

## **Latest Version of House Bill Guts Pre-Existing Conditions Protections – And Addresses None of the Problems with Earlier Versions**

Far from a compromise, the [reported amendment](#) to the House ACA repeal bill crafted by Representatives Mark Meadows and Tom MacArthur keeps every harmful element of the original American Health Care Act (AHCA). Meanwhile, it gives the House Freedom Caucus what it has demanded from the beginning: the elimination of key ACA protections for people with pre-existing health conditions and a return to the highly flawed, discriminatory pre-ACA individual insurance market.

In practice, the amendment means that millions of people with pre-existing conditions could no longer get coverage they could afford, women could be charged more than men for insurance, and plans could once again come with annual and lifetime limits on coverage – violating promises President Trump and many Republican legislators have repeatedly made to maintain these protections. That’s on top of the provisions of the base AHCA bill that would lead millions to lose millions to lose coverage or pay more for health care.

### What the Amendment Adds to the AHCA

- It allows states to waive the ACA’s “community rating” requirements, so long as they create or participate in a federal high risk pool. “Community rating” refers to the ACA’s prohibition against charging people higher premiums for health coverage based on their health.
- It allows states to waive the ACA’s “[Essential Health Benefits](#)” requirement. Under the ACA, individual and small group market health plans must cover key services, such as inpatient and outpatient care, prescription drugs, mental health treatment, substance abuse treatment, and maternity care.
- States would receive automatic approval for these waivers within 90 days, just by *attesting* that their purpose is to lower premiums, improve coverage levels, or “advance another benefit to the public interest.”

### What These Changes Would Mean

The reported changes would effectively restore pre-ACA law with respect to key pre-existing conditions protections, making an already terrible bill even worse.

*Waiving community rating means insurers could once again discriminate based against people based on their medical history.* Insurers could increase premiums by unlimited amounts for people with a history of cancer, hypertension, asthma, depression, or other conditions. While insurers would still be required to offer people coverage, that protection would be rendered meaningless, since letting insurers offer coverage with arbitrarily high premiums is the same as letting them deny coverage outright.

*Waiving Essential Health Benefits would also effectively end pre-existing conditions protections.* Repeal of Essential Health Benefits would drive a [race to the bottom](#), with insurers dropping coverage for

everything from cancer treatment to high-cost drugs to discourage sicker, high-cost people from enrolling. So the [more than 130 million Americans](#) with pre-existing conditions – who need these and other costly services – often wouldn't be able to find individual market coverage that covers their needs at any price, much less an affordable one. On top of that, waiving Essential Health Benefits would mean:

- Women would again be charged more than men for coverage. While proponents [claim](#) that the deal preserves the ACA's ban on gender discrimination, eliminating Essential Health Benefit requirements means that women would have to pay more for plans that included maternity care and other key services – if they could find plans with those benefits at any price.
- Plans would be able to impose annual and lifetime limits on coverage – including for people who get health coverage through their jobs. The ACA prohibited plans from imposing annual or lifetime limits on coverage – but *only on coverage of Essential Health Benefits*. Plans can still impose annual or lifetime limits on services not classified as essential health benefits (say, adult dental coverage). That means that if states were allowed to eliminate Essential Health Benefits standards, plans could [likely](#) go back to imposing coverage limits on anything from emergency services to inpatient care to prescription drugs. This would also effectively end the ACA's cap on annual out-of-pocket costs, as that limit is based on the services that are covered by the plan.

Before the ACA, [105 million people](#) with private health insurance – the large majority with employer plans – had policies that imposed lifetime limits on coverage. Repealing essential health benefit requirements could mean going back to a time when millions of people *with health coverage* were one major illness away from medical bankruptcy.

### Republican Claims About These Changes Don't Hold Up

Republicans have [claimed](#) that their amendment maintains some protections for people with pre-existing conditions. But in practice, it effectively restores pre-ACA law and clearly violates promises to preserve the ACA's pre-existing conditions protections.

- Exorbitant premiums and coverage exclusions are no different than coverage denials. Under the latest version of the AHCA, insurers wouldn't be allowed to deny coverage altogether to people with pre-existing conditions – but they could offer people plans that charge premiums of tens of thousands per month and offer no coverage for hospitalizations, prescription drugs, or various other basic health services.
- Pre-existing conditions protections would once again be nothing but a state option. While Republicans may argue that states can keep protections if they choose, the reality is that the amendment means a return to the pre-ACA status quo. States always had the option to regulate their health insurance markets to protect people with pre-existing conditions, but [few states](#) chose to do so. Because the AHCA would [sharply increase](#) premiums and out-of-pocket costs for consumers by eliminating the individual mandate and slashing subsidies, states would be under substantial pressure to seek waivers under this amendment.

- High risk pools are a wholly inadequate substitute. The alternative the amendment proposes for pre-existing conditions protections – high-risk pools – is also a return to the dysfunctional pre-ACA status quo, or worse.
  - Pre-ACA experience shows that high risk pools don't meet the needs of people with the most serious health conditions. While high risk pools weren't required before the ACA, many states had them. They came with enrollment caps, long waiting lists, unaffordable premiums, exclusions for pre-existing conditions, high deductibles, benefit caps and annual and lifetime limits on coverage. Moreover, they covered only several hundred thousand people nationwide and weren't sustainable over time because they pooled sick people with even sicker people.

The reported amendment doesn't appear to include any standards at all for high risk pool financing, eligibility, or affordability. A state could apparently meet its requirements for a waiver with a tiny investment in a high-risk pool, serving almost no people at all.

- High risk pools aren't even intended to help people with many of the most common pre-existing conditions. High risk pools are intended to serve people with the most serious and expensive conditions. Millions of Americans with pre-existing health conditions like asthma, hypertension, or depression would be left to cope with an individual market where insurers could once again charge them unaffordable premiums or offer them policies that excluded the health services – like prescription drugs or mental health treatment – they most need.

### What's Not Changed

The reported amendment makes no changes to the underlying AHCA. Under the underlying bill:

- 24 million more people will be uninsured by 2026 – meaning 1 of every 10 non-elderly Americans who have health insurance coverage under current law would lose it under the AHCA and eliminating all of the coverage gains made under the ACA.
- Medicaid would be cut by \$839 billion over 10 years. The bill would effectively end Medicaid expansion and radically restructure the entire Medicaid program by converting it to a per capita cap or block grant. Under the House bill, 14 million fewer people will be enrolled in Medicaid by 2026.
- High-income people would receive billions of dollars in tax cuts, averaging over \$50,000 per year for people with incomes exceeding \$1 million.