mandate. We will continue to engage on this issue, in the legal arena and through our broader advocacy efforts, as the appeals process moves forward.

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.

[1] https://www.ahip.org/wp-content/uploads/2018/10/Texas-v.-United-States-USDC-ND-Tex..pdf