

Opening Statement of Chairman Bobby Scott (VA-03)
House Committee on Education and Labor
“Examining Threats to Workers with Pre-Existing Conditions”
Full Committee Hearing
Wednesday, February 6, 2019 | 10:15 a.m.

Today, we are here to examine the threats to affordable health care for workers with pre-existing conditions. I want to welcome and thank our distinguished witnesses for agreeing to be here and testify today on an issue that effects roughly 133 million Americans across this country.

On March 23, 2010, President Barack Obama signed the *Patient Protection and Affordable Care Act* into law. Over the past nine years, this historic legislation has improved the lives of countless Americans by making insurance more affordable and more accessible, while also strengthening the quality of health coverage and enacting lifesaving consumer protections.

Prior to the ACA, federal law allowed insurers to deny people coverage for certain pre-existing conditions, including recently-treated substance use disorder, pregnancy, and cancer. Prior to the ACA, insurers in the individual market could exclude these individuals from coverage, charge higher premiums, or put annual or lifetime caps of health care coverage.

According to a 2007 Commonwealth Fund survey, 36 percent of adults who attempted to purchase coverage in the individual market reported being turned down or charged a higher price because of their medical history. The ACA guaranteed access to affordable care for the roughly 133 million Americans with pre-existing conditions at the standard rate.

By any objective measure, the Affordable Care Act has been a success. The uninsured rate, which was 16.7 percent in 2009, fell to just 8.8 percent in 2017.

The ACA’s success is even more remarkable in the context of the persistent attempts to repeal and sabotage the law. Since it was passed, House Republicans have voted more than 70 times to repeal all or parts of the ACA. Those efforts were punctuated by the *American Health Care Act*, a bill passed by House Republicans in 2017, which gutted protections for patients with pre-existing conditions. According to the CBO, the repeal bill would have resulted in 23 million fewer Americans with health coverage and would have raised premiums by 20 percent in the first year while providing less comprehensive benefits.

The Trump Administration has taken an equally aggressive approach to undermining the law. For example, the Administration has expanded the use of junk health plans that rollback consumer protections, raise costs for all consumers, and have a troubling record of fraud and abuse.

On June 19th, 2018, the Department of Labor finalized a rule to expand association health plans. Under the rule, associations can sell coverage to small businesses and self-employed individuals without meeting certain ACA standards that would otherwise apply, such as: 1) the requirement to cover essential health benefits; 2) the prohibition against charging higher premiums based on factors such as gender or occupation; and 3) the age rating limit, which prevents insurers from charging unaffordable premiums to older people.

Extensive research has shown that association health plans create winners and losers. A report published by the Government Accountability Office in 2000, found that they are likely to increase costs to some

workers and make it harder for older, sicker workers to get affordable care. The prevalence of fraud in these plans is equally concerning. A 2004 Congressional Budget Office identified 144 "unauthorized or bogus" plans from 2000 to 2002, covering at least 15,000 employers and more than 200,000 policyholders, leaving \$252 million in unpaid medical claims.

On August 3rd, 2018, the Departments of Health and Human Services, Labor, and the Treasury jointly moved to expand the use of short-term health plans. The Departments issued a final rule to extend the allowable duration of short-term health plans from three months to up to 12 months, with plans renewable for up to 36 months. Under the rule, short-term plans do not have include federal consumer protections, including protections for patients with pre-existing conditions.

Because of the risk of confusion and the overall lack of consumer safeguards, not one single group representing patients, physicians, nurses or hospitals voiced support for the rule expanding the use of short-term plans.

The Administration's final – and most dangerous – attack on the ACA is its unusual decision to side with a group of Republican Attorneys General in a lawsuit against the federal government seeking to strike down the law in court. Specifically, the Trump Administration is arguing that the ACA's consumer protections should be invalidated.

If it ultimately prevails, as it did in a District Court in Texas, the result would be catastrophic. All Americans, whether insured through an ACA marketplace or through their employer, would lose the consumer protections we all take for granted, including:

Elimination of Lifetime and Annual Caps: The prohibition on lifetime and annual coverage limits, which protects workers from incurring unreasonable out-of-pocket expenses. Before the ACA, more than 90 percent of nongroup plans had annual or lifetime caps on coverage, and a majority of employer-provided plans imposed lifetime limits.

Cost-Sharing Protections: The requirement that plans limit out-of-pocket costs to an affordable percentage of a worker's income.

Elimination of Preexisting Health Condition Exclusions: The requirement that all health plans cover patients' pre-existing conditions.

Preventive Services without Cost-sharing: The protection that allows workers and families to access vital preventive care without paying out-of-pocket.

While I appreciate that my Republican colleagues are now voicing support for many of these protections, their words have not translated into actions. On January 9, House Democrats voted on a resolution to empower the House counsel to intervene in the *Texas* case to defend the ACA and protect people with pre-existing conditions. Only three House Republicans votes to support the resolution.

There many different views – both within the Democratic Party and across the political spectrum – regarding the best path forward to further expand access to affordable care. But we must all commit – both with our words **and our actions** – to maintaining the lifesaving consumer protections enacted in the ACA and refusing to go backward.

Until efforts to repeal and sabotage this historic legislation cease, workers with pre-existing conditions will be at risk of losing access to the care they need to live healthy and fulfilling lives.

Thank you and I now yield to the Ranking Member, Dr. Foxx.