

**The Honorable Jan Schakowsky (D-IL)**

1. I am pleased that this hearing focused on the potentially fatal impact of the *Texas v. U.S.* lawsuit on millions of Americans living with pre-existing conditions. In my district, 313,800 people—or 53 percent of my constituents under the age of 64—have a pre-existing condition and could lose health insurance coverage if this dangerous Republican lawsuit is upheld.<sup>1</sup>

In your written testimony, you also noted that a successful lawsuit would eliminate the Medicare improvements that passed through the Affordable Care Act (ACA), including closure of the prescription drug coverage gap (“donut hole”), expanded coverage for preventative services, and lower out of pocket costs.

Over 57 million older Americans and people with disabilities rely on Medicare for their health insurance coverage; that translates to 18 percent of our nation’s population.<sup>2</sup> Since the passage of the ACA, millions of Medicare beneficiaries have saved over \$26 billion on prescription drug costs.<sup>3</sup> In 2016, 10.3 million Americans on Medicare utilized a free annual wellness visit and 40.1 million Americans on Medicare used free preventative services.<sup>4</sup> These benefits are only available because of the ACA.

- a. Please detail how this lawsuit, if upheld, would impact access to care and health care costs for Medicare beneficiaries.

Answer: In *Texas v. United States*, the lower court has held that the entire ACA should be struck down. If this decision is upheld, the ACA’s changes to Medicare would no longer be in force. As a result, policies like the ACA’s steps to close the prescription drug “donut hole,” elimination of cost-sharing for Medicare preventive services, and coverage for an annual wellness exam would be repealed. As a result, Medicare beneficiaries could face higher costs for drugs and preventive and primary care.

- b. How would the elimination of innovative, incentive-based reimbursement for providers impact the quality of health care for Medicare beneficiaries?

Answer: The ACA included a number of policies designed to encourage high-value care for Medicare beneficiaries, including authorizing certain changes to the way Medicare pays providers. If the lower court decision in *Texas v. United States* is upheld, those provisions would be repealed. This would create

---

<sup>1</sup> <https://www.americanprogress.org/issues/healthcare/news/2017/04/05/430059/number-americans-pre-existing-conditions-congressional-district/>

<sup>2</sup> <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/CMSProgramStatistics/Dashboard.html>

<sup>3</sup> <https://www.cms.gov/newsroom/press-releases/nearly-12-million-people-medicare-have-saved-over-26-billion-prescription-drugs-2010>

<sup>4</sup> <https://www.cms.gov/newsroom/press-releases/nearly-12-million-people-medicare-have-saved-over-26-billion-prescription-drugs-2010>

significant confusion in the Medicare payment process as the law is fully incorporated into Medicare's underlying payment methodologies, and it would deprive CMS of tools that are lowering costs and improving the quality of care.

**The Honorable Tony Cardenas (D-CA)**

1. Ms. Linke Young, it is my understanding that some estimates have found as many as 27% of Americans under 65 have health conditions that could leave them without access to insurance after this court ruling. Is it correct that before the ACA preexisting conditions that have resulted in loss of coverage included: AIDS/HIV, lupus, alcohol abuse/drug abuse with recent treatment, severe mental disorders such as bipolar disorder or an eating disorder, Alzheimer's/dementia, multiple sclerosis, rheumatoid arthritis, fibromyalgia and other inflammatory joint disease, muscular dystrophy, cancer, severe obesity, cerebral palsy, organ transplant, congestive heart failure, paraplegia, coronary artery/heart disease, bypass surgery, paralysis, Crohn's disease/ulcerative colitis, Parkinson's disease, chronic obstructive pulmonary disease/emphysema, pending surgery or hospitalization, diabetes mellitus, pneumocystis pneumonia, epilepsy, pregnancy or expectant parent, hemophilia, sleep apnea, hepatitis C, stroke, kidney disease, renal failure, and gender dysphoria?

Answer: Yes. Estimates suggest that has many as half of non-elderly adults have a pre-existing condition that could affect their insurance coverage if they had attempted to purchase coverage in the pre-ACA individual market.<sup>5</sup> Prior to enactment of the ACA, issuers in most states were able to deny coverage to an individual based on a health status factor; therefore, nearly any medical condition could potentially lead to a coverage denial. To get a sense of the kinds of health care conditions that typically led to coverage denials, exclusions, or higher charges, researchers have examined the underwriting guidelines in use prior to the ACA's enactment. All of the conditions noted in your question are described by these researchers as reflected in pre-ACA underwriting guidelines as common bases for coverage denials.

2. Is it true that before the ACA conditions that made it harder to purchase a health insurance plan included: Acne, allergies, anxiety, asthma, basal cell skin cancer, depression, ear infections, fractures, high cholesterol, hypertension, incontinence, joint injuries, kidney stones, menstrual irregularities, migraine headaches, being overweight, restless leg syndrome, tonsillitis, urinary tract infections, varicose veins, and vertigo?

Answer: Yes, these conditions are described by researchers as reflected in pre-ACA underwriting guidelines as common bases for adverse underwriting actions.

---

<sup>5</sup> See Emily Gee, Center for American Progress, Number of Americans with Pre-Existing Conditions by Congressional District, April 5, 2017, <https://www.americanprogress.org/issues/healthcare/news/2017/04/05/430059/number-americans-pre-existing-conditions-congressional-district/>. See also Center for Medicare & Medicaid Services, At Risk: Pre-Existing Conditions Could Affect 1 in 2 Americans, 2009, <https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/preexisting.html> (estimating 19 to 50 percent of non-elderly Americans have some type of pre-existing health condition); Gary Claxton et al, Kaiser Family Foundation, Pre-existing Conditions and Medical Underwriting in the Individual Insurance Market Prior to the ACA, December 12, 2016, <https://www.kff.org/health-reform/issue-brief/pre-existing-conditions-and-medical-underwriting-in-the-individual-insurance-market-prior-to-the-aca> (estimating 27 percent of non-elderly Americans have a pre-existing condition).

3. Is it also correct that some plans before the ACA counted rape and domestic violence as preexisting conditions?

Answer: Prior to enactment of the Affordable Care Act, some states had laws that prohibited issuers from considering past domestic violence as a health status factor that could lead to coverage denials, but others did not.<sup>6</sup> In states that did not prohibit the practice, issuers could consider domestic violence in the underwriting process.

---

<sup>6</sup> See, e.g., Les Blumenthal, *Domestic Violence as Pre-Existing Condition? 8 States Still Allow It*, McClatchy Newspapers, October 4, 2009, <https://www.mcclatchydc.com/news/politics-government/article24557818.html>.

**The Honorable Debbie Dingell (D-MI)**

1. Ms. Linke Young, your written testimony notes that the position of the state attorneys general in *Texas v. U.S.* would impact our entire health system, not just the individual market and Medicaid. Can you describe the different ways that individuals with pre-existing conditions who have employer-sponsored coverage would be affected?

Answer: If the lower court decision in *Texas v. United States* is upheld, the ACA's market reforms for those with employer-based coverage would be repealed. This includes:

- Repeal of the requirement that health plans impose a maximum out-of-pocket limit on individuals' and families' total annual out-of-pocket costs.
- Repeal of the prohibition on the use of annual and lifetime dollar limits on benefits received.
- Repeal of the requirement that plans provide equitable coverage for emergency services received out-of-network.
- Repeal of the requirement that plans cover preventive services with no cost-sharing.
- Repeal of the requirement that plans provide information about their benefits in a standard format.
- Repeal of the requirement that young adults be able to stay on their parents' plan until age 26.