

# SUMMER OF SABOTAGE

HOW THE TRUMP ADMINISTRATION  
CONTINUES TO TAKE ACTIVE MEASURES  
TO UNDERMINE OUR CARE

SUMMER 2018

PROTECT  
OUR CARE

# PROTECT OUR CARE

## Summer of Sabotage *How the Trump Administration Continues to Take Active Measures to Undermine Our Care*

One year ago, President Trump and Republicans in Congress were on the verge of passing a partisan health care bill to repeal the Affordable Care Act (ACA) that would have raised costs, ripped coverage from millions, imposed an age tax on older people, slashed Medicaid, and gutted protections for people with pre-existing conditions. Thanks to the voices of the American people, that dangerous bill failed on the Senate floor.

Despite the Republicans' failure to repeal the ACA in Congress, they have intensified their war on our health care, wielding every kind of tool they have – legislative, regulatory, and with litigation – to undermine and sabotage our health care and the Affordable Care Act. And now, President Trump has put health care on the line by nominating a Supreme Court Justice who passed his litmus test, which is to overturn *Roe vs. Wade* and protections for people with pre-existing conditions, women, and Americans over 50 from discrimination by insurance companies.

It seems like these deliberate efforts to sabotage our health care are coming at record pace in their "Summer of Sabotage." Over the course of the last several months, the Trump Administration has:

- Gone to court and asked that protections for people with pre-existing conditions be overturned;
- Pushed junk insurance plans that can discriminate against people with pre-existing conditions and refuse coverage of essential health benefits, such as mental health care, emergency care and maternity care;
- Slashed funding for in-person assistance to help people sign up for health coverage;
- Unnecessarily put on hold the risk adjustment transfers that spread risk across insurers, which incentivizes insurance companies to offer affordable options for everyone, in particular to people with pre-existing conditions;
- Approved onerous restrictions on Medicaid; and
- Nominated a justice for the Supreme Court who was hand-picked to tip the balance of the Court and potentially rubber stamp the president's sabotage agenda.

Meanwhile, a conservative coalition unveiled their latest partisan health care repeal plan that would gut protections for people with pre-existing conditions, end Medicaid expansion, let insurance companies charge older people an age tax, and deny coverage for basic services like maternity care.

Republican state officials have also worked to sabotage our health care. After it all, it was 18 Republican state attorneys general and two governors who first filed the lawsuit in federal court seeking to repeal the Affordable Care Act back in February. In addition, four states recently enacted onerous restrictions on Medicaid intended to restrict enrollment. Luckily in July, a federal court blocked the move in Kentucky.

These deliberate actions – and others – taken by President Trump and his Republican allies to sabotage the ACA have increased health care costs for millions of American families (at the same time, President Trump and Congressional Republicans have given insurance and drug companies billions in tax breaks), will roll back key protections for people with pre-existing conditions, women and Americans over age 50 and reduce health insurance coverage.

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## Republican Sabotage is Raising Premiums for 2019

Beginning in May, insurance companies filed their initial premium rates for 2019 for approval. What we see is what we had previously predicted: the Republican sabotage agenda causing premiums to go up.

At the time of publication, health insurance companies in 24 states<sup>1</sup> have submitted their requests. In all but two states the average premium rate increased, sometimes by a significant amount, one as high as 91.4 percent. Charles Gaba, a well-respected health care analyst who tracks insurance companies' annual rate increases, estimated that the average premium rate without Republican sabotage would have gone down by 3.25 percent in 2019. For a complete list of state premium changes and reasons cited for the changes, see Appendix A.

## Republicans are Weakening and Threatening Protections that Prevent Discrimination Against People with Pre-existing Conditions, Women, and Americans Over 50

**WHAT THE TRUMP ADMINISTRATION DID:** In June 2018, the Trump Administration's Department of Justice announced it would no longer defend parts of the ACA in the latest partisan lawsuit brought by a group of Republican attorneys general and governors that seeks to repeal the ACA. In doing so, the Trump Administration agreed with the lawsuit plaintiffs that the individual mandate was unconstitutional, and therefore, argued that the guaranteed issue and community rating provisions in the ACA should be repealed. Guaranteed issue and community rating are two provisions that protect consumers from some insurance company abuses. Guaranteed issue means that insurance companies can no longer deny or drop coverage for people with pre-existing condition. Community rating means that insurance companies can no longer charge people with pre-existing conditions more. The community rating provision also banned insurance companies from charging women more than men, and limited the amount that insurance companies could charge older people compared to younger people.

