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## Commentary: At Its 10th Anniversary, the ACA Is Helping to Address Our Public Health and Economic Crisis

By Tara Straw

The unprecedented public health crisis created by the COVID-19 pandemic is testing our health care system and economy. Now ten years old, the Affordable Care Act (ACA) has made health insurance and health care more available and affordable for tens of millions of people — and it’s bolstered the country’s ability to deal with both the public health crisis and the recession that’s likely to result.

Trump Administration actions have eroded some of these gains, and just yesterday, the President reiterated his support for the pending lawsuit to repeal the law,<sup>1</sup> which threatens to reverse them. And policymakers need to do more — quickly — to secure coverage and care for the remaining uninsured, make COVID-19 testing and treatment affordable for all, enhance health care quality, and improve our nation’s public health infrastructure. Nonetheless, due to the ACA:

- **About 20 million people gained comprehensive health coverage, driving the uninsured rate to a historic low in 2016.**<sup>2</sup> (See Figure 1.) As the uninsured rate has fallen, the share of people avoiding needed care due to cost has also dropped.<sup>3</sup>
- **Most people who lose job-based health insurance in a recession will have affordable coverage options.** The ACA’s Medicaid expansion for low-income adults and premium tax credits that help low- and moderate-income families afford marketplace coverage will be available to people who lose their jobs or see their income fall, enabling them to afford care.

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<sup>1</sup> Sam Stein, “Trump reaffirms that his administration will go forward with lawsuit to end the Affordable Care Act: ‘what we want to do is terminate it’ and replace it with something better,” March 22, 2020, <https://twitter.com/samstein/status/1241869302560628738>.

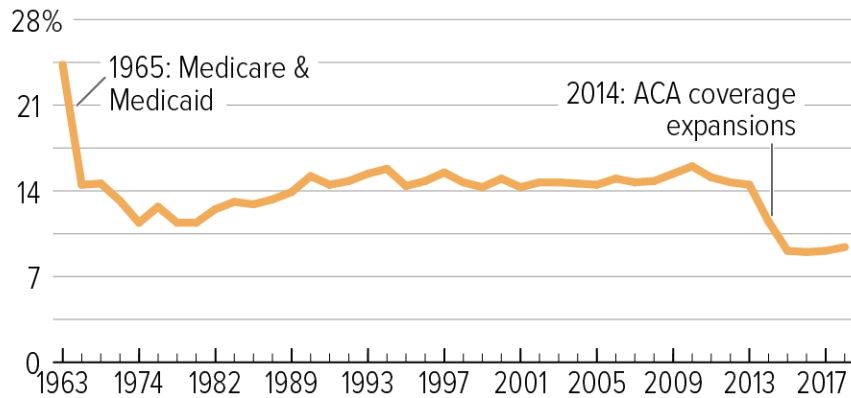
<sup>2</sup> “Chartbook: Accomplishments of Affordable Care Act,” CBPP, March 19, 2019, <https://www.cbpp.org/research/health/chart-book-accomplishments-of-affordable-care-act>.

<sup>3</sup> *Ibid.*

FIGURE 1

## Affordable Care Act Coverage Gains Drove Uninsured Rate to Historic Low

Share of population without health insurance



Note: For 1989 and later, data are annual. For prior years, data are generally biannual.

Source: Council of Economic Advisers analysis of National Health Interview Survey (NHIS) and supplemental sources, updated by CBPP from NHIS data

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- **Insurers can no longer discriminate against people with pre-existing conditions.** Roughly 54 million non-elderly people have health conditions for which insurers commonly denied coverage.<sup>4</sup> Before the ACA, some of the people at the highest risk from COVID-19<sup>5</sup> — such as those with chronic lung conditions and older adults, who are disproportionately likely to have pre-existing conditions — could have been charged more by insurers, denied coverage for their condition, or refused coverage altogether.
- **Health plans must cover preventive services at no cost.** This will pave the way for coverage of a COVID-19 vaccine, when one is available.
- **Small-group and individual market plans must cover ten categories of essential health benefits.** These include items and services that people with COVID-19 or other serious health conditions need, such as physician care, lab services, and hospitalization.
- **Insured people who need hospitalization and other expensive care are protected from catastrophically high out-of-pocket costs.** Prior to the ACA, tens of millions of people with employer coverage were enrolled in plans that did not cap their out-of-pocket costs, imposed annual and lifetime limits, or both. The law limits the total out-of-pocket costs (including deductibles, copays, and coinsurance) people must pay under their plans each year

<sup>4</sup> Gary Claxton *et al.*, “Pre-Existing Condition Prevalence for Individuals and Families,” Kaiser Family Foundation, October 4, 2019, <https://www.kff.org/health-reform/issue-brief/pre-existing-condition-prevalence-for-individuals-and-families/>.

