Protect Our Care: Republicans can't hide their history of opposing protections for pre-existing conditions

Posted on Friday, Oct 23, 2020

>> WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. Get the app or access via desktop.

MILWAUKEE, WI – **After Republican members of the Senate Judiciary Committee jammed through a vote to advance the nomination of Judge Amy Coney Barrett and ahead of tonight's presidential debate, Protect Our Care is setting the record straight about Republicans' history of opposing protections for pre-existing conditions. They have voted time and time again to try to repeal the Affordable Care Act and its protections for more than 135 million Americans with pre-existing conditions. Now, they are rushing Judge Amy Coney Barrett onto the Supreme Court to help them dismantle the ACA. On November 10, one week after the election, the Supreme Court will hear oral arguments in California v. Texas, the Trump-Republican lawsuit to terminate the ACA and throw the entire American health care system into chaos in the middle of an ever-worsening pandemic. No matter how Trump and his Republican enablers in Congress try to trick voters as they head to the polls, their health care sabotage record is clear.**

Top Ways Senate Republicans Have (and Continue to) Undermine Protections for Pre-Existing Conditions

During the week of Amy Coney Barrett's confirmation hearings, Senate Republicans lied about their health care records by claiming that they support protections for people with pre-existing conditions. Ted Cruz (R-TX) said "every member of the Senate agrees we are going to protect pre existing conditions." Senator Mike Braun (R-IN) said "Republicans are all clearly on board that we're covering pre-existing conditions." These blatant lies are just another election year stunt to try to distract voters from their decade-long war on American health care.

The reality is that President Trump and his enablers in the Senate see the nomination of Judge Coney Barrett as their opportunity to accomplish what they haven't been able to do in Congress — completely dismantle the Affordable Care Act (ACA) and its protections for more than 135 million people with pre-existing conditions. One week after the election, the Supreme Court will hear oral arguments in California v. Texas, the Trump-Republican lawsuit that if successful, would overturn the ACA, eliminate its protections for pre-existing conditions and throw our entire health care system into chaos. Trump and Senate Republicans want to send an anti-ACA Justice to the Supreme Court to rig the outcome of their lawsuit, and they believe Amy Coney Bryant will do just that.

Here Are The Top Ways Senate Republicans Have Undermined Protections For People With Pre-Existing Conditions:

1. The Texas Lawsuit

Undoubtedly the most imminent threat to people with pre-existing conditions, California v. Texas could completely overturn the ACA and its critical protections for 135 million people with pre-existing conditions. The lawsuit was brought by Republican attorneys general and supported by the Trump administration. Before the Affordable Care Act, insurance

companies routinely denied people coverage because of a pre-existing condition or canceled coverage when a person got sick. Without the ACA, insurance companies could have the license to do this again. Every single Republican in the Senate **voted for** the Trump tax bill, which formed the **basis** of the entire lawsuit seeking to overturn the health care law. Senate Republicans refused to sponsor a **resolution** that would authorize Senate legal counsel to defend the Affordable Care Act. And earlier this month, Senate Republicans **blocked** a motion to advance a bill that would protect the ACA in the Supreme Court challenge.

2. Pushing Junk Plans

In 2018, the Trump Administration finalized a rule expanding the availability of "short-term, limited duration" plans that are not required to cover pre-existing conditions. Short-term plans offered bare-boned, skimpy coverage and were originally designed to be temporary coverage and limited to three months in duration, but the administration now allows them to be available 364 days and renewed up to three years. Junk plans can also deny coverage for prescription drugs, preventative care, and other essential health benefits. **Experts** warned that, in addition to hurting the people who purchase this substandard coverage, reviving junk plans could increase premiums and destabilize the market for everyone else.

Junk plans are particularly harmful during the coronavirus crisis: One **analysis** found widespread misleading marketing of short-term plans during the pandemic. Reports have already shown that patients covered by junk plans have been left with **thousands of dollars in medical bills** for seeking treatment for coronavirus symptoms. All but one Republican senator voted **against** a Congressional Review Act resolution to overturn the Trump administration's expansion of short term health care plans.

3. Supporting ACA Repeal

Before the ACA became law, health coverage on the individual market was described as the "**wild wild West**" of health insurance marketplaces. That was because consumers were at the mercy of insurance companies that could deny coverage, drop coverage, or charge people more based on their health status, gender, and age. The ACA required "guaranteed issue" and "community rating" in the individual market — meaning insurance companies could no longer deny or drop coverage because of health status, and they could not charge people more based on health status or gender. It also imposed limits on how much more insurance companies could charge people over 50 compared to younger people.

