



REPEALING THE
AFFORDABLE CARE ACT:
**HURTING OUR HEALTH
AND OUR ECONOMY**

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Overview

With Congress poised to repeal the Affordable Care Act (ACA), affordable health care for hundreds of thousands West Virginians could be lost.

The state's fragile economy and growing state budget crisis could also worsen without billions of dollars in federal investments from the ACA, costing the state thousands of jobs and millions in lost tax revenues. Repealing the ACA without an adequate replacement would also mean shifting costs onto the state's uninsured, health-care providers, and all West Virginians.

West Virginia has made substantial progress under the ACA. The share of the total population without health insurance dropped from 14 percent in 2013 to just six percent in 2016, the lowest it has ever been (the rate for 18-64 year olds dropped from 20.7 percent to 8.7 percent).¹ Thousands of West Virginians now have access to free preventive care and cannot be denied coverage because of pre-existing conditions. Meanwhile, seniors have saved thousands of dollars on their prescription drug cost and college-age kids can now stay on a parent's health insurance until age 26.

This issue brief explores the gains West Virginia has made in insurance coverage, consumer protections that are at risk if the ACA is repealed, potential economic and fiscal impacts of repealing the ACA without an adequate replacement, and four key areas of opportunity that Congress could address to build upon the foundation of the ACA.

Key Findings on Impact of Repealing the ACA in West Virginia:

- At least 184,000 West Virginians could lose health insurance coverage, many of whom are working in low-wage jobs such as food services.²
- An estimated 29,000 West Virginians could lose their premium subsidies in the Marketplace, which totaled \$135.8 million in 2016. Nearly 19,000 people in this group also received cost-sharing reductions (CSRs), which lowered deductibles and other out-of-pocket costs for them by roughly \$23.9 million that year.³
- Seniors and people with disabilities may have to pay millions more for prescription drugs. Medicare enrollees have already saved about \$221 million on drug costs from the closing of the "donut hole" under the ACA as of December 2015.⁴
- West Virginia's budget crisis could worsen if ACA provisions that provide direct savings to the state are repealed. For example, if the Medicaid expansion is eliminated, the state would have to pay more to cover children that shift back to the state's Children's Health Insurance Program and find other ways to cover behavioral health services or substance abuse disorder treatment with state-only funds.
- The Commonwealth Fund estimates that the loss of federal dollars flowing into West Virginia from the ACA could result in the loss of 16,000 jobs and \$9.1 billion in state economic output (State GDP) in 2019.⁵
- West Virginia will lose an estimated \$349 million over five years in state and local taxes as a result of reduced economic activity generated by the ACA.⁶
- Vital consumer protections could be at risk, including for about 800,000 West Virginians with pre-existing conditions;⁷ 581,000 state residents who saw an end to annual and lifetime limits on insurance plans; 773,000 who received free preventive care;⁸ and about 12,000 young adults who were able to stay on their parents' insurance until age 26.⁹
- The potential loss in health insurance coverage from the repeal of Medicaid expansion could disproportionately impact the state's poorest counties and those that have suffered the most from declining coal jobs.
- Instead of reversing the progress made through the Affordable Care Act, Congress and the President should build upon them by focusing on strategies to lower health-care costs and expand comprehensive health insurance coverage to more people.

Under ACA Repeal: Number of Uninsured West Virginians Could Triple

Comprehensive and affordable health insurance coverage pays for preventive health care that keeps children ready to learn and keeps adults productive. It also pays for treatment care for people who have diabetes, heart disease or cancer. Since implementation of the ACA, coverage has helped many people with opioid addictions pay for treatment.

Ask any West Virginian who has been uninsured: it is a myth that people without health insurance are able to receive the care they need at the right time, and in the right settings. Without insurance, many West Virginians will delay or forego care, and if and when they do seek it, their problems will have grown more severe and more expensive to treat. The negative physical and financial impact of the loss of health insurance is real and measurable. For many in West Virginia, it is the difference between life and death.¹⁰

The gains in health insurance coverage for West Virginians were achieved through two major provisions in the ACA:

