

“Defunding” the Affordable Care Act:

Guilty of a Double Standard

The Republican leadership in the House of Representatives plans to “defund” the implementation of the Affordable Care Act as part of its efforts to repeal the health reform law. Doing so would take away key benefits and rights needed by America’s families, unravel a law that holds insurance companies much more accountable, and add a trillion dollars to the federal deficit over the next two decades. At the same time, those who support defunding or repealing the law intend to keep these very health benefits and rights – which they enjoy courtesy of America’s taxpayers – for themselves:



Members of Congress enjoy government-subsidized health coverage for themselves and their family members. Congressional promoters of repeal would take away tax credits that will help make coverage affordable for hard-working American families.



Members of Congress are sheltered from the threat of discrimination due to pre-existing conditions. Congressional promoters of repeal would deprive ordinary Americans of this very same protection.



Members of Congress, when faced with an insurance claim that is denied, have a guaranteed right to appeal that denial. Congressional promoters of repeal would deny many Americans a similar right.

These are just three examples. There are more, and we’ve outlined them below.

What Congressional Promoters of Repeal Will Take Away from American Families – But Keep for Themselves:

1. Affordable health coverage
2. Guaranteed coverage, regardless of pre-existing conditions
3. A right to appeal claims that are denied by insurers
4. Protection against discriminatory premiums due to pre-existing conditions
5. A complete package of health insurance benefits
6. Guaranteed coverage that can’t be taken away
7. A prescription drug benefit with no coverage gap
8. Protection against catastrophic health care costs
9. A choice of easy-to-compare health insurance plans
10. Protection against unreasonable premium increases
11. Fair and equal premiums for women
12. Coverage for early retirees
13. Access to free or low-cost preventive services
14. Access to affordable care at clinics

Members of Congress and employees of the federal government get health insurance for themselves and their families through the Federal Employees Health Benefits (FEHB) Program (see “Congress’s Health Benefits” on page 6). The Affordable Care Act promises millions of Americans health coverage much like the coverage that is available to their elected representatives through the FEHB Program. Congressional promoters of repeal would eliminate these benefits and rights for American families while retaining them for themselves and their families:

1 Affordable health coverage

Members of Congress receive a subsidy equal to approximately three-quarters of the cost of their health insurance premiums – at taxpayer expense.¹ The Affordable Care Act extends tax credits to American families to provide help with the cost of health insurance premiums.² Congressional promoters of repeal want to deny hard-working American families this premium relief while keeping the government subsidy that helps them purchase coverage.

2 Guaranteed coverage, regardless of pre-existing conditions

Every member of Congress and his or her family members are guaranteed access to coverage, even if they have a pre-existing condition like cancer or diabetes.³ The Affordable Care Act provides this same guarantee of coverage by requiring that insurers offer coverage to all Americans, even if they have a pre-existing condition.⁴ Promoters of repeal would take this protection away from America’s families.

3 A right to appeal claims that are denied by insurers

The U.S. Office of Personnel Management (OPM), which oversees the health insurance companies that offer coverage to members of Congress, provides a clear, easy-to-understand process for appealing claims that are denied.⁵ Many Americans with coverage through the individual market do not currently have a right to appeal claims that are denied. The Affordable Care Act corrects this by ensuring that Americans have access to a straightforward process for appeals.⁶ American families will lose this protection if the Affordable Care Act is repealed.

4 Protection against discriminatory premiums due to pre-existing conditions

Members of Congress pay the same amount for their coverage whether they are healthy or sick.⁷ The Affordable Care Act establishes this right for all Americans by prohibiting insurers from charging people more just because they are sick or are believed to be at risk of getting sick.⁸ Repealing the Affordable Care Act would allow insurers to continue charging discriminatory premiums to people with health conditions – but promoters of repeal would retain this protection against high premiums for themselves.

5 A complete package of health insurance benefits

Members of Congress receive a comprehensive package of health benefits that includes coverage for physician services, preventive care, hospital care, emergency care, mental health services, and prescription drugs.⁹ The Affordable Care Act requires that insurers offer American families an essential benefits package that includes these services as well.¹⁰ Repealing the Affordable Care Act would strip American families of a guarantee that insurance plans must provide a full range of necessary health care services.

