

The background of the entire page is a photograph of two women sitting and talking. The woman on the left is seen in profile, wearing a white lab coat, glasses, and a stethoscope. The woman on the right is facing her, also wearing a white lab coat and glasses, and has her hands clasped. Both are smiling. The image is overlaid with a semi-transparent blue filter.

A Public Policy Success: The Affordable Care Act and the Road Ahead

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INTRODUCTION

The Patient Protection and Affordable Care Act (ACA), signed into law by President Barack Obama in 2010, transformed the way the U.S. health care system provides health insurance coverage that curbed health care costs and modified how health care is delivered. On the 13th anniversary of the law, it's clear that it advanced America closer toward universal coverage, but challenges remain.

As lawmakers and key stakeholders address these systemic issues that contribute to more expensive, less accessible health care, it is critical that they focus on building on the law by prioritizing Medicaid expansion in non-expansion states, mitigating coverage loss from the unwinding of the public health emergency (PHE) declaration, ensuring the U.S. has the resources needed to respond to ongoing COVID-19 costs and future pandemics, boosting funding and state data infrastructure to strengthen efforts to address social determinants of health, and expanding postpartum Medicaid coverage.

The ACA has faced an obstacle-strewn path with countless legal and legislative challenges throughout the past 13 years. Only one House Republican voted for the ACA's passage in 2010. Republicans have since been waging an implacable battle to repeal "Obamacare," which they touted would undermine private insurance markets and raise premiums. Nearly every budget or fiscal plan of theirs since the law's enactment has included repealing the ACA as well as cutting Medicaid. After President Donald Trump's election, Republicans tried repeatedly to repeal and replace the ACA but failed,

despite controlling both chambers of Congress. In a dramatic 2017 vote, Republicans fell one vote short of repealing the law. In the 2018 midterm elections, they lost control of the House in a Democratic sweep, attributed in part to growing public support for the ACA.

Simultaneously, the ACA has been subjected to more than 2,000 legal challenges since its implementation. The most recent notable case, *California v. Texas*, which was heard by the Supreme Court in June 2021, claimed that the lawsuit filed by Texas lacked standing. The Texas district court asserted that the reduction of the individual mandate in the 2017 Tax Cuts and Jobs Act to zero was justification for the ACA's unconstitutionality as an improper use of Congress's taxation powers. Legal experts, even those opposed to the ACA, agreed that the legal arguments to this case were absurd, as Texas ignored Congress's decision to zero out the individual mandate but to leave the rest of the ACA in place, which is principally Congress's decision, not the court.

Despite the at least 70 Republican attempts to repeal or modify the ACA, the law seems firmly entrenched as a permanent feature of America's hybrid, public-private health care system. It has delivered on its promise to increase coverage and access for millions of Americans and played a key role in helping people who lost job-based insurance stay covered throughout the COVID-19 pandemic. The law also has been a milestone in the Democratic Party's century-long struggle to create a universal health care system that leaves no one out. It's brought our country very close to universal coverage, while also

testing new ways to deliver health care and reduce its cost.

This policy brief will examine the benefits of the implementation of the ACA, how to build on the ACA's accomplishments, and rein in high medical costs to improve community health.

THE IMPORTANCE OF THE ACA

It's important to briefly reflect on what health insurance was like prior to the ACA. Nearly 44 million Americans had no health insurance, and millions more faced higher medical costs.¹ Further, in the individual market, more than 60% of patients did not have access to maternity coverage, 30% did not have coverage for substance use treatment, nearly 20% did not have coverage for mental health care services, and almost 10% did not have coverage for prescription medications.² Through the law's expansion of public and private insurance, 35 million Americans have gained health insurance coverage.³ Groups that typically had high uninsured rates have gained coverage, including young adults, people of color, and low-income people. One of the most critical coverage provisions of the ACA is the guarantee that health insurers cannot deny coverage or charge higher premium rates based on an individual's pre-existing conditions. Roughly 27% of adults under 65, or nearly 54 million Americans, have a pre-existing condition that would have made them uninsurable prior to the enactment of the ACA.⁴ Further, nearly 2.3 million young adults gained coverage through the ACA's dependent coverage provision that guarantees the right to remain on their parent's insurance plan until age 26.⁵

Additionally, the ACA significantly advanced public health measures and funding by requiring health plans in the individual and small group markets to cover essential health benefits (EHBs), which include items and services in ten categories: Ambulatory patient services (outpatient services), emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services including behavioral health treatment, prescription medications, rehabilitative and habilitative services and devices, laboratory services, preventative and wellness services and chronic disease management, and pediatric services including oral and vision care. The caps on the amount of coverage patients receive for these specific EHBs were effectively eliminated by the ACA, which has directly contributed to lower health care costs for both the patient and the health care system.

