

# Trump-Backed Texas Lawsuit Would Devastate Texans

With a vacancy on the U.S. Supreme Court, the future of our health care is at stake. On November 10, 2020 — one week after the election — the U.S. Supreme Court will hear oral arguments in *California v. Texas*, a case that could overturn the entire Affordable Care Act (ACA), ending its protections for 135 million Americans with pre-existing conditions and ripping health care away from 23 million Americans, all during a raging pandemic. As the Senate considers an anti-ACA nominee to replace Justice Ruth Bader Ginsburg, Senator John Cornyn holds the fate of the health care law in his hands. Now, more than ever, Americans' health care is on the ballot.

## **If Trump Gets His Way, Nearly 2 Million Texans Would Lose Their Coverage**

- **1.9 million Texans could lose coverage.** The Center for American Progress estimates that, in light of the pandemic, [1,958,000](#) Texans are at risk of losing coverage if the ACA is overturned.
- **205,000 Texas young adults** with their parents' coverage could lose care. Because of the Affordable Care Act, millions of young adults are able to stay on their parents' care until age 26.
- **432,000 Texas children** could lose their coverage. Almost [three million children](#) nationwide gained coverage thanks to the ACA. If the law is overturned, many of these children will lose their insurance.
- **655,800 Texas Latinos** could lose coverage. The percentage of people gaining health insurance under the ACA was higher for Latinos than for any other racial or ethnic group in the country. According to a study from [Families USA](#), 5.4 million Latinos nationwide would lose coverage if the lawsuit succeeds in overturning the ACA.
- **Texans would lose important federal health care funding — an estimated reduction of \$6.5 billion in the first year.** The Urban Institute estimates that a full repeal of the ACA would reduce federal spending on Texans' Medicaid/CHIP care and Marketplace subsidies by \$6.5 billion.

## **If Trump Gets His Way, Insurance Companies Would Be Put Back In Charge, Ending Protections For The 135 Million People Nationwide With A Pre-Existing Condition**

- According to a recent [analysis](#) by the Center for American Progress, roughly half of nonelderly Americans, or as many as 135 million people, have a pre-existing condition. This includes:
  - 44 million people who have high blood pressure
  - 45 million people who have behavioral health disorders
  - 44 million people who have high cholesterol
  - 34 million people who have asthma and chronic lung disease
  - 34 million people who have osteoarthritis and other joint disorders
- **11,898,500 Texans have a pre-existing condition**, including 1,758,200 Texas [children](#), 6,139,000 Texas [women](#), and 2,444,500 Texans between ages 55 and 64.

## **If Trump Gets His Way, Insurance Companies Would Have The Power To Deny, Drop Coverage, And Charge More Because Of A Pre-Existing Condition**

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. If the Trump-GOP lawsuit is successful, insurance companies will be able to do this again.

- A 2010 congressional report found that the top four health insurance companies [denied coverage to one in seven consumers](#) on the individual market over a three year period.
- A 2009 congressional report found that the largest insurance companies had retroactively canceled coverage for [20,000 people](#) over the previous five year period.
- An analysis by [Avalere](#) finds that "102 million individuals, not enrolled in major public programs like Medicaid or Medicare, have a pre-existing medical condition and could therefore face higher premiums or significant out-of-pocket costs" if the Trump-GOP lawsuit is successful.

## **If Trump Gets His Way, Insurance Companies Would Have The Power To Charge You More, While Their Profits Soar**

- **10,278,005 Texans Could Once Again Have To Pay For Preventive Care.** Because of the ACA, health plans must cover preventive services — like flu shots, cancer screenings, contraception, and mammograms — at no cost to consumers. This [includes nearly](#) 10,278,005 Texans, most of whom have employer coverage.