**WHAT THIS MEANS:** The Trump Administration's working to take us back to a time when insurance companies could charge more based on pre-existing condition, gender, or age, and allow insurance companies to deny or drop coverage whenever they want. If they prevail in court, millions of Americans would lose.

**WHO THIS IMPACTS:** As many as 130 million Americans – one in two non-elderly adults and one in four children – have a pre-existing condition like asthma, cancer or diabetes. While those who purchase insurance in the individual market would be most directly impacted, anyone with employer-based coverage would also be at-risk if they lose their job, or decide to start a business on their own. Older people would be subject to an "age tax" because insurance companies would not have a limit to how much more they could charge people over 50 compared to younger people, and women would be subject to higher premiums than men.

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<sup>1</sup>Of these, information for all but Georgia, Iowa, Tennessee, Nevada, and Texas are available through the Kaiser Family Foundation. Information for Georgia was made available and published by Charles Gaba.

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## Republicans are Pushing Junk Insurance Plans that Skirt Key Consumer Protections

**WHAT THE TRUMP ADMINISTRATION DID:** This summer, the Trump Administration is expected to finalize a rule expanding the use of so-called junk plans – “short-term, limited duration” – and finalized a similar rule for “association health plans.” Short-term plans were originally designed to be temporary coverage and limited to three months in duration, though the administration’s new rules expand their availability. The plans are allowed to discriminate against people with pre-existing conditions. Association health plans function by enabling employers to join together purchase subpar insurance that is not required to cover important services including prescription drug coverage and maternity care, instead of offering employees comprehensive coverage. Both rules increase the availability of bare-bones insurance that exempts insurance companies and other payers from key requirements of the Affordable Care Act like excluding coverage of essential health benefits, such as maternity care, substance abuse treatment, hospitalizations and prescription drugs. A review conducted by the Los Angeles Times found that 95 percent of healthcare groups that filed comments with the Department of Health and Human Services about association health plans expressed serious concern with such plans. Similarly, an overwhelming 98 percent of health groups expressed concern about short-term health plans.

**WHAT THIS MEANS:** At a time when big insurance is enjoying billions in profits and huge tax cuts, the Trump Administration is reviving the “junk plans” that made it possible for insurance companies to charge ordinary Americans money for sham plans with inadequate coverage. These plans are more bare-bones which means more people will have to pay more for care because these plans will not cover the care they need.

**WHO THIS IMPACTS:** The people who purchase these junk plans and later get sick and then get stuck with the bill will be impacted by this directly, but experts also warn that reviving these junk plans will increase premiums and destabilize the market for everyone else. The people left in the ACA marketplaces are more likely to be sicker and older, which means their premiums will be higher. For these reasons, not a single group representing patients, physicians, nurses or hospitals voiced support” for the Trump administration’s move to revive junk plans.

## Republicans Are Slashing Funds to Navigators that Help People Sign Up for Health Coverage

**WHAT THE TRUMP ADMINISTRATION DID:** Just months after the Trump Administration slashed the advertising budget for open enrollment by 90 percent, which resulted in over 1 million fewer covered lives, the Trump Administration abruptly announced in July that it would slash the federal grants to non-profit groups that help people sign up for coverage by 70 percent and direct the navigators that remain to steer consumers toward junk plans. This year’s cuts come after a 40 percent cut to the program last year. In all, the Trump administration has cut navigator funding from \$62.5 million to \$10 million since taking office.

**WHAT THIS MEANS:** In addition to defunding yet another program designed to help some of the neediest among us find quality coverage, the Trump administration is forcing navigators to commit what Senator Ron Wyden called “federally-funded fraud” by directing people toward inadequate junk plans.

**WHO THIS IMPACTS:** The cuts will particularly impact people the very people who need help selecting quality health coverage the most, such as people who do not speak English as their primary language, people who have low literacy, people with special needs, and people who live in rural areas.

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## Republicans Are Withholding Information about the ACA from the Public

**WHAT THE TRUMP ADMINISTRATION DID:** In July, the nonpartisan government watchdog group the Sunlight Foundation issued a report finding that 25 pages of information about the ACA have been removed from Medicaid.gov, including the page that explains the coordinated system of applying for coverage under Medicaid, the Children's Health Insurance Program, and the Health Insurance Marketplace.

**WHAT THIS MEANS:** This is another example of the Trump Administration erecting barriers to make it more difficult for people who may be eligible for the Affordable Care Act to find information about their options.