<sup>5</sup> Wyatt Koma *et al.*, “How Many Adults Are at Risk of Serious Illness If Infected with Coronavirus?” Kaiser Family Foundation, March 17, 2020, <https://www.kff.org/global-health-policy/issue-brief/how-many-adults-are-at-risk-of-serious-illness-if-infected-with-coronavirus/>.

and prohibits insurers from imposing lifetime and annual dollar limits on essential health benefits.

- **Medicaid expansion has helped stabilize hospital finances.** Hospital uncompensated care costs have fallen in all but one state since the ACA took effect, and states that took up the ACA's option to expand Medicaid to low-income adults have seen especially large coverage gains and drops in uncompensated care.<sup>6</sup> Medicaid expansion is associated with improved hospital financial performance, and rural hospitals in states that have expanded Medicaid are less likely to close.<sup>7</sup>
- **Reductions in hospital infections and other hospital-acquired conditions have saved tens of thousands of lives** — although more progress is badly needed.<sup>8</sup>
- **Public health received a boost.** The ACA established the first and only mandatory funding stream dedicated to public health, the Prevention and Public Health Fund, to seed community-based public health and prevention efforts. It also created a program to increase state and local epidemiology laboratory capacity and identify and monitor infectious diseases.<sup>9</sup>

## Trump Administration Actions Have Eroded ACA Gains

Unfortunately, Trump Administration actions and state resistance to the ACA have eroded some of the law's gains and curtailed needed protections. From the start, the Administration backed congressional repeal efforts, including the House-passed bill that would have caused 19 million more people to be uninsured this year.<sup>10</sup>

Having failed at repeal in Congress, the Administration has used its regulatory power to undermine coverage, contributing to a rise in uninsurance over the past several years.<sup>11</sup> (See Figure 2.)

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<sup>6</sup> Matt Broaddus, "ACA Medicaid Expansion Drove Large Drop in Uncompensated Care," CBPP, November 6, 2019, <https://www.cbpp.org/blog/aca-medicaid-expansion-drove-large-drop-in-uncompensated-care>.

<sup>7</sup> Richard C. Lindrooth *et al.*, "Understanding the Relationship Between Medicaid Expansions and Hospital Closures," *Health Affairs*, January 2018, <https://www.healthaffairs.org/doi/10.1377/hlthaff.2017.0976>.

<sup>8</sup> 2017 Economic Report of the President, "Reforming the Health Care System," January 2017, p. 283, [https://obamawhitehouse.archives.gov/sites/default/files/docs/chapter\\_4-reforming\\_health\\_care\\_system\\_2017.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/chapter_4-reforming_health_care_system_2017.pdf).

<sup>9</sup> Leana S. Wen, "The ACA Replacement Would Devastate America's Health," STAT, March 22, 2017, <https://www.statnews.com/2017/03/22/aca-replacement-public-health/>.

<sup>10</sup> Congressional Budget Office, "H.R. 1628, American Health Care Act of 2017," May 24, 2017, <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr1628aspassed.pdf>.

<sup>11</sup> "Chartbook: Accomplishments of Affordable Care Act."

For example, the Administration has:

- Invited states to put their Medicaid programs at risk with an ill-considered block grant that would cap the federal matching contribution instead of the flexible formula that guarantees that as Medicaid expenditures rise, the federal government continues to pay its share.<sup>12</sup>
- Encouraged states to take coverage away from Medicaid enrollees who can't document that they work a certain number of hours each month.<sup>13</sup>
- Made it harder for consumers to get ACA marketplace coverage when it slashed by 90 percent outreach and marketing and funding for navigators that help people enroll in coverage.<sup>14</sup>
- Worked with Congress to eliminate the requirement that people have health insurance coverage, likely resulting in more young and healthy people entering this public health crisis uninsured.<sup>15</sup>
- Created new avenues for insurers to discriminate against consumers with health conditions by authorizing the expansion of short-term plans, which can deny coverage, exclude needed benefits, and impose harsh limits on how much it will pay for a medical event.<sup>16</sup> Because of these limitations, people enrolled in these plans may find themselves effectively uninsured in this public health emergency.
- Created a climate of fear that has discouraged eligible immigrant families from enrolling in coverage. The Administration's harsh anti-immigrant stance — including changing how Medicaid eligibility affects decisions concerning who can lawfully enter the United States and which immigrants here lawfully can adjust to lawful permanent resident status — has made some lawfully present immigrants afraid to enroll in Medicaid and subsidized marketplace coverage, even though they are eligible.<sup>17</sup>

