



March 7, 2017

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McConnell, and Minority Leader Schumer:

On behalf of the American College of Physicians (ACP), I am writing to express our strong opposition to the American Health Care Act (AHCA). While we have long advocated for improvements to the Affordable Care Act (ACA), this bill would go in the wrong direction, by repealing many essential provisions of the ACA and substituting policies that would rollback coverage and consumer protections for many millions of Americans, including radical changes in how Medicaid is financed. The College also strongly believes that complex legislation like this that would affect coverage and access for so many should not proceed to mark up without hearings, direct input from us and other health advocacy groups on the policies proposed in the AHCA, and a Congressional Budget Office (CBO) score on its impact. ACP [continues](#) to urge that any proposals to modify or improve on current law be released in detail beforehand—including both legislative language and CBO scoring and analysis—well before any committee mark or floor vote, and also with enough time to allow for hearings on the proposals.

The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 148,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

The AHCA will have a tremendously negative impact on access, quality, and cost of care compared to current law for patients seen by our members. As the College has [outlined previously](#), Congress must ensure that any possible changes to current law, including to the ACA, the Medicaid program, and the Children's Health Insurance Program should *first, do no harm* to patients and ultimately result in better coverage and access to care for essential medical services.

Along these lines, the College has developed [10 key questions](#) that should be asked of any legislation that would alter the coverage and consumer protections under current law and we have [shared](#) our

observations about how some of the policies that were reportedly being considered by the congressional leadership and authorizing committees *might* fall short in satisfying the criteria for improvement set out in those questions.

Now that there is agreed-upon legislation from the House leadership that will be marked up by the committees of jurisdiction, we write to offer our views about how the policy options that are under consideration in the AHCA fall far short of ACP's criteria for modifications and/or improvements to the ACA and are, therefore, unacceptable.

Medicaid:

ACP opposes provisions in AHCA that would cap future federal contributions to Medicaid and phase-out the higher federal match in states that have opted to expand Medicaid:

- **For states that expanded their Medicaid programs under the ACA**, the enhanced federal match will be discontinued as of January 1, 2020 except for those who are already enrolled and maintain continuous coverage; the bill also requires states to stop enrolling additional persons after that date. These changes would result in those states losing the enhanced federal match for the expansion population over time; it would also result in many of those currently enrolled under the expansion policy losing coverage as they cycle out of Medicaid. Because many Medicaid enrollees have fluctuating incomes, applying the enhanced federal funding match only to those who do not have a break in eligibility could lead to drastic funding cuts and reduced enrollment. These changes will also force states to reduce beneficiary eligibility or benefits starting in 2020, reversing much of the progress made by the ACA in driving down the uninsured rate to historic lows.
- **For both expansion and non-expansion states**, the proposed per capita cap on federal funding would be devastating to coverage and access to care for many of the more than 72 million people currently enrolled. Because most states are required by law to balance their budgets, a reduction in and/or a cap on federal matching funds will necessarily require them to greatly reduce benefits and eligibility and/or impose higher cost-sharing for Medicaid enrollees, most of whom cannot afford to pay more out of pocket—or alternatively and concurrently, reduce payments to physicians and hospitals (including rural hospitals that may be forced to close), enact harmful cuts to other state programs or raise taxes.

Medicaid is an essential part of the health care safety net. Studies show that reductions in Medicaid eligibility and benefits will result in many patients having to forgo needed care, or seek care in costly emergency settings and potentially have more serious and advanced illnesses resulting in poorer outcomes and even preventable deaths. As an organization representing physicians, we cannot support any proposals that would put the health of the patients our members treat at risk. We believe though that improvements can and should be made in Medicaid, including more options for state innovation, without putting the health of millions of patients at risk.

In addition, as explained below, we are concerned that many of the low income persons who will lose Medicaid coverage because of these radical changes in federal financing will find that the AHCA's tax credits to buy coverage are insufficient for them to buy affordable private insurance.

Premium and cost-sharing subsidies:

The AHCA's regressive age-based tax credits, combined with changes that will allow insurers to charge older people much higher premiums than allowed under current law, will make coverage unaffordable for poorer, sicker, and older persons, as well as for persons who live in high health care cost regions.

We strongly believe that the value of premium and cost-sharing subsidies should not be reduced compared to current law:

- Replacing income-based premium and cost-sharing subsidies, with age-based advance refundable tax credits worth only \$2,000 to \$4,000 for an individual, could put especially vulnerable persons at risk, including low-income families and children; children and adults with special health care needs, and older persons with chronic illnesses who are not yet eligible for Medicare. Indeed, a [study](#) based on the value of these tax credits determined that only 34 percent of a beneficiary's medical costs would be covered. This is much less than the ACA which ranges from about 60% to 94%, depending on the level of plan.
- In addition, by repealing the current law cost-sharing subsidies for persons with incomes up to 250% of the FPL, the AHCA would make out-of-pocket costs too high, and health care unaffordable, for many poorer patients. Without cost-sharing reductions, enrollees will be exposed to higher deductibles, co-payments and other cost sharing, potentially discouraging patients with limited financial means from seeking medically necessary care.
- The AHCA establishes a set amount for the tax credits per individual, without any adjustment for differences in the cost of care by locality. This will result in the tax credits being insufficient to make coverage affordable for patients in high health care cost areas, especially older, poorer and sicker ones.

Pre-existing conditions:

ACP is concerned that the AHCA's continuous coverage requirements for patients with pre-existing conditions will result in vulnerable persons being unable to afford coverage for conditions that prior to the ACA were treated as "declinable" by insurers.

