



**Statement for the Record Submitted by  
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Hearing of the House Committee on Oversight and Reform “The Trump Administration's  
Attack on the ACA: Reversal in Court Case Threatens Health Care for Millions of  
Americans”  
Wednesday, July 10, 2019**

March of Dimes, a unique collaboration of scientists, clinicians, parents, members of the business community, and other volunteers representing every state, the District of Columbia and Puerto Rico, appreciates this opportunity to submit testimony for the record for the hearing, “The Trump Administration's Attack on the ACA: Reversal in Court Case Threatens Health Care for Millions of Americans.”

The Patient Protection and Affordable Care Act 2010 (ACA) contains a range of provisions to help ensure comprehensive, meaningful, and affordable coverage for women, children and families. Among its most important and popular provisions is the fact that the ACA requires health plans to cover all individuals regardless of pre-existing conditions. The law ensures that all Americans can obtain coverage without worrying that they will be subject to discrimination, whether outright denial of all coverage or carve outs related to the benefits they are most likely to need. These pre-existing condition provisions are vital to the health and wellbeing of millions of Americans and their families. These provisions have not only ensured access to care for individuals with serious and chronic conditions, but have protected entire families who may otherwise have been unable to obtain coverage.

The ACA included a variety of provisions which aim to expand access to care, its quality, and its affordability. Health plans may not base premiums on health status or deny coverage based on pre-existing conditions, such as being born with a birth defect or being pregnant. However, the requirement that all plans cover individuals with pre-existing conditions is not enough on its own to ensure people have access to the care they need. The ACA also addressed the availability of ten categories of Essential Health Benefits (EHBs) and protected consumers against high premiums and out-of-pocket costs. Together, this package of provisions guarantee access, quality and affordability of coverage for women and their families.

The ACA's requirement that all plans cover 10 categories of EHBs was a critical step toward ensuring that Americans have access to the services and benefits they need. This provision prevents plans from excluding certain types of services, such as maternity care. Plans must also cover other types of services vital to maternal and child health, including well-woman and well-child preventive care, prescription drugs, and mental health services.

It is difficult to overstate the importance of these essential health benefits. Experience prior to passage of the ACA demonstrated abundantly that people with pre-existing conditions were often subject to benefits carve outs that targeted the services they were mostly likely to need. For example, prior to the ACA only 13% of plans in the individual market offered maternity care.<sup>i</sup> Only 11 states had passed mandates requiring individual plans to cover maternity benefits. As a

result, too many families faced untenable choices between having a child and preserving their financial wellbeing.

In addition to EHBs, the ACA addressed a range of issues related to the affordability of coverage. Cost has been historically and remains one of the greatest barriers to care; if people are unable to afford insurance coverage, health care becomes all but inaccessible. When that relates to a pregnant woman or a woman attempting to become pregnant, it is simply unacceptable. According to a 2017 Kaiser Family Foundation study, half of uninsured women went without or delayed care because of costs. Almost as many postponed preventive services (47%) and skipped a recommended medical test or treatment (42%).<sup>ii</sup> In October 2018, March of Dimes issued *Nowhere to Go: Maternity Care Deserts Across the U.S.*, a report showing that over 5 million women currently live in a maternity care desert.<sup>iii</sup> One-third of this country's counties lack hospitals with services for pregnant women. About 150,000 babies are born in maternity care deserts every year. We need to increase, not decrease, access to these services in these areas.

We know that Medicaid expansion through ACA has had a positive impact on increasing access to maternity care. 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.<sup>iv</sup> This same research showed that states that expanded Medicaid had better results in addressing persistent racial disparities in maternal health and maternal mortality. Additionally, better health for women of childbearing age meant better health for their infants. States that expanded Medicaid saw a 50 percent greater reduction in infant mortality as compared to non-expansion states.

Under the ACA, policies sold on the individual and small-group markets are prohibited from charging women higher premiums. This practice, known as gender rating, had been used by 92% of individual market plans.<sup>v</sup> Elimination of gender rating removes a significant penalty imposed on women simply because they are women. In other words, thanks to the ACA, being a woman is no longer a pre-existing condition.

