



May 4, 2017

Vote “NO” on H.R. 1628, the American Health Care Act (AHCA)

Dear Representative:

On behalf of the American Civil Liberties Union (ACLU) and our more than two million members and supporters, we urge you to vote no on the American Health Care Act (AHCA). The ACLU opposes this legislation, which would repeal key provisions of the Affordable Care Act (ACA), block patients from accessing care at Planned Parenthood, place new restrictions on abortion coverage, and radically alter Medicaid’s funding and structure in such a way as to cause great harm to people with disabilities. Recent amendments to the bill would allow states to waive important ACA protections, making the legislation even more harmful and less deserving of support.

Access to health care, facilitated by insurance coverage, enables individuals to participate in the economic, social, and civic life of the nation, advancing equal opportunity and personal liberty. The AHCA threatens health care access for millions of people. According to the most recent analysis by the nonpartisan Congressional Budget Office (CBO), completed before additional changes to the legislation resulted in its impact being even more severe, the AHCA would cause 24 million people to lose insurance coverage by 2026, and force more than \$800 billion in Medicaid cuts over the next decade.¹ The burden of these drastic cuts would fall disproportionately on low-income people, racial and ethnic minorities, women, people with disabilities, and underserved communities that already face substantial obstacles to obtaining quality health care.

The American Health Care Act’s Changes to Medicaid Would Harm People with Disabilities

Medicaid provides the means for people with disabilities to leave institutions and exercise their constitutional right to liberty. In 1999, the Supreme Court ruled in the landmark case *Olmstead v. L.C.*, 527 U.S. 581 (1999), that the Americans with Disabilities Act requires states to support individuals with disabilities in the community, instead of relegating individuals

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

FAIZ SHAKIR
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

ROBERT REMAR
TREASURER

¹ Congressional Budget Office, Letter to Speaker of the House Paul Ryan, mar. 23, 2017, <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr1628.pdf>; Congressional Budget Office Cost Estimate, American Health Care Act, Mar. 13, 2017, <https://www.cbo.gov/sites/default/files/115th-congress-2017-2018/costestimate/americanhealthcareact.pdf>

to hospitals, institutions and nursing homes. Life in an institutional setting is restricted, regimented and profoundly limiting for those forced into it. Accessing the community means freedom from the restrictions and isolation characteristic of institutional life. For people with disabilities, this is more than just health insurance – this is basic civil rights. Since the *Olmstead* decision, tens of thousands of seniors and people with disabilities have left nursing homes and institutions to enjoy greater autonomy and equality in the community. The in-home supports that allow people with disabilities to stay in their own homes are not covered by private insurance, but are covered almost exclusively by the Medicaid program. And nearly 600,000 people are on waiting lists for these services. Community placement is also less expensive than nursing home or institutional care, so these services, in turn, create cost-savings within Medicaid.

Medicaid is an efficient program that spends much less per person than private insurance. It is an innovative program that has curbed spending growth much better than private insurance. Yet, the AHCA plans to slash Medicaid funding to the tune of hundreds of billions of dollars through the imposition of per capita caps or block grants. By restructuring and slashing Medicaid, the AHCA would upend the longstanding federal-state partnership and severely damage the ability of states to serve seniors and people with disabilities. Since Medicaid law does not allow states to limit enrollment in nursing homes and institutions, the brunt of the billions of dollars in cuts required by the AHCA would necessarily fall on in-home and community-based care. The Act would force states to dramatically cut back on the essential services that allow children and adults with disabilities to stay in their own homes and lead independent lives.

School children with disabilities would suffer under the AHCA’s Medicaid per capita caps or block grants. Most school districts rely on Medicaid dollars to help fund in-school services and supports for children with disabilities, such as counseling, behavioral supports, and medication. These are poor children with disabilities, many of whom live in rural areas – if they did not receive their supports, medication and counseling at school, they would receive none at all. Yet, under the AHCA, the school program would become optional, and states may be forced to abandon it to pay for areas of mandatory coverage – like nursing homes.

The AHCA’s elimination of Medicaid expansion for low-income people also undermines efforts to help more people enter the workforce. Medicaid expansion allows individuals with disabilities to work without losing their health benefits. A recent study shows that individuals with disabilities are significantly more likely to be employed in states with Medicaid expansion.² When states no longer receive federal dollars for new Medicaid expansion enrollees, many will end Medicaid for these individuals. Those states that continue to offer Medicaid expansion would need to use state dollars, leaving fewer dollars for disability services.

The AHCA undermines efforts to address key needs in mental health, addiction, and prescriptions. The AHCA would eliminate the inclusion of essential health benefits in the Medicaid program. These key services include mental health care, rehabilitation, assistive technology and prescriptions. The AHCA does not even include the mental health parity that

² Jean P. Hall., Ph.D., *et al.*, “Effect of Medicaid Expansion on Workforce Participation for People With Disabilities,” *American J. of Pub. Health* (Oct. 20, 2016).

currently exists. It would leave 10 million adults with severe mental illness – and millions more with other types of mental health needs – without that safety net.

Per capita caps and block grants are just a means to cut Medicaid funding. With fewer federal dollars, states would have to cut the very programs that keep people out of expensive institutions, keep people in the workforce, support young children with disabilities, and address key mental health needs. This is the wrong step for people with disabilities. It is the wrong step for states. It is the wrong step for our country.