Medicare beneficiaries have benefited from free coverage for some preventative care benefits, like breast and colorectal cancer, cardiovascular disease, and diabetes screenings through the law. The ACA has also further closed the Medicare Part D benefit coverage gap, or what is known as the “donut hole.” This coverage gap occurs when a prescription drug expense exceeds the initial coverage limit of Part D plans but does not reach the catastrophic level of coverage. Pre-ACA, Medicare beneficiaries were responsible for all drug costs while in this coverage gap.

The ACA also created the Center for Medicare and Medicaid Innovation (CMMI), which was a broad step toward improving and refocusing health care delivery toward value-based care. CMMI is housed under the Center for

Medicare and Medicaid Services (CMS) and is responsible for designing and implementing new payment and service delivery models to lower costs, improve the quality of care, and mitigate inefficient spending within Medicare, Medicaid, and CHIP.⁶ Since 2010, CMMI has launched more than 50 model tests to deliver significant savings and quality improvement.⁷

Prescription drug coverage was expanded under the ACA by primarily requiring plans to cover at least one drug in each drug class and to count out-of-pocket drug expenses toward a beneficiary’s deductible. Low-income Americans gained better access to brand-name and generic drugs through the ACA’s Medicaid expansion and the broadening of the Medicaid Drug Rebate Program. The 340B drug pricing program was also expanded through the ACA, which provides prescription drugs at discounted prices for certain health care providers, critical access hospitals, and rural referral centers.⁸

These policy changes in the ACA resulted in expanded access to affordable care, utilization of services, and financial security for low-income and other vulnerable populations. By transforming the ways in which Americans receive health insurance, the ACA reduced exposure to high medical expenses and increased access to coverage, improving both short and long-term health outcomes and financial security for Americans, and thereby reducing socioeconomic disparities in the United States.

THE BENEFITS OF MEDICAID EXPANSION UNDER THE ACA

The ACA expanded Medicaid coverage for adults with incomes up to 138% of the federal poverty level (FPL) and expanded Medicaid eligibility for all children up to age 19 to 138% FPL.⁹ It also established tax credits and options for coverage under the new health insurance marketplaces. Since the enactment of the ACA, 40 states, including Washington, D.C., have adopted Medicaid expansion.¹⁰ Ten states remain as holdouts: Alabama, Florida, Georgia, Kansas, Mississippi, South Carolina, Tennessee, Texas, Wisconsin, and Wyoming. Most recently, North Carolina state lawmakers reached an agreement to expand Medicaid, which is expected to be implemented in 2024. Notably, the American Rescue Plan (ARP), the \$1.9 trillion stimulus package that was passed by Congress and signed into law by President Biden in 2021, allows newly expanded Medicaid states to receive additional federal Medicaid funding for their non-expansion population. North Carolina will now receive this additional funding from the ARP for the first two years of the expansion.¹¹ An estimated 3.7 million people, including non-Hispanic Black people, young adults, and women of reproductive age would gain coverage in 2023 if these remaining hold-out states expanded Medicaid eligibility.¹²

Medicaid expansion is a state revenue generator and job creator. It lowers health care system costs, and most importantly, provides access to health care for low income and marginalized communities, decreasing health disparities. Republican lawmakers in non-expansion states that are preventing their states from expanding Medicaid should

reconsider their stance and expand Medicaid in their state. Their constituents are continuing to face financial hardship, loss, and long-COVID illnesses and disabilities due to the COVID-19 pandemic and are in dire need of this access to affordable health care coverage.

