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CBO Analysis Refutes Ryan Claims that House Health Bill Maintains Protections for Pre-Existing Conditions

By Jacob Leibenluft

As the House moved to a vote on the American Health Care Act (AHCA) without a cost estimate from the Congressional Budget Office (CBO), Republican leaders promised that the MacArthur and Upton amendments — which paved the way for passage — would maintain protections for people with pre-existing conditions. On May 2, Speaker Paul Ryan’s office published a document that asserted a set of “verified” statements about the impact of these amendments, which allow states to get waivers from the Affordable Care Act’s (ACA) key consumer protections.¹ The CBO analysis released May 24,² however, entirely refutes these statements, showing how the amendments place people with pre-existing conditions at severe risk of ending up uninsured or losing access to needed services.

The sharp disconnect between Speaker Ryan’s claim and the CBO analysis, detailed below, illustrates why lawmakers need CBO’s analysis of legislation *before* they vote on it. The analysis would have provided much-needed clarity on the impact of these amendments before the House’s May 4 vote.

What Speaker Ryan claimed: “VERIFIED: The MacArthur amendment protects people with pre-existing conditions.”

What CBO says: In states that take full advantage of the MacArthur amendment’s waivers: “over time, less healthy individuals (including those with preexisting or newly acquired medical conditions) would be unable to purchase comprehensive coverage with premiums close to those under current law and might not be able to purchase coverage at all.”

CBO makes clear that in states taking full advantage of the MacArthur amendment’s waivers to allow insurers to charge higher premiums based on health status, people with pre-existing conditions

¹ Speaker Ryan Press Office, “VERIFIED: MacArthur and Upton Amendments Strengthen AHCA, Protect People with Pre-Existing Conditions,” May 2, 2017, <http://www.speaker.gov/general/verified-macarthur-amendment-strengthens-ahca-protects-people-pre-existing-conditions>.

² “Congressional Budget Office Cost Estimate: H.R. 1628, American Health Care Act of 2017, As passed by the House of Representatives on May 4, 2017,” May 24, 2017, <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr1628aspassed.pdf>.

would be at risk of losing the *ability to purchase coverage altogether* due to “extremely high premiums.” CBO also emphasizes that — as health policy experts had noted prior to the House vote³ — the MacArthur amendment endangers *all* people with pre-existing conditions, including those who maintain “continuous coverage.” As CBO writes, the bill would “potentially allow the spread of medical underwriting [that is, charging people higher premiums based on their health status] to the entire nongroup market in a state rather than limiting it to those who did not have continuous coverage.”

People with pre-existing conditions or other serious health needs would also be harmed in states that took only *partial* advantage of the MacArthur amendment waivers related to the ACA’s Essential Health Benefits (EHB) requirement, using them to scale back those standards for what plans have to cover. Since key services would no longer be covered, “out-of-pocket spending on maternity care and mental health and substance abuse services could increase by thousands of dollars in a given year for the nongroup enrollees who would use those services.” CBO also explains that waivers of essential health benefits would let plans go back to putting annual and lifetime limits on coverage, exposing people with expensive pre-existing conditions to catastrophic costs.

What Speaker Ryan claimed: “VERIFIED: It provides a strict process to receive a waiver from federal mandates.”

What CBO says: CBO projects that half of Americans would live in states implementing MacArthur amendment waivers: one-sixth of Americans live in states that would let insurers widely discriminate based on health status and eliminate the EHB requirement, and one-third would live in states that would scale back EHB standards or ease the ban on charging higher premiums based on pre-existing conditions.

The report gives no indication that the near-automatic waiver approval process would be a check on removing these protections for sicker people. And it makes clear that once the waiver process is in place, states will face significant market pressures to take them, especially states with “smaller markets, fewer insurers, and higher premiums.” CBO also notes that “[s]tates would also face some pressure from insurers to apply for a waiver from the community-rating requirement because it would provide them with an additional tool to manage the risk posed by people who wait to enroll in coverage until they face high medical expenses.”

