The biggest threat to health insurance coverage isn’t what you think

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Last year, the AMA fought proposed Congressional legislation that threatened to strip key patient-protection health insurance reforms under the Affordable Care Act (ACA) and lead to millions fewer Americans with health care coverage.

Efforts continue to peel back or weaken coverage gains created by the ACA. But this year, however, the threats are not coming from Congress. They are being introduced in state legislatures or coming on other legal and administrative fronts.

In June, the AMA joined several other physician organizations to file an amicus brief in *Texas v. United States*, a lawsuit that threatens popular key provisions of the ACA.

These include:

- Patients would no longer have protections for pre-existing conditions.
- Children would no longer have coverage under their parents’ health insurance plan until age 26.
- 100 percent coverage for certain preventive services would cease.

“Each of these provisions has broad, bipartisan and public support, and as physicians, we know how much these policies improve the lives of our patients,” wrote AMA President Barbara L. McAneny, MD, in an article about the lawsuit. “For well over a decade, the AMA’s message has been clear: We stand firmly with patients, committed to expanding coverage and protecting them from insurance industry abuses.”

One of the principles of health system reform put forth by the AMA in 2017 was that Americans with insurance coverage should not lose it because of new legislation.
States implement Medicaid work rules

Threats to that principle include multiple attempts to roll back or limit Medicaid coverage. The AMA helped block proposed caps on federal Medicaid funding last year. At the 2017 AMA Interim Meeting, the House of Delegates adopted policy opposing work requirements as a criterion for Medicaid eligibility. But in January 2018, the Centers for Medicare & Medicaid Services (CMS) issued guidance to states that opened the door for work requirements to be imposed.

The states with the two biggest gains in coverage were Kentucky, whose uninsured rate fell from 20.4 percent in 2013 to 7.8 percent in 2017, according to Gallup, and Arkansas, whose uninsured rate went from 22.5 percent to 11.4 percent during the same period. But both have sought to impose work requirements for Medicaid beneficiaries.

A federal judge has blocked implementation of Kentucky’s work requirements, calling them “arbitrary and capricious” and in violation of the Administrative Procedure Act. The ruling, however, doesn’t affect other states and, as of June, Arkansas Medicaid beneficiaries had to satisfy the state’s work requirements. The Arkansas Department of Human Services reported that, in the first month, almost 7,500 beneficiaries did not meet the requirements and could lose their coverage. Advocacy groups—the National Health Law Program, Legal Aid of Arkansas, and Southern Poverty Law Center—filed a lawsuit against the U.S. Department of Health and Human Services on behalf of three Medicaid recipients in the state.

Most Medicaid enrollees who can work are already working, according to a June report by the Kaiser Family Foundation. The report also noted that beneficiaries could have trouble complying with reporting requirements, as 30 percent of Medicaid enrollees don’t use a computer or the internet and about 40 percent don’t use email.

The Trump administration has also given the green light to Medicaid work-requirement programs in Indiana and New Hampshire. Several other states are seeking approval to do so as well.

Dismantling ACA piece by piece

Beyond Medicaid, other moves that threaten to claw back coverage gains include:

- Reducing grants to pay for the insurance navigator program from $36 million to $10 million.
- The promotion of low-coverage, short-term health plans that do not guarantee coverage for pre-existing conditions or comply with other ACA provisions.
- Elimination of the mandate—or tax penalty—for individuals to purchase health insurance.
- Pending the resolution of the court case New Mexico Health Connections v. HHS, CMS may


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end the ACA insurance risk-adjustment program that protects insurance companies from unanticipated costs stemming from less healthy enrollees.