Current law ensures that children, adolescents and adults with preexisting conditions cannot be denied coverage, be charged higher premiums, or be subject to cancellation. Before the ACA, individual insurance markets in all but five states maintained lists of so-called "declinable" medical conditions—including asthma, diabetes, arthritis, obesity, stroke, or pregnancy, or having been diagnosed with cancer in the past 10 years.

While the AHCA would not repeal the current law pre-existing condition protections, the 30 percent premium penalty for people who lose continuous coverage for 63 or more days greatly weakens them, putting people at risk of "declinable" conditions not being covered if they lose their current coverage and can't immediately find another option they can afford. Eroding the current law prohibition on such discriminatory practices with protection *only for people with continuous and uninterrupted coverage*, even if combined with optional funding to the states to establish high risk pools or reinsurance, could result in many of the 27% of Americans with preexisting conditions paying more for their coverage, if they can afford it at all, when they are trying to buy coverage in the individual insurance market.

There are many reasons why people with preexisting conditions may lose continuous coverage from an employer, such as being laid off, changing jobs, relocating, taking care of an ill family member, or starting one's own business. If there are not affordable options immediately available to them in the individual market or public programs like Medicaid, their coverage may lapse, and they would be subject to having to pay a 30% premium penalty for 12 months, which likely would put coverage out of reach for many. We anticipate that many of the people who lose continuous coverage for their pre-existing conditions will not find coverage that is affordable for them, especially given the inadequacy of the tax credit subsidies for poorer, older and sicker patients, per above, and the restrictions on Medicaid eligibility that will result from the AHCA's radical changes in financing the program.

The pre-ACA experience with high risk pools was that many had long waiting lists, and offered inadequate coverage with high deductibles and insufficient benefits.

Essential Health Benefits (EHB):

We are concerned that the repeal of the current law "actuarial value" requirements for essential health benefits will result in increased out-of-pocket costs for many necessary health care services, such as mental health benefits, maternity care and contraception, and preventive services.

While the AHCA maintains the 10 essential health benefit (EHB) categories, it repeals actuarial value requirements. While we agree with maintaining the EHB categories, we are concerned that the removal of actuarial value requirements will reduce the value of insurance coverage for those services, creating barriers to patients obtaining such services because they would have to pay more out of pocket for them.

If the EHB categories are removed in future iterations of the legislation, the result would be that people seeking coverage in the individual insurance market would likely find that doctor visits, prescription drugs, hospitalizations, mental and behavioral health services, prevention, and many other services would no longer be available, at least not at a premium they could afford. Employer-based coverage for such categories of services could also be eroded.

Many specific services under these categories, such as women's access to coverage for child-birth and contraception, could disappear from the benefits available. Also at great risk would be coverage for mental health and substance use disorder treatment; any reduction in coverage for substance use

disorder treatments would exacerbate the grave opioid misuse epidemic that is devastating individuals, families and communities across the country.

We know that coverage of evidence-based essential benefits in the individual market were inadequate in the past. Prior to [passage](#) of the ACA, 62% of individual market enrollees did *not* have coverage of maternity services, 34% did *not* have substance use disorder services, 18% did *not* have mental health services and 9% did *not* have coverage for prescription drugs.

Funding for essential health providers or women’s health services

ACP opposes legislative or regulatory restrictions that would deny or result in discrimination in the awarding of federal grant funds and/or Medicaid and Children’s Health Insurance Program funding to women’s health clinics that are qualified under existing federal law for the provision of evidence-based services including, but not limited to, provision of contraception, preventive health screenings, sexually transmitted infection testing and treatment, vaccines, counseling, rehabilitation, and referrals.

The ACHA calls for a one-year freeze on mandatory funding to a class of providers designated as prohibited entities—defined as those that are designated as non-profits by the Internal Revenue Service; are essential community providers (ECPs) primarily engaged in family planning and reproductive health services; provide abortions in cases that do not meet the Hyde amendment exception for federal payment; and that received over \$350 million in federal and state Medicaid dollars in fiscal year 2014. This funding includes Medicaid, the Children’s Health Insurance Program, Maternal and Child Health Services Block Grants, and Social Services Block Grants.

Patients receiving care from women’s health clinics, particularly those designated as ECPs, predominantly have incomes at or below the federal poverty line and no other source of covered or affordable care in their region. While alternative providers may be available in some locales (but not in others), they will be unable to absorb the patients seen by these clinics. As a result, denying funding to clinics that are otherwise qualified under federal law will deny millions of patients access to needed care, particularly for women with lower incomes and/or those who live in underserved areas. Further, ACP strongly objects to legislation that would discriminate against certain categories of qualified essential community providers.

In conclusion the College strongly believes in the *first, do no harm* principle. Therefore, we urge you to oppose the American Health Care Act because it would weaken key gains in coverage and consumer protections and lead to fewer people having access to affordable coverage. The changes that the AHCA would make to our healthcare system would adversely impact tens of millions of our patients, especially older, sicker, and poorer ones. We sincerely hope that you and Congress would still be willing to slow down the legislative process to work with us on ways to improve current law without undermining essential coverage and consumer protections for millions of patients as this proposal does.

Sincerely,

Nitin Damle

Nitin S. Damle, MD, MS, MACP
President

Cc: Members of House Energy and Commerce Committee, House Ways and Means Committee, Senate Finance Committee, Senate HELP Committee, House Budget Committee, Senate Budget Committee