In addition, health plans can no longer impose annual or lifetime caps. These caps imposed a dollar amount limit on coverage beyond which a policyholder was responsible for all costs. In the case of maternal and child health, these caps could be financially devastating for families. A woman with a high-risk pregnancy and delivery could easily exceed an annual cap if she experienced a complicated labor, leaving her unable to obtain needed care for the rest of the year. A baby born extremely pre-term who needed months of care in the neonatal intensive care unit could exhaust a lifetime cap before her first birthday.

In order to promote preventive health, the ACA required that certain preventive services be covered without cost-sharing. Among the important maternal and child health services that fall into this category are prenatal care, well-child visits, well-woman visits, screening for gestational diabetes, domestic violence screening, breastfeeding supplies such as breast pumps, and contraceptive services. As a result of these protections, a key barrier to services was removed for millions of women and families. The ACA included a range of other tools to control the cost of premiums and cost-sharing, such as advance premium tax credits to subsidize premiums, limits on annual cost-sharing, medical loss ratio provisions, premium increase reviews, and more.

This triad of pre-existing conditions protections, essential health benefits, and affordability provisions represent a three-legged stool that supports access to comprehensive, quality, affordable coverage for all Americans. If any one of these supports is removed, the others are inadequate to achieve those goals. All three must be maintained to protect and promote our nation's health, and especially the health of women, children and families. Without all these protections, a single complicated pregnancy or birth could result in a lifelong inability to gain insurance or coverage that is affordable. March of Dimes urges policymakers to make sure that these important consumer protections remain in place so that all women and infants can access the affordable, quality health care and services they need.

March of Dimes is deeply troubled by the filing and arguments in *Texas v. United States*. This lawsuit appears to have been undertaken as a legal exercise divorced from any real appreciation of its ramifications for millions of Americans, their health and their wellbeing. With the decision of a federal court judge to declare the ACA unconstitutional in its entirety, the plaintiffs appear to be in a classic situation of "the dog that caught the car." They were caught off-guard by their own victory and now are unsure how to explain that they have argued for an action that will cost millions of Americans their health insurance coverage and potentially even their lives. Earlier this year, March of Dimes joined 37 other major patient groups in expressing our opposition to this decision and calling on the United States Court of Appeals for the Fifth Circuit to reject it.<sup>vi</sup> Yesterday, we joined other patients groups in reiterating our strong opposition urging the Fifth Circuit to prioritize patient protections when it hears oral arguments and reverse the lower court's decision, and respect the will of Congress by preserving health care for millions of Americans.

Thank you, Mr. Chairman and members of the committee, for holding today's hearing. March of Dimes looks forward to working with you on a bipartisan basis to continue the progress we have made in expanding access to health coverage for all Americans, including people with pre-existing conditions.

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<sup>i</sup> Affordable Care is Essential to Moms and Babies. March of Dimes. Available at:

<https://www.marchofdimes.org/advocacy/affordable-care-is-essential-to-moms-and-babies.aspx>

<sup>ii</sup> Women's Coverage, Access, and Affordability: Key Findings from the 2017 Kaiser Women's Health Survey. Kaiser Family Foundation. March 13, 2018. Available at: <https://www.kff.org/womens-health-policy/issue-brief/womens-coverage-access-and-affordability-key-findings-from-the-2017-kaiser-womens-health-survey/>

<sup>iii</sup> Nowhere to Go: Maternity Care Deserts Across the U.S. March of Dimes, October 2018. Available at:

[https://www.marchofdimes.org/materials/Nowhere\\_to\\_Go\\_Final.pdf](https://www.marchofdimes.org/materials/Nowhere_to_Go_Final.pdf)

<sup>iv</sup> 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>

<sup>v</sup> Women and the Health Care Law in the United States. National Women's Law Center. May 2013. Available at: <https://nwlc.org/resources/women-and-health-care-law-united-states/>

<sup>vi</sup> 38 Patient Groups Speak Out Against Recent Ruling in Texas v. US. Available at:

<https://www.marchofdimes.org/materials/121718%20Texas%20v%20US%20Burrito%20Coalition%20Statement%20-%20FINAL.pdf>