**WHO THIS IMPACTS:** Lower- and middle- class families who rely on Medicaid and/or the ACA exchanges for their coverage.

## Unnecessarily Freezing Insurance Company Program That Promotes a Balanced Marketplace

**WHAT THE TRUMP ADMINISTRATION DID:** The Trump administration announced that it would unnecessarily freeze an insurance company program that helps spread the risk in the marketplace. This is not a government-funded program and is at no cost to taxpayers. It is a transfer from one group of insurance companies to another group of insurance companies similar to other programs in Medicare Advantage.

**WHAT THIS MEANS:** Risk adjustment transfers allow insurance companies with a lower risk pool subsidize the insurance plans with a higher risk pool. Without the risk adjustment program, insurance companies raise rates. Even though this program is currently suspended, and not ended, halting these transfers creates uncertainty in the marketplaces, and uncertainty means insurance companies may decide to exit the marketplace or increase premiums even further, leaving consumers with higher costs and fewer options.

**WHO THIS IMPACTS:** Because this program is a key component to help create a balanced risk pool and provide more certainty in the marketplace, everyone who purchases health coverage in the marketplace could be affected in some way.

## Republicans Are Undermining And Restricting Medicaid

**WHAT THE TRUMP ADMINISTRATION DID:** Last fall, the Trump administration encouraged states to adopt policies that make it harder for people to access health care through Medicaid. One such way is by requiring Medicaid enrollees to work in order to maintain health coverage through Medicaid. This spring, the Trump administration approved waivers in four states – Indiana, Kentucky, Arkansas, and New Hampshire – that will prevent people from being covered through Medicaid unless they meet restrictive requirements. Similar waivers are pending in seven states: Arizona, Kansas, Maine, Mississippi, Utah, Ohio and Wisconsin. Though a federal court has blocked the restrictive measures in Kentucky, calling the Trump administration's approval of them "arbitrary and capricious," the future of work requirements continues to make its way through the courts.

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**WHAT THIS MEANS:** These requirements do nothing to help people find work. Instead, they create paperwork and other administrative hurdles designed to reduce enrollment. Similar requirements have a history of causing people who were still eligible to lose coverage because they were unable to submit the materials necessary to prove their eligibility. In 2003, Washington State increased the number of times people had to submit paperwork to maintain their Medicaid coverage from once a year to twice a year, and enrollment in the program fell by more than 40,000 children a year. Already, 7,000 people in Arkansas have been unable to meet the state's new requirement that people must report at least 80 hours of a work related activity to maintain health care through Medicaid. Should they not meet the requirement for three months of the year, they stand to have their health care stripped from them.

**WHO THIS IMPACTS:** If all states established work requirements, this could impact the more than 70 million Americans with health coverage through Medicaid. The Kaiser Family Foundation estimates more than 62 percent of people who lose coverage will be those who are still eligible for coverage. Between 1.4 million and 4 million people would ultimately lose coverage. Such work requirements will also cost states money, typically tens of millions of dollars per year.

## President Trump's Supreme Court Nominee is Hostile to Health Care

**WHAT THE TRUMP ADMINISTRATION DID:** In July, President Trump announced that he would nominate Judge Brett Kavanaugh to the Supreme Court seat vacated after the retirement of Justice Anthony Kennedy. Kavanaugh has the backing of the conservative, anti-ACA and anti-abortion rights groups the Heritage Foundation and the Federalist Society, has expressed views hostile to the Affordable Care Act, has ruled that employers should be able to deny women employees birth control coverage and has ruled to insert government between a woman and her right to have a safe and legal abortion.

**WHAT THIS MEANS:** If Kavanaugh is confirmed, he will be in a position to rubber stamp much of the Republican war on health care. The ACA has already been subject to three separate lawsuits that have reached the U.S. Supreme Court and as Sen. Orrin Hatch made clear, the fight to overturn or sabotage the law through the courts is far from over. In fact, the current partisan lawsuit seeking to overturn protections for people with pre-existing conditions is endorsed by the Trump Administration and the Supreme Court may also be asked to consider lawsuits to impose work requirements and other restrictions on Medicaid beneficiaries. What's more, there are numerous cases threatening women's health winding their way through the courts right now, including three cases related to the Trump Administration's roll back of the birth control benefit under the ACA, four cases challenging state actions to prevent Planned Parenthood patients' access to birth control and other preventive care, and 12 cases challenging state actions to restrict access to safe and legal abortion.