Medicaid enrollment vastly expanded during the COVID-19 pandemic, resulting in a nearly 20.2 million new enrollments increase from February 2020. Enrollment in Medicaid and the Children's Health Insurance Program (CHIP) grew to 91.3 million in October 2022.¹³ Due to job loss and subsequently the loss of employer-sponsored health insurance, many unemployed Americans turned to the Medicaid program for health insurance throughout the COVID-19 pandemic. In December 2022, Congress delinked the Medicaid continuous coverage requirement from the COVID-19 public health emergency (PHE) declaration in its omnibus spending bill. The Biden administration announced earlier this year that the PHE declaration would end on May 11, 2023, and Medicaid redeterminations are slated to begin on April 1, 2023. States will have around 12 months to initiate renewals for 84 million people who currently enrolled in the program and 14 months to complete them. Between 15 and 18 million Medicaid beneficiaries could lose coverage throughout the unwinding process, most of whom are projected to be disproportionately people of color, due to structural inequities and administrative inefficiencies.¹⁴

States can do a lot more to help their constituents by permanently relaxing eligibility requirements that exclude far more people than they should. One of the most

effective ways to mitigate the redetermination process is to improve and maximize the use of ex parte redetermination. This method allows for states to renew their coverage using existing available data sources on an individual's eligibility rather than having them submit a renewal form. This greatly reduces the administrative burden on state Medicaid agencies that will already be overwhelmed with the extraordinary task of redetermining 84 million Medicaid beneficiaries within two years. The ACA requires states to use electronic data matches with reliable sources of data prior to requiring enrollees to submit a renewal form for processing ex-parte renewals.¹⁵

HOW THE ACA PROTECTED AMERICANS DURING COVID-19

Throughout the COVID-19 pandemic, the ACA provided a safety net for individuals who lost their job-based coverage. Americans were able to enroll, and still can, in health insurance coverage through the ACA marketplace exchanges and qualify for financial assistance with premiums and cost-sharing responsibilities. They are also able to enroll through the ACA's expansion of Medicaid eligibility in states that have expanded the program. At the very beginning of the pandemic, researchers found that by June 2020, roughly 487,000 people signed up for an ACA insurance plan after losing their jobs since the last open enrollment period that ended in December 2019, which was a 46% increase in sign-ups compared to the same period last year.¹⁶ This year, a whopping 16.6 million people signed up for coverage through the ACA marketplace, which is one million more than last year and is a 50% increase in

total sign-ups since President Biden took office.¹⁷

The Coronavirus Aid, Relief, and Economic Security (CARES) Act covered FDA-approved COVID-19 tests and costs associated with diagnostic testing with no cost-sharing, if the test is deemed medically appropriate by an attending health care provider. When the vaccine for COVID-19 was approved, it was covered for all insured and uninsured people without cost-sharing. Under the ACA, it is a requirement that federally recommended preventative care services be covered without cost-sharing for anyone enrolled in private insurance, Medicare, or in the Medicaid expansion.

The Biden administration announced last year that the federal government no longer has enough funding to make additional vaccine purchases and has begun transitioning the vaccines to the commercial market. Consumers with private and public health insurance are likely to be protected from having to pay directly for their vaccines, although the uninsured and underinsured will face the most cost and access barriers and are likely to pay an estimated \$110 to \$130 per dose.¹⁸ The lack of funding has also resulted in the inadequate distribution of at-home tests, and PPE within the national stockpile, among other issues.

The COVID-19 pandemic will continue to be unpredictable. The ACA has been a critical lifeline for Americans to have access to affordable care throughout the pandemic, but Congress needs to ensure that the U.S. will have the resources needed to respond to potentially more deadly COVID-19 viral strains and for future pandemics. As Congress

considers reauthorizing the Pandemic and All-Hazards Preparedness Act (PAHPA) before its expiration at the end of the fiscal year, lawmakers should prioritize strengthening the Strategic National Stockpile, bolster public health data infrastructure, and update HHS's emergency preparedness playbook. Congress should also consider including the Pioneering Antimicrobial Subscriptions To End Up Surging Resistance Act (PASTEUR), which would incentivize innovative drug development targeting antimicrobial infections in the reauthorization of PAHPA.

As health care providers, physicians, and clinical researchers discover more about the impact of the virus on their patients, it is highly likely that there will be a need for longer-term care management, and for more specialized or routine care. This will undoubtedly require a health care system that can ensure patients with the certainty of coverage and lower health care costs, which the ACA provides.