6 Guaranteed coverage that can't be taken away

Unlike what has happened to thousands of consumers in the individual market,¹¹ when members of Congress get sick, their insurance company doesn't suddenly revoke their coverage. The Affordable Care Act ensures that the same is true for all Americans by allowing rescissions of coverage only when there is clear and convincing evidence that an enrollee committed fraud, not when insurers simply want to avoid paying claims for enrollees who get sick.¹² Repealing the Affordable Care Act would eliminate this vital consumer protection.

7 A prescription drug benefit with no coverage gap

All of the plans that are offered to members of Congress include comprehensive benefits packages that cover the prescription drug needs of members and their families throughout the whole year – without a coverage gap. Seniors and people with disabilities who are currently enrolled in the Medicare Part D prescription drug program do not benefit from the same sort of continuous drug coverage.¹³ The Affordable Care Act will fix this by closing the “doughnut hole” in Medicare Part D.¹⁴ Repealing the Act will take this needed help away from vulnerable Medicare beneficiaries.

8 Protection against catastrophic health care costs

Members of Congress are free to choose from an array of plans that have limits on how much they must spend out of pocket. The most popular of these plans¹⁵ has an out-of-pocket maximum for families of \$7,000 in 2011.¹⁶ The Affordable Care Act requires that all new health insurance plans have out-of-pocket spending limits, and the limit for a family would be \$11,900 if it went into effect in 2011.¹⁷ If the Affordable Care Act is repealed, these vital financial protections will be lost.

9 A choice of easy-to-compare health insurance plans

OPM secures a wide array of private insurance plans for members of Congress and other federal employees to choose from, and it presents these choices both in a consumer-friendly annual guide to selecting coverage and in online plan comparison tools.¹⁸ These user-friendly materials make it easy for members to shop for coverage and select the plan that best meets their needs. The Affordable Care Act creates new, competitive marketplaces where consumers can shop for plans like members of Congress currently do, with choices of plans and consumer-friendly materials to help them make that choice.¹⁹ Congressional promoters of repeal wish to keep the ability to easily shop for plans for themselves but eliminate that ability for American families.

10 Protection against unreasonable premium increases:

OPM negotiates with insurers on behalf of members of Congress and other federal employees to secure the lowest premiums possible and to prevent drastic rate hikes from year to year. The Affordable Care Act requires insurers that serve American consumers to spend a reasonable share of the premium dollars they collect directly on medical care and quality improvement²⁰ and to justify any proposals for “unreasonable” premium increases so that insurers cannot continue to unexpectedly impose drastic rate hikes.²¹ If the Affordable Care Act is repealed, American families will lose this protection against unaffordable premium increases.

11 Fair and equal premiums for women

Members of Congress pay the same amount for premiums whether they’re male or female. In our current system, however, women are often charged more for coverage than men.²² The Affordable Care Act prohibits insurers from charging women higher premiums than men,²³ and repealing the Act would eliminate premium equity for men and women.

12 Coverage for early retirees

Members of Congress who have served a minimum number of years in office (or as federal employees) are eligible for retiree health coverage, even if they retire early.²⁴ As health care costs rise, fewer and fewer American businesses are able to offer their retirees similar benefits.²⁵ The Affordable Care Act makes it easier for businesses to continue offering coverage to early retirees by helping with high-cost claims.²⁶ Members of Congress who are promoting repeal would eliminate this help while protecting their own right to retiree coverage, including early retiree coverage.

13 Access to free or low-cost preventive services

Members of Congress have access to coverage that includes a wide array of preventive health benefits, including checkups and screenings. The Affordable Care Act ensures that all new health plans not only cover these services, but that they make them free.²⁷ Access to free preventive care will help ensure that diseases like cancer are more frequently caught at an early stage when they are more easily treatable. Promoters of repeal wish to keep their own preventive care while taking it away from hard-working American families.

14 Access to affordable care at clinics

Members of Congress have access to routine checkups and acute care services through clinics on Capitol Hill that are run by the Office of the Attending Physician. This care is offered free of charge after members pay a nominal annual fee.²⁸ Millions of American families also rely on clinics to provide necessary care, and the Affordable Care Act invests substantially in these community health clinics.²⁹ Promoters of repeal wish to keep access to their own clinics while slashing the funding that community health clinics so desperately need.