**WHO THIS IMPACTS:** Health care for each and every one of us is on the line with an even more conservative Supreme Court. In particular, care for people with pre-existing conditions, women, older people and lower-income people would be at particular risk if Kavanaugh is confirmed.

## The Summer of Sabotage Will Drive Up Costs and Gut Protections for People with Pre-Existing Conditions Even Further

Sadly, the Republican war on health care did not end with the defeat of the partisan health repeal bill on the Senate floor last year. As the Summer of Sabotage shows, the Trump Administration and its Republican allies are using every tool at their disposal to take deliberative steps to undermine our health care. The consequences of these sabotage efforts will hurt millions of American families by driving up their health care costs even further, gutting consumer protections and making it harder for people to sign up for comprehensive health care coverage.

The good news is that the vast majority of the American people want to protect our care, not undermine it, and they want our elected leaders to find bipartisan solutions to lower costs. As the data shows, Republicans will continue their sabotage agenda at their own peril.

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## APPENDIX A: State Rate Increases

### Colorado

Insurance companies requested to increase premiums by as much as 21.6 percent for 2019. Statewide, companies requested to increase premiums by an average of 5.94 percent.

Insurance Commissioner Michael Conway: "Decisions at the federal level continue to make life interesting," said Commissioner Conway. "But as we have in the past, we will find a solution to this most recent announcement [the administration's decision to halt risk adjustment payments]. To that end, just this morning, I informed the insurance carriers that we will require that they account for their respective risk adjustment receivables or payables as they are reflected in the July 9, 2018 federal report. I will take any subsequent steps that are necessary to protect Coloradans and to maintain market stability."

### District of Columbia

Insurance companies requested to increase their premiums by an average of 14.9 percent across the district, with one insurer requesting an increase as high as 20 percent.

### Florida

Insurance companies proposed rate increases averaging 8.8 percent for 2019. Kaiser requested the highest premium increase, 20 percent.

Cigna: "The most significant factors requiring the [30 percent] increase" include "elimination of the individual mandate penalties" and "anticipated changes to regulations regarding short term medical and association health plans that will impact the Affordable Care Act risk pool."

### Georgia

Insurance companies requested rate increases of as much as 14.7 percent.

Kaiser: Cited several components of sabotage in its reasoning behind requesting a 14.7 percent increase: "CSR payments were not funded in 2018 and our 2018 rates were not adjusted to reflect this. We expect this to continue in 2019... Population morbidity is worsening [due to] changes to the individual mandate, and changes to the treatment of short term and association plans."

### Indiana

Insurance companies requested rate increases averaging 5.1 percent. The highest request, 10.2 percent, was submitted by CareSource.

### Iowa

Insurance companies requested premium increases of less than 5.6 percent, though Charles Gaba estimates that premiums would have decreased by 5 percent if not for Republican sabotage.

Medica: Rates increasing as healthy individuals leave the marketplace, "Medica Vice President Geoff Bartsh said the pool of Iowans buying individual insurance policies continues to shrink, as relatively healthy people leave and sicker people stay. That means his company still faces uncertain risks in offering coverage here."

### Kentucky

Insurance companies requested rate increases of as much as 19.4 percent. CareSource, which requested the state's largest premium increase, cited sabotage as a reason it had to increase premiums.

CareSource: "The removal of the individual mandate will increase the overall health risk of the Kentucky marketplace due to plan selection bias. Consumers with the greatest need for health insurance will tend to maintain coverage while healthier consumers may [forgo] coverage. Therefore CareSource will require an increase in premiums in order cover the expected increase in claims costs."

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## Maine

Insurance companies requested rate increases of as much as 9.5 percent. One company, Community Health Options, cited an additional increase of 5 percent resulting from the expansion of junk plans.

Community Health Options: "In 2019, the individual mandate will no longer be in effect ... the impact of this change would require a 5% increase"; "Additional marketplace disruption is expected in 2019 as a result of the introduction of short term limited duration (STLD) policies and the proposed rules related to association health plans (AHPs). We estimate an additional increase of 5%."

## Maryland

Maryland insurance companies requested a state average 30.2 percent rate increase, with CareFirst CFMI, GHMSI requesting an increase of 91.4 percent.

Kaiser Permanente: "These proposed rates reflect the expected costs of providing coverage for these members, including the impact of eliminating the individual mandate penalty."

## Michigan

Insurance companies submitted requests to increase premiums by as much as 11.1 percent.