The American Health Care Act Harms Access to Reproductive Health Care

The AHCA would “defund” Planned Parenthood by blocking Medicaid patients from seeking care at Planned Parenthood health centers. This bill directly targets the low-income patients that Planned Parenthood serves, blocking their access to lifesaving preventive care like cancer screenings, breast exams, STI tests and treatment, and birth control. As a result of this bill, Planned Parenthood health centers, which 2.5 million people rely on for care every year, may be forced to close their doors, and other providers would be unable to fill the void. Seventy-five percent of Planned Parenthood’s patients have incomes at or below 150 percent of the federal poverty level, and more than half of Planned Parenthood’s 650 health centers are located in rural or medically underserved areas. The CBO predicts that the bill would cut off women’s access to services that help them avert pregnancy, particularly in low-income communities that lack other health care providers. Blocking Medicaid patients from Planned Parenthood health centers would also hit the LGBT community, especially transgender people, particularly hard. Planned Parenthood welcomes LGBT patients and provides critical preventive care and sex education, and is one of the largest providers of health care for transgender people in the nation.

The AHCA attacks abortion access by effectively eliminating abortion coverage from the private insurance market. It would ban the use of tax credits and subsidies to purchase private insurance policies that cover abortion in all but instances of life endangerment, rape, or incest. This would cause insurance companies to exclude abortion coverage from their plans and leave women without the option to buy a comprehensive plan that enables them to make personal medical decisions. For many women, insurance coverage for abortion means the difference between getting the care they need and being denied that care—which can have devastating consequences for women who are already struggling to get by.

As a result of the AHCA, women would face new barriers to obtaining birth control.

Though the ACA’s no-copay birth control benefit is not altered by the AHCA, this bill would cause many women to lose their insurance coverage altogether. As a result, more women would be left without access to birth control and other women’s preventive care guaranteed by the ACA. Birth control enables women to pursue education and careers and to plan whether and when to have children, empowering them to lead full and healthy lives. The AHCA would put access out of women’s reach.

The AHCA Harms Low-Income Individuals and Families

The AHCA attacks low-income individuals' and families' ability to access insurance coverage, either through Medicaid or the private insurance market. It would phase out the Medicaid expansion, which allowed millions of people who previously couldn't qualify for Medicaid to access basic preventive care. It also would eliminate the subsidies that make it possible for low-income people to afford private insurance in the ACA's marketplaces, and replace them with tax credits favoring the wealthy.

Adding insult to injury, the AHCA not only would permit states to impose work requirements on certain Medicaid enrollees, including women who have just given birth, but also take away their health care coverage if they do not meet the requirement. Although the bill makes an exception for some mothers (e.g., if her child has a disability, or she is an only parent or cares for a child under the age of 6), the cruelty and insensitivity of this provision cannot be denied. Sixty days after giving birth, most new mothers are still adjusting, may still need time to recover from childbirth, and may even face health challenges. This heartless provision would make a stressful period in a family's life even more difficult. It has no place in legislation that purports to care about the health of Americans.

Recent amendments to the AHCA makes this harmful bill even worse for women and people with disabilities by allowing states to waive critical ACA protections.

The MacArthur-Meadows Amendment would allow states to waive Essential Health Benefits standards, allowing insurance companies to exclude coverage for maternity care, newborn care, mental health and substance use treatment, prescription drugs, and more. Although the amendment purports to prohibit gender rating, it would in fact be particularly harmful to women, forcing women to return to the days when they paid extra for maternity coverage (which was often excluded from individual plans before the ACA).

Waiving Essential Health Benefits would also mean substantially weakening the ACA's ban on annual and lifetime limits for those benefits, leaving people with disabilities with coverage limits that fall far short of what they need to live independently. The ACA's protections against insurers imposing lifetime or annual limits on coverage apply only to benefits covered under the Essential Health Benefits standards. By allowing states to waive those standards, plans would be able to re-impose such coverage limits, as was the case prior to the ACA. In addition, since these protections benefit individuals with employer-based coverage as well as those covered on the individual insurance market, AHCA would harm millions of Americans with coverage through their job in addition to those purchasing coverage on the individual market. Such a policy could easily force people with disabilities out of the workforce, as individuals are forced to limit their income in order to gain access to Medicaid after hitting an annual or lifetime coverage limit in their employer-sponsored insurance.

Similarly, though the amendment claims not to limit coverage for individuals with pre-existing conditions, it would actually allow states to opt out of key ACA protections that enable those with pre-existing conditions to afford coverage. It would allow states to waive community rating requirements, giving insurance companies license to discriminate based on medical history. As a result, insurance companies could once again charge people with pre-existing conditions more for their coverage. This would have a profoundly harmful impact on both individuals living with

disabilities and women, who prior to the ACA were disqualified from coverage for pre-existing conditions including c-sections, breast cancer, pregnancy, and even treatment for domestic violence. Under the AHCA, they could face premiums so high that coverage becomes out of reach. Finally, the Upton-Long Amendment, which would add additional funding for high-risk pools, is inadequate to address the serious impact of these provisions on people with pre-existing conditions.

For the above stated reasons, the ACLU opposes the AHCA and urges members of the House of Representatives to vote no. Should you have any questions, please contact Georgeanne Usova at (202) 675-2338 or gusova@aclu.org, or Vania Leveille at (202) 715-0806 or vleveille@aclu.org.



Faiz Shakir
Director, Washington Legislative Office



Georgeanne M. Usova
Legislative Counsel



Vania Leveille
Senior Legislative Counsel