- **Insurance Companies Could Charge Premium Surcharges in the Six Figures.** If the Trump–GOP lawsuit is successful, insurance companies would be able to charge people more because of a pre-existing condition. The health repeal bill the House passed in 2017 had a similar provision, and an analysis by the Center for American Progress found that insurers could charge up to [\\$4,270 more for asthma](#), [\\$17,060 more for pregnancy](#), [\\$26,180 more for rheumatoid arthritis](#) and [\\$140,510 more for metastatic cancer](#).
- **Women Could Be Charged More Than Men for the Same Coverage.** Prior to the ACA, women were often charged premiums on the nongroup market of [up to 50 percent higher](#) than they charged men for the same coverage.
- **People Over the Age of 50 Could Face a \$4,000 “Age Tax,” Including \$4,217 in Texas.** Because Judge O’Connor sided with Republican lawmakers, insurance companies would be able to charge people over 50 more than younger people. The Affordable Care Act limited the amount older people could be charged to three times more than younger people. If insurers were to charge five times more, as was proposed in the Republican repeal bills, that would add an average “age tax” of [\\$4,124](#) for a 60-year-old in the individual market, including \$4,217 in Texas, according to the AARP.
- **851,914 Texans in the Marketplaces Would Pay More for Coverage.** If the Trump–GOP lawsuit is successful, consumers would no longer have access to tax credits that help them pay their marketplace premiums, meaning roughly [nine million people](#) who receive these tax credits to pay for coverage will have to pay more, including 851,914 in Texas.
- **333,523 Texas Seniors Could Have to Pay More for Prescription Drugs.** If the Trump–GOP lawsuit is successful, seniors could have to pay more for prescription drugs because the Medicare “donut” hole would be reopened. From 2010 to 2016, “More than 11.8 million Medicare beneficiaries have received discounts over \$26.8 billion on prescription drugs – an average of \$2,272 per beneficiary,” according to a [January 2017 CMS report](#). In Texas, 333,523 seniors each saved an average of \$1,144.

#### **If Trump Gets His Way, Insurance Companies Would Have the Power to Limit the Care You Get, Even If You Have Insurance Through Your Employer**

- **Insurance Companies Do Not Have to Provide the Coverage You Need.** The Affordable Care Act made comprehensive coverage more available by requiring insurance companies to include “essential health benefits” in their plans, such as maternity care, hospitalization, substance abuse care and prescription drug coverage. Before the ACA, people had to pay extra for separate coverage for these benefits. For example, in 2013, [75 percent](#) of non-group plans did not cover maternity care, [45 percent](#) did not cover substance abuse disorder services, and [38 percent](#) did not cover mental health services. [Six percent](#) did not even cover generic drugs.
- **Reinstate Lifetime and Annual Limits On 7,536,000 Privately Insured Texans.** Repealing the Affordable Care Act means insurance companies would be able to impose [annual and lifetime limits](#) on coverage for those insured through their employer or on the individual market.
- **Large Employers Could Choose to Follow Any State’s Guidance, Enabling Them Put Annual and Lifetime Limits on Their Employees’ Health Care.** Without the ACA’s definition of essential health benefits (EHB) in even some states, states could eliminate them altogether. Large employers could [choose to apply](#) any state’s standard, making state regulations essentially meaningless. Because the prohibition on annual and lifetime limits only applies to essential health benefits, this change would allow employers to reinstate annual and lifetime limits on their employees’ coverage.

#### **If Trump Gets His Way, Medicaid Expansion Would Be Repealed**

- **2,070,000 Texans who could gain coverage if Texas were to expand Medicaid will be denied that possibility.** By not fully expanding Medicaid, Texas has [restricted](#) its Medicaid program, preventing 2,070,000 residents from gaining coverage.
- **Access To Treatment Would Be In Jeopardy For 800,000 People With Opioid Use Disorder.** Roughly four in ten, or 800,000 people with an opioid use disorder are enrolled in Medicaid. Many became eligible through Medicaid expansion.
- **Key Support For Rural Hospitals Would Disappear,** leaving Texas hospitals with \$3.3 billion more in uncompensated care.