Every single Republican senator has either voted against the initial passage of the ACA, voted in favor of ACA repeal, or explicitly expressed support for overturning the ACA at some point in their careers. Senate Republicans have repeatedly tried to enact legislation that would repeal the ACA and undermine protections for people with pre-existing conditions. For example, the Graham-Cassidy-Heller bill would have allowed states to waive key parts of the ACA such as the "essential health benefit" provision. Chris Sloan, senior manager at the health research firm Avalere, **said** that under Graham-Cassidy, "you can be charged more for a specific condition." And the Washington Post **noted**, "For example, if you are a cancer survivor, an insurance company can't deny you coverage or increase your premiums because of that pre-existing medical condition. But if the state waived the essential health benefits package and insurers redesigned their plans, and the plans didn't cover certain cancer treatments or prescription drugs, then the cost could fall on you."

4. Pushing Sham Bills for Political Cover

In a blatant attempt to provide cover for himself and his colleagues, Senator Thom Tillis (R-NC) released bill text for the "The Protect Act." During Amy Coney Barrett's confirmation hearings, Senate Republicans repeatedly touted this bill as confirmation that Republicans have a plan if the ACA is overturned and that they support guaranteed coverage for people with pre-existing conditions. However, there is a huge catch: under Tillis's legislation, insurance companies could once again impose lifetime limits and refuse to cover services related to a pre-existing condition. In other words, without the ban on annual and lifetime limits, a patient with cancer – whose costs for treatment average about $150,000 – could quickly reach their plan's coverage limit and face the devastating choice of continuing treatment or facing financial ruin. Moreover, while Tillis's bill claims to prohibit insurance companies from excluding coverage of treatments based on a person's pre-existing condition, insurers could deny coverage of certain treatments across the board. So insurance companies could still refuse to cover this person's chemotherapy drugs because they would no longer need to cover essential health benefits. This is all assuming that the patient wasn't already paying higher premiums for being a woman or over the age of 50 — both of which are authorized under this legislation.

Similar legislation from Senator Cory Gardner (R-CO), the "Pre-Existing Conditions Protections Act of 2020," would — despite its name– give power to insurance companies to deny coverage outright based on a pre-existing condition. The bill would not ensure coverage of essential health benefits like prescription drugs, maternity care and cancer treatments, and it would allow insurance companies to place yearly and lifetime limits on essential benefits.

Fact Checks Confirm Senate Republicans Are Lying Through Their Teeth

Washington Post Fact Checker Gave "Four Pinocchios" To Senator John Cornyn's Claim That He Supports Protections For Pre-Existing Conditions.

"Cornyn has been silent on the lawsuit, but his Senate record speaks for itself: numerous votes to repeal the Affordable Care Act or replace it with weaker tea; a pair of proposals that could saddle sick patients with higher, and possibly prohibitive, costs; and voting against a measure just last month that would have barred the Justice Department from arguing to strike down the entire health-care law in court. Cornyn earns Four Pinocchios." [Washington Post, 10/14/20]

The Washington Post Fact Checker Gave Senators Steve Daines, Cory Gardner, And Martha McSally "Four Pinocchios" For False Claims On Protecting Pre-Existing Conditions. "Voters deserve straight answers when their health care is on the line, especially in the middle of a deadly pandemic. Daines, Gardner and McSally have voted to end the Affordable Care Act. People with preexisting conditions would have been left exposed because of those votes; insurers could have denied coverage or jacked up prices for sick patients. The three senators' comments about the GOP lawsuit are woefully vague, but they can all be interpreted as tacit support. Asked about the case, a Daines spokesperson said 'whatever mechanism' to get rid of the ACA would do. McSally's campaign 'didn't specifically answer, but pointed to her general disapproval of the ACA.' Gardner avoided the question six times in one interview, but in another, he said: 'That's the court's decision. If the Democrats want to stand for an unconstitutional law, I guess that's their choice.' Four Pinocchios all around." [Washington Post, 7/15/20]

Politifact Rated Senator David Perdue's Claim That He Believes "Health Insurance Should Always Cover Preexisting Conditions" As "False."
"Perdue said that his policy is that 'health insurance should always cover preexisting conditions. For anyone. Period.' Perdue opposes the Affordable Care Act and weighed in on the side of short-term health plans that lack some of the ACA's strong protections for people with preexisting conditions. Perdue's bill to maintain those protections contains loopholes that insurance companies could use to avoid covering certain conditions. Perdue's promise is sweeping and absolute. The policies he has backed offer some limited protections, but don't match that promise. We rate this claim False." [Politifact, 9/3/20]

Kaiser Health News/Politifact Rated Martha McSally's Claim That She Will "Always Protect Those With Preexisting Conditions" As False. "In her new TV ad, McSally claims she will 'always protect those with preexisting conditions.' But nothing in her voting record, which tracks closely with the Republican repeal-and-replace philosophy, supports this claim. And she has continually declined opportunities to oppose a pending legal threat to the ACA, including its provisions related to preexisting conditions, by a group of GOP governors and supported by the Trump administration. Meanwhile, the legislation her campaign cited to justify her stance falls short in terms of meaningfully protecting Americans with preexisting medical conditions. McSally has not in the past or present taken actions that back up her statement. We rate it False." [Kaiser Health News, 6/29/20]