Congress’s Health Benefits

Like other employees of the federal government, members of Congress and their dependents are entitled to health coverage through the Federal Employees Health Benefits (FEHB) Program. The U.S. Office of Personnel Management (OPM) manages the FEHB Program and negotiates with private insurers on behalf of members of Congress and other federal employees to secure a broad range of plan options. With about 8 million members, the FEHB Program is the largest employer-provided health insurance program in the United States.³⁰ As a result, OPM has substantial negotiating power and is consistently able to deliver high-quality coverage with premium increases that have been below the industry average since 2003.³¹

Insurers who want to participate in the FEHB Program must provide a full range of benefits, including physician services, preventive care, hospital care, emergency care, mental health services, and prescription drug coverage.³² The terms of each plan’s coverage, including covered benefits, out-of-pocket costs, and annual caps on spending, are clearly spelled out. In addition, there are no pre-existing condition exclusions or waiting periods within FEHB plans,³³ and the OPM further protects FEHB plan enrollees by providing a clear process for appealing claims that have been denied.³⁴

During an annual open enrollment season, members of Congress are free to select the plan that best meets their needs from an array of choices. These choices are explained in a plan guide and an online selection tool. The information is presented in a format that is clear and consumer-friendly, making it easy to compare plans. In 2011, the FEHB Program is offering a total of 207 plan choices, some of which are available nationally and others of which are available only locally.³⁵ On average, each enrollee has five to 15 plan options to choose from.³⁶

The federal government provides substantial help with the cost of FEHB premiums, paying up to 75 percent of an enrollee’s premium – an average of 72 percent of premiums across all plans.³⁷ This assistance continues into retirement for federal employees, including members of Congress, who have put in a minimum number of years of federal service.³⁸

In addition to an entitlement to coverage through the FEHB Program, members of Congress are also eligible to receive special health care services through the Office of the Attending Physician and at military medical facilities. After paying a small annual fee (approximately \$500), members are eligible to receive routine preventive and acute care through the Office of the Attending Physician at no additional cost.³⁹ The Office of the Attending Physician operates offices in the Capitol building and at five other locations. In addition, members can seek care at military medical facilities, such as Walter Reed Army Medical Center, in the national Capitol region. They pay nothing for outpatient care at these facilities, and their FEHB coverage is billed for any inpatient services they receive.⁴⁰

Endnotes

¹ The federal government pays an average of 72 percent, and no more than 75 percent, of FEHB premiums. Barbara English, *Health Benefits for Members of Congress* (Washington: Congressional Research Service, September 25, 2007).

² *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle E, Section 1401.

³ There are no pre-existing condition exclusions or waiting periods in any plan within the FEHB Program. For more information, see U.S. Office of Personnel Management, *The 2011 Guide to Federal Benefits for Federal Civilian Employees* (Washington: U.S. Office of Personnel Management, November 2010), available online at <http://www.opm.gov/insure/health/planinfo/2011/guides/70-1.pdf>.

⁴ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle C, Sections 2702 and 2705.

⁵ For a brief description of the OPM's appeals process, see *Consumer Protections: Filing Disputed Claims*, available online at <http://www.opm.gov/insure/health/planinfo/consumers/disputes.asp>.

⁶ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle A, Section 2719.

⁷ All enrollees, regardless of health status or other factors, pay the same premiums within the FEHB Program. For details on what these premiums will be in 2011, see U.S. Office of Personnel Management, *op. cit.*

⁸ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle C, Section 2701.

⁹ Barbara English, *op. cit.*

¹⁰ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle C, Section 2707, and Title I, Subtitle D, Sections 1301 and 1302.

¹¹ Departments of Health and Human Services, Labor, and Treasury, *Patient Protection and Affordable Care Act; Requirements for Group Health Plans and Health Insurance Issuers Under the Patient Protection and Affordable Care Act Relating to Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections; Final Rule and Proposed Rule* (Washington: *Federal Register*, June 28, 2010).

¹² *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle A, Section 2712.