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<sup>12</sup> Jessica Schobel *et al.*, “The Trump Administration’s Medicaid Block Grant Guidance: Frequently Asked Questions,” CBPP, February 6, 2020, <https://www.cbpp.org/research/health/the-trump-administrations-medicaid-block-grant-guidance-frequently-asked-questions>.

<sup>13</sup> Jennifer Wagner and Jessica Schobel, “States’ Experiences Confirming Harmful Effects of Medicaid Work Requirements,” CBPP, updated October 22, 2019, <https://www.cbpp.org/health/states-experiences-confirming-harmful-effects-of-medicaid-work-requirements>.

<sup>14</sup> Tara Straw *et al.*, “Strong Demand Expected for Marketplace Open Enrollment, Despite Administration Actions,” CBPP, October 31, 2018, <https://www.cbpp.org/research/health/strong-demand-expected-for-marketplace-open-enrollment-despite-administration>; Karen Pollitz, Jennifer Tolbert, and Maria Diaz, “Data Note: Limited Navigator Funding for Federal Marketplace States,” Kaiser Family Foundation, November 13, 2019, <https://www.kff.org/private-insurance/issue-brief/data-note-further-reductions-in-navigator-funding-for-federal-marketplace-states/>.

<sup>15</sup> Matt Fiedler, “Coverage Gains Among Higher-Income People Suggest the ACA’s Individual Mandate Had Big Effects on Coverage,” Brookings Institution, May 31, 2018, <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2018/05/31/new-evidence-the-acas-individual-mandate-substantially-increased-insurance-coverage/>.

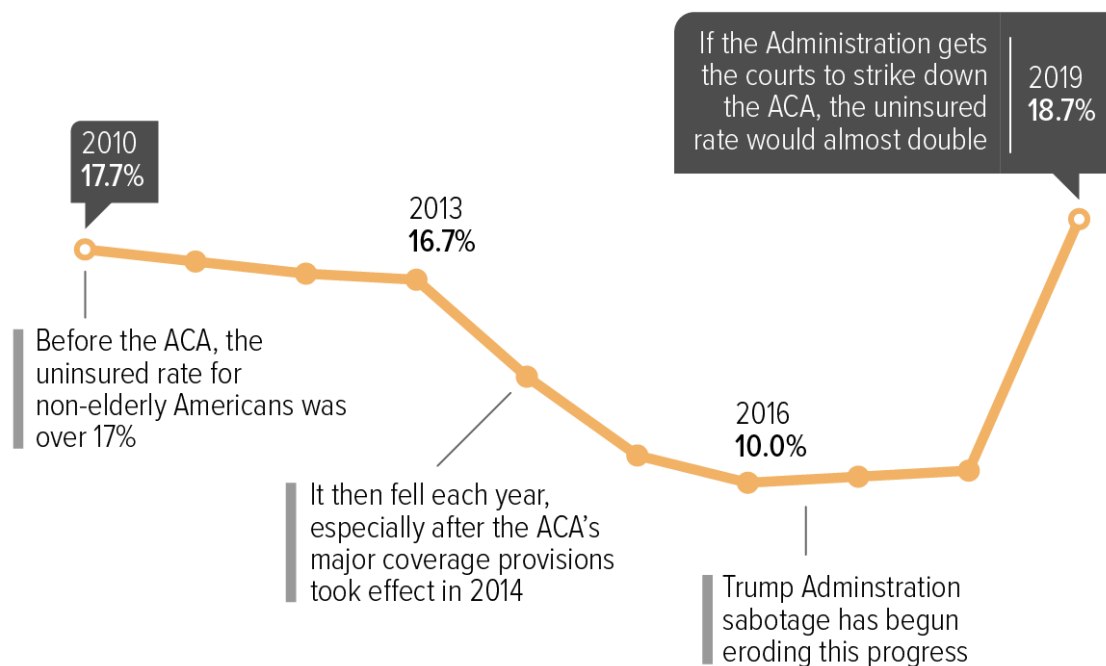
<sup>16</sup> Sarah Lueck, “Key Flaws of Short-Term Health Plans Pose Risks to Consumers,” CBPP, September 20, 2018, <https://www.cbpp.org/research/health/key-flaws-of-short-term-health-plans-pose-risks-to-consumers>.