What Speaker Ryan claimed: “VERIFIED: It gives states flexibility in addressing health care premiums.”

What CBO says: Sticker-price premiums fall because sick people are denied coverage (in states that take full waivers), because “insurance policies would provide fewer benefits,” and because “a younger and healthier population would be purchasing the insurance,” which would lower average premiums. Meanwhile, premiums paid by consumers (and other out-of-pocket costs) would increase for millions because the bill would cut tax credits by hundreds of billions of dollars and lead to large benefit gaps and higher deductibles.

³ Matthew Fiedler, “New amendment to GOP health bill effectively allows full elimination of community rating, exposing sick to higher premiums,” Brookings Institution, April 27, 2017, <https://www.brookings.edu/blog/up-front/2017/04/27/new-amendment-to-gop-health-bill-effectively-allows-full-elimination-of-community-rating-exposing-sick-to-higher-premiums/>.

CBO makes clear that the House bill offers states no flexibilities that let them lower premiums by actually lowering health care costs.⁴ Instead, it offers them three bad options:

- If states fully took waivers eliminating or sharply rolling back community rating and EHBs, as described above, the result would be a market where less healthy people would find coverage unavailable at any price.
- If states took waivers limiting the Essential Health Benefits, CBO explains that non-group enrollees would have to pay thousands of dollars more out of pocket for maternity care and mental health and substance abuse services, as noted above. Additionally, “enrollees who use expensive drugs could see large increases in out-of-pocket spending.” CBO offers the specific example of maternity coverage, concluding that it would likely be excluded from standard plans and sold separately with premiums exceeding \$1,000 per month.
- If states didn’t take waivers, both healthy and sicker people would see their costs rise, on average, as a result of higher premiums for those who continue to buy insurance, reduced tax credits to pay for those premiums, and higher out-of-pocket costs due to plans’ increased deductibles. CBO notes that, “for the half of the population in states that would not request waivers, the effects that CBO and JCT [the Joint Committee on Taxation] estimate for the House-passed version are similar to those in the prior estimates.” Based on those prior estimates, a Brookings analysis concluded that average premiums for a fixed population of individual-market enrollees would *rise* — and would increase even further after taking into account that the plans were skimpier, with higher deductibles and out-of-pocket costs.⁵

It should also be noted that in any of the three cases, all states would be harmed by the bill’s \$834 billion in cuts to Medicaid — a 24 percent cut in 2026 — which would result in 14 million fewer people being covered.

What Speaker Ryan claimed: “VERIFIED: The Upton amendment adds another layer of security for people with pre-existing conditions.”

What CBO says: The Upton amendment’s \$8 billion in funding for high-risk pools “would not be sufficient to substantially reduce the large increases in premiums for high-cost enrollees.”

That is, the \$8 billion would not keep premiums and out-of-pocket costs at affordable levels for people with pre-existing conditions in states that make full use of the MacArthur amendment’s waivers.

⁴ Jacob Leibenluft, Aviva Aron-Dine, and Edwin Park, “CBO Continues to Show Millions Would Pay More for Less Under House Republican Health Bill,” Center on Budget and Policy Priorities, May 25, 2017, <http://www.cbpp.org/research/health/cbo-continues-to-show-millions-would-pay-more-for-less-under-house-republican-health>

⁵ Matthew Fiedler and Loren Adler, “How will the House GOP health care bill affect individual market premiums?” Brookings Institution, March 16, 2017, <https://www.brookings.edu/blog/up-front/2017/03/16/how-will-the-house-gop-health-care-bill-affect-individual-market-premiums/>.

In fact, CBO points out that the Upton amendment actually *encourages more* states to take waivers that remove protections for people with pre-existing conditions: “Because the additional funds would be available only to states that had a waiver of the community-rating requirement, CBO and JCT expect the availability of the funding would increase the number of states choosing such a waiver.” In other words, the Upton amendment would have the perverse impact of putting more people with pre-existing conditions into a discriminatory market where they couldn’t afford insurance.