Blue Cross Blue Shield of Michigan: "We have included a factor of 5.0% to account for regulatory risk that encompasses known changes to enforcement of the Affordable Care Act's individual mandate as well as member behavior given the uncertainty of the market."

## Minnesota

Insurance companies submitted requests to lower their premiums by an average of 8 percent.

Charles Gaba, health care analyst, notes that Minnesota insurance companies requested an average premium decrease of 8 percent, but would have seen even an larger reduction of 15.4 percent if not for GOP sabotage.

## Montana

Insurance companies requested rate hikes of as much as 10.6 percent.

## New Mexico

Insurance companies requested to increase rates by as much as 18.5 percent. One company, CHRISTUS, cited an additional 6 percent adjustment due to uncertainty about the market environment.

CHRISTUS: "Due to the uncertainty about the market environment that will exist at the time the proposed rates take effect, the rates include a 6% additional adjustment from 2018, for less tangible items, including non-enforcement of the individual mandate and reduced advertising and outreach."

## New York

Statewide, insurance companies submitted requests for an average of 24 percent, and as much as 38.6 percent. On Average, New York estimates that the repeal of the individual mandate was responsible for an 11.9 percent increase in 2019 premiums.

New York Department Of Financial Services: "The individual mandate, a key component of the Affordable Care Act, helped mitigate against dramatic price increases by ensuring healthier insurance pools. Insurers have attributed approximately half of their requested rate increases to the risks they see resulting from its repeal."



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## Ohio

Insurance companies requested average premium increases of 8.2 percent.

Loren Anthes, Cleveland-based Center for Community Solutions: cut funding for outreach and navigator groups, repeal of individual mandate, shorter open enrollment period, and expanded association health plans create unpredictability – “That kind of unpredictability also creates the conditions where you have to raise prices...Insurance companies are businesses.”

## Oregon

Insurance companies requested premium increases averaging 7.77 percent, and as much as 14.28 percent.

Regence Blue Cross Blue Shield: “These rate changes are necessary due to the increasing cost of medical care, the continued lack of funding for cost sharing reduction plans, and the expected reduction in the size of the Individual ACA market.”

## Pennsylvania

Insurance companies requested premium increases averaging 4.9 percent statewide.

Jessica Altman, Pennsylvania Insurance Commissioner: “The ongoing attempts and recent proposed rules being considered at the federal level to dismantle the ACA still have the potential to jeopardize market stability in future years and negatively impact health insurance consumers. We will continue to work to protect the progress we have made, including Pennsylvania’s lowest uninsured rate on record, and make affordability and access our top priorities for consumers.”

## Rhode Island

Insurance companies requested to increase premiums by as much as 10.7 percent.

Health Insurance Commissioner’s Office: “This year’s rate filings are made against the backdrop of continuing uncertainty over federal policy actions around the Affordable Care Act, such as the discontinuance of both Cost Sharing Reduction subsidies and penalties for not having insurance.”

## Tennessee

Insurance companies announced they would cut premiums for 2019.

BlueCross spokeswoman, Mary Danielson, “says the rate reduction would have been even larger if the federal government hadn’t suspended certain Obamacare payments.”

## Texas

With only 75 percent of the market accounted for, insurance companies so far have increased average premium increases of 1.52 percent, and one company, Sendero, requesting average increases of 33.8 percent.

Ken Janda, CEO of Community Health Choice, “said the requests for 2018 are probably even more subject to change. The ongoing turmoil in Washington, he said, has made it extraordinarily difficult for companies like his to calculate risk and set rates because insurers do not know how many will sign up for coverage or more importantly, how sick they will be.”

## Vermont

Insurance companies submitted requests to increase premiums by as much as 10.9 percent.

Blue Cross Blue Shield VT: “As a result, it is expected that a number of healthy individuals will choose to forgo coverage and leave the single risk pool. This is expected to exert an upward pressure of 2.2 percent on premium rates.”

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## Virginia

Insurance companies requested to increase premiums by an average of 13.36 percent. CareFirst Blue Cross Blue Shield requested to increase premiums by 64.3 percent.

Cigna: Significant factors behind 15 percent rate increase request include "elimination of the Individual Mandate penalties" and "anticipated changes to regulations regarding Short Term Medical and Association Health Plans."

## Washington

Insurance companies requested to increase premiums by a statewide average of 19.08 percent. Kaiser requested the state's highest premium increases, 29.8 percent.

Kaiser: "The rate changes shown are primarily driven by the claims experience of the single risk pool, medical inflation, and projected changes in the risk profile of the membership due to the elimination of the individual mandate."