¹³ In 2011, the standard Medicare Part D drug benefit includes a \$310 deductible. After beneficiaries meet the deductible, they are responsible for 25 percent of their drug expenses until their total drug spending reaches \$2,840. Medicare beneficiaries then enter the "doughnut hole." Prior to the Affordable Care Act, beneficiaries were responsible for 100 percent of their drug spending while in the doughnut hole. In 2011, beneficiaries will receive substantial discounts (50 percent off brand-name drugs and 7 percent off generics) while they are in the doughnut hole. Once their total drug spending reaches \$6,448, beneficiaries will pay a flat copayment or 5 percent co-insurance for their drugs. For more information, please see *Note To: All Medicare Advantage Organizations, Prescription Drug Plan Sponsors, and Other Interested Parties*, available online at <http://www.cms.gov/MedicareAdvvtgSpecRateStats/Downloads/Announcement2011.pdf>.

¹⁴ The Affordable Care Act improves the Medicare Part D prescription drug benefit over time. In 2010, those who fell into the doughnut hole received a \$250 rebate. Starting in 2011, those who fall into the doughnut hole will receive substantial discounts on their drugs. These discounts increase each year until the doughnut hole is eliminated entirely in 2020. *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title III, Subtitle D, Section 3301.

¹⁵ U.S. Office of Personnel Management, *2011 Open Season for Health Benefits, Dental and Vision Insurance and Flexible Spending Accounts Fact Sheet* (Washington: U.S. Office of Personnel Management, 2010), available online at http://www.opm.gov/insure/openseason/FEHBP_FactSheet.pdf.

¹⁶ *Blue Cross and Blue Shield Service Benefit Plan 2011 Plan Guide*, available online at <http://www.fepblue.org/benefitplans/2011-sbp/bcbs-2011-RI71-005.pdf>.

¹⁷ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle C, Section 2707 and Title I, Subtitle D, Section 1302.

¹⁸ U.S. Office of Personnel Management, *The 2011 Guide to Federal Benefits for Federal Civilian Employees*, *op. cit.*

¹⁹ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle D, Sections 1311 and 1312.

- ²⁰ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle A, Section 2718.
- ²¹ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle A, Section 1003.
- ²² National Women’s Law Center, *Still Nowhere to Turn: Insurance Companies Treat Women Like a Pre-Existing Condition* (Washington: National Women’s Law Center, October 2009).
- ²³ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle C, Section 2701.
- ²⁴ Barbara English, op. cit.
- ²⁵ Kaiser Family Foundation and Health Research and Education Trust, *Employee Health Benefits: 2009 Annual Survey* (Washington: Kaiser Family Foundation, September 2009).
- ²⁶ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle B, Section 1102.
- ²⁷ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title I, Subtitle A, Section 2713.
- ²⁸ Jay Shaylor and Mark Abdelmalek, “Special Health Care for Congress: Lawmakers’ Health Care Perks,” *ABC News*, September 30, 2009; Barbara English, op. cit.
- ²⁹ *Patient Protection and Affordable Care Act*, Public Law 111-148 (March 23, 2010), as modified by the *Health Care and Education Reconciliation Act of 2010*, Public Law 111-152 (March 30, 2010), Title V, Subtitle G, Section 5601.
- ³⁰ U.S. Office of Personnel Management, *2011 Open Season for Health Benefits, Dental and Vision Insurance and Flexible Spending Accounts Fact Sheet*, op. cit.
- ³¹ U.S. Government Accountability Office, *Federal Employees Health Benefits Program: Premium Growth Has Recently Slowed and Varies among Participating Plans* (Washington: U.S. Government Accountability Office, December 2006).
- ³² Barbara English, op. cit.
- ³³ U.S. Office of Personnel Management, *The 2011 Guide to Federal Benefits for Federal Civilian Employees* op. cit.
- ³⁴ For a brief description of the OPM’s appeals process, see *Consumer Protections: Filing Disputed Claims*, op. cit.
- ³⁵ U.S. Office of Personnel Management, *2011 Open Season for Health Benefits, Dental and Vision Insurance and Flexible Spending Accounts Fact Sheet*, op. cit.
- ³⁶ Barbara English, op. cit.
- ³⁷ U.S. Office of Personnel Management, *The 2011 Guide to Federal Benefits for Federal Civilian Employees* op. cit.
- ³⁸ Barbara English, op. cit.
- ³⁹ *Ibid.*; Jay Shaylor and Mark Abdelmalek, op. cit.
- ⁴⁰ Barbara English, op. cit.