HOW THE ACA REDUCED HEALTH AND SOCIOECONOMIC DISPARITIES

Disparities in social, economic, and environmental conditions continue to impact the health outcomes of low-income populations and communities of color in the U.S., which has the largest socioeconomic disparities in health care of any wealthy country.¹⁹ The ACA has substantially improved affordability and access to quality care for these communities, in states that both expanded Medicaid and those that did not, with larger gains made in the expansion states.

Under the ACA, new health insurance options were made available, including the availability of subsidies, essential health benefits, and the elimination of annual or lifetime dollar limits, particularly for those who were uninsured, a group that is composed primarily of African American and Hispanic populations. The gap in insurance coverage between individuals in households with annual incomes below \$25,000 and those in households with incomes above \$75,000 was reduced by 46% in expansion states and 23% in non-expansion states.²⁰

The COVID-19 pandemic revealed existing health inequities, exacerbated health disparities and had an especially devastating impact on communities of color, particularly in African American, Hispanic, and Native American communities. Several contributing factors resulted in these communities experiencing higher rates of illness and mortality, including the prevalence of underlying medical conditions due to lack of insurance, mistrust in the medical system, lack of social support, and living in states that have not expanded Medicaid.

While these communities slowly recover from the devastating impacts of the COVID-19 pandemic, much more must be done to improve socioeconomic disparities in the U.S. Ensuring accurate data collection that can screen for social determinants of health (SDOH), which are defined by the World Health Organization (WHO) as the conditions in which people are born, grow, live, work, and age, is paramount. Lawmakers should continue to support state efforts to expand SDOH initiatives, including bolstering data infrastructure to connect people to health and social services, providing funding and

planning grants to improve SDOH coordination efforts. The Biden administration should consider developing new rules on community benefit requirements for nonprofit hospitals and broaden its definition of SDOH-related health services in Medicare Advantage plans.²¹

Additionally, the United States is experiencing a catastrophic maternal health crisis that demands federal and state action to improve coverage, the delivery of care, and pregnancy outcomes. New data from the Centers for Disease Control (CDC) for 2021 shows that 1,205 women died of maternal causes — equivalent to a rate of 32.9 deaths per 100,000 live births — compared with 861 deaths in 2020, or 23.8 deaths per 100,000 live births.²² For Black women, the death rate was 69.9 — 2.6 times higher than the rate for white women. While the ACA has improved health care coverage and quality for pregnant and birthing people by lowering the uninsurance rate among new mothers by 41%

between 2012 and 2013 and 2015 and 2016, increased affordability by providing financial assistance to individuals to purchase private health coverage, as well as expanded eligibility for the Medicaid program, more needs to be done to build upon the ACA and improve maternal health outcomes.²³ Per the Kaiser Family Foundation Health Care Tracking Poll from December 2022, about 75% said that Congress should prioritize passing a law that requires states to require coverage for 12 months postpartum for pregnant people on Medicaid, including 35% who believe this should be a top priority.²⁴ The omnibus funding bill that was passed last Congress included a permanent state option to extend Medicaid postpartum for 12 months, but was not made mandatory. Nearly two-thirds of states have implemented or intend to implement this coverage, but it's not enough. State lawmakers should prioritize guaranteeing this postpartum Medicaid coverage.

LOOKING AHEAD

The ACA has provided numerous protections and benefits for Americans over the last thirteen years of the law's existence. Though the ACA has significantly improved health coverage and outcomes for millions of Americans, it is crucial to continue to build on the gains the law made in expanding affordable coverage for low and middle-income Americans. Stabilizing the health insurance market, boosting enrollment, lowering premiums, and further expanding the Medicaid program should be addressed by federal and state lawmakers alike.

As America looks to slowly rebound from the long-lasting, devastating impacts of the COVID-19 pandemic, preserving and bolstering the ACA and avoiding partisan infighting over the law in the future will be a crucial component toward achieving that goal. Given the law's popularity and how much Americans need a more stable health system in this transitory time, the last proposal any American desires to hear about again is another round of the "repeal and replace" cycle that President Trump and Congressional Republicans subjected the country to in 2017 that would have destroyed the ACA. Bipartisan efforts to address key health reforms and build on the successes of this law should be prioritized to rebuild an effective and stable health care system for the future.

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