<sup>17</sup> Robert Greenstein, “Trump Administration Rule Will Harm Immigrant Families and Ill-Serve America,” CBPP, August 12, 2019, <https://www.cbpp.org/press/statements/trump-administration-rule-will-harm-immigrant-families-and-ill-serve-america>.

Meanwhile, some states have also failed to maximize the ACA’s benefits for their residents. More than 2 million uninsured people fall into the “coverage gap” in the 14 states that haven’t implemented expansion<sup>18</sup>: they make too much to qualify for Medicaid under existing eligibility rules, but not enough to qualify for the ACA’s premium tax credits to afford private coverage. Many of these people are working in industries that are on the front lines of combatting the COVID-19 outbreak or will be particularly hard hit by the coming recession: they work in restaurants and bars, as janitors, and as home health aides, among other occupations. And as people lose their jobs or see sharp drops in income over the coming months, states’ failure to expand Medicaid means that fewer people will have this safety net available, and more people will face health care hardships.

FIGURE 2

## Uninsured Rate Would Spike If Supreme Court Strikes Down ACA



Source: CBPP estimate based on Urban Institute (2019)

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## ACA Repeal Lawsuit Could Worsen Public Health and Economic Crisis

Even as the nation struggles to respond to COVID-19 and the recession that’s likely to result, the Administration is still championing repeal of the ACA through the courts.<sup>19</sup> A group of Republican

<sup>18</sup> Rachel Garfield, Kendal Orgera, and Anthony Damico, “The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid,” Kaiser Family Foundation, January 14, 2020, <https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/>.

<sup>19</sup> Christen Linke Young, “The Trump DOJ has taken an unexpected and unworkable position on the ACA,” Brookings Institution, September 18, 2019, <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2019/09/18/the-trump-doj-has-taken-an-unexpected-and-unworkable-position-on-the-aca/>.

state attorneys general and the Trump Administration are challenging the ACA's constitutionality. While legal experts, including some opposed to the ACA and who supported other legal challenges to the law, almost uniformly agree that the arguments in this case are "absurd" or "ludicrous," the Fifth Circuit Court of Appeals sided with the Administration and plaintiff states on part of their arguments and sent the case back to a hostile District Court to determine how much of the ACA should be struck down.<sup>20</sup> The Supreme Court will hear the case in the fall.

This means that as states and individuals are urging the federal government to do more to strengthen health coverage in the face of the public health emergency, the Administration will be filing briefs to end insurance for 20 million people,<sup>21</sup> let insurers again discriminate based on pre-existing conditions, permit skimpier coverage, and remove limits on catastrophic patient costs.

The current public health crisis has exposed many of the remaining gaps in the American health system, and much more should be done to cover the remaining uninsured, make coverage and care more affordable, and improve health care quality. But the ACA provides a solid foundation to build on, while overturning the law would leave the nation far less prepared to respond to the health and economic challenges ahead.

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<sup>20</sup> See, for example: Jonathan H. Adler and Abbe R. Gluck, "What the Lawless Obamacare Ruling Means," *New York Times*, December 15, 2018, <https://www.nytimes.com/2018/12/15/opinion/obamacare-ruling-unconstitutional-affordable-care-act.html>; Dylan Scott, "The new anti-Obamacare lawsuit heads to court today. Scholars think it's 'absurd,'" *Vox*, September 5, 2018, <https://www.vox.com/policy-and-politics/2018/6/8/17441512/obamacare-lawsuit-texas-trump>; Ilya Somin, "Thoughts on the Trump Administration's Decision Not to Defend Obamacare," *Reason*, June 9, 2018, <https://reason.com/2018/06/09/thoughts-on-the-trump-administrations-de/>.

<sup>21</sup> Jessica Banthin *et al.*, "Implications of the Fifth Circuit Court Decision in Texas v. United States," Urban Institute, December 19, 2019, <https://www.urban.org/research/publication/implications-fifth-circuit-court-decision-texas-v-united-states>.