1. The adoption by West Virginia of the Medicaid expansion:

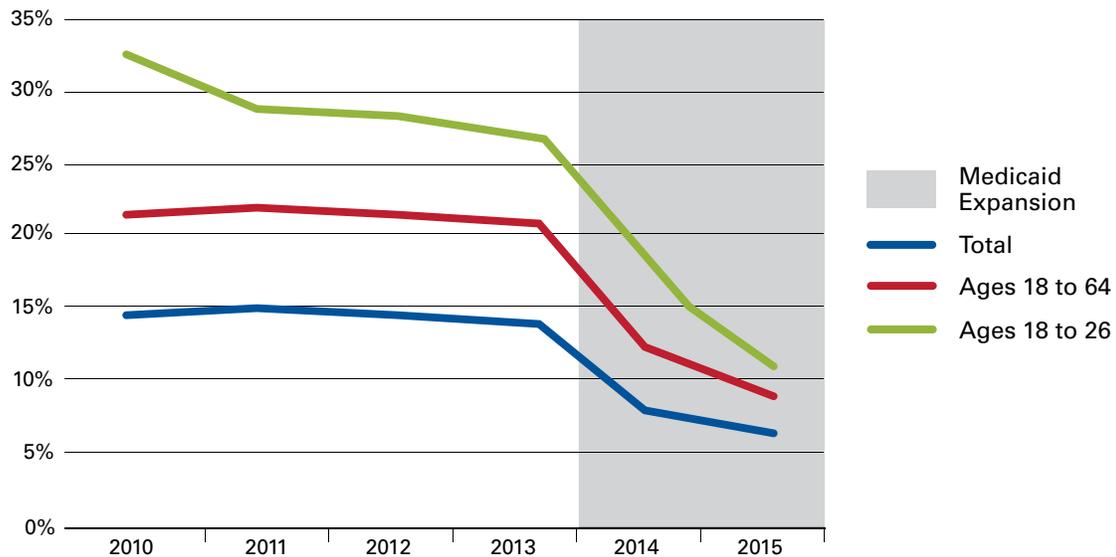
In 2016, about 200,000 West Virginians received coverage through the Medicaid expansion. The federal government paid for the entire cost of this coverage from 2014-2016. This amount began phasing down slightly this year, but the state will never pay more than 10 percent of the total cost. The expansion allows Medicaid to cover lower-wage working adults with incomes up to 138 percent of the federal poverty level. In 2017, that included an individual with a yearly income of \$16,394 or \$27,821 for a family of three.

The Medicaid program serves pregnant women, children, people with disabilities and chronic health conditions, working adults who do not have affordable insurance coverage through their jobs, lower-income seniors, and people who need long-term care in settings such as nursing homes and in home- or community-based care.

2. The creation of the ACA West Virginia Marketplace:

About 33,000 West Virginians receive coverage through private plans in the state Marketplace. About 88 percent of these West Virginians receive significant financial assistance to lower the cost of premiums for the private coverage available through Highmark Blue Cross/Blue Shield and CareSource. About 51 percent qualified for cost-sharing reductions.¹¹

Figure 1:
ACA Has Greatly Reduced The Uninsured In West Virginia



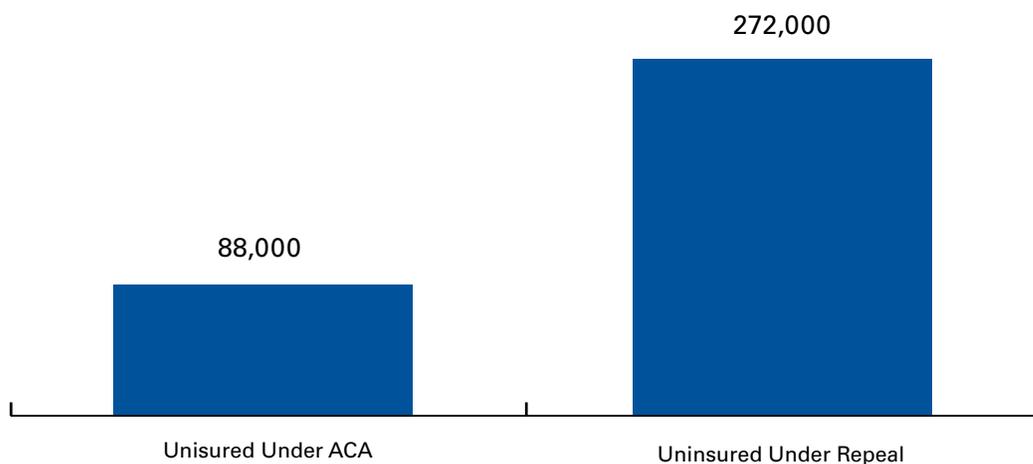
Source: U.S. Census Bureau, American Community Survey, 2010 to 2015 – 1 year estimates

With implementation of these Affordable Care Act provisions, the state has seen significant improvements in its rate of insurance coverage:

- Today, more than 97 percent of all children and 93 percent of all adults have affordable, quality health insurance coverage.¹²
- Before implementation of the major coverage provisions of the ACA, an estimated 20.7 percent of the West Virginia non-elderly adult population (ages 18 to 64) was uninsured. With implementation, West Virginia cut this rate by more than half to 8.7 percent (Figure 1).¹³
- The share of young adults without health insurance coverage dropped from nearly 27 percent in 2013 to 10.5 percent in 2015 (Figure 1).¹⁴
- Every West Virginia county saw at least a 10-percentage point decline in the share of its residents without health insurance (Figure 2).¹⁵

- At least 184,000 West Virginians could lose health insurance coverage (Figure 3).¹⁶
- Under ACA repeal, the number of uninsured in West Virginia could jump from 88,000 to approximately 272,000.¹⁷
- At risk are 175,000 West Virginians who could lose coverage under the Medicaid expansion.¹⁸
- At risk are 37,284 marketplace enrollees in West Virginia, of which an estimated 29,000 could lose their premium subsidies in the Marketplace – for a total of \$135.8 million in subsidies in 2016.¹⁹
- In West Virginia, the average premium subsidy was \$387 per month, which covers 71 percent of the total monthly premium for comprehensive coverage in 2016.²⁰
- Also at risk, of the 29,000 who receive premium subsidies, nearly 19,000 also receive cost-sharing reductions (CSRs) – for a total of about \$23.9 million.²¹
- In West Virginia, the average annual cost-sharing reduction was \$1,258.²²

FIGURE 3:
Number of Uninsured West Virginians Triples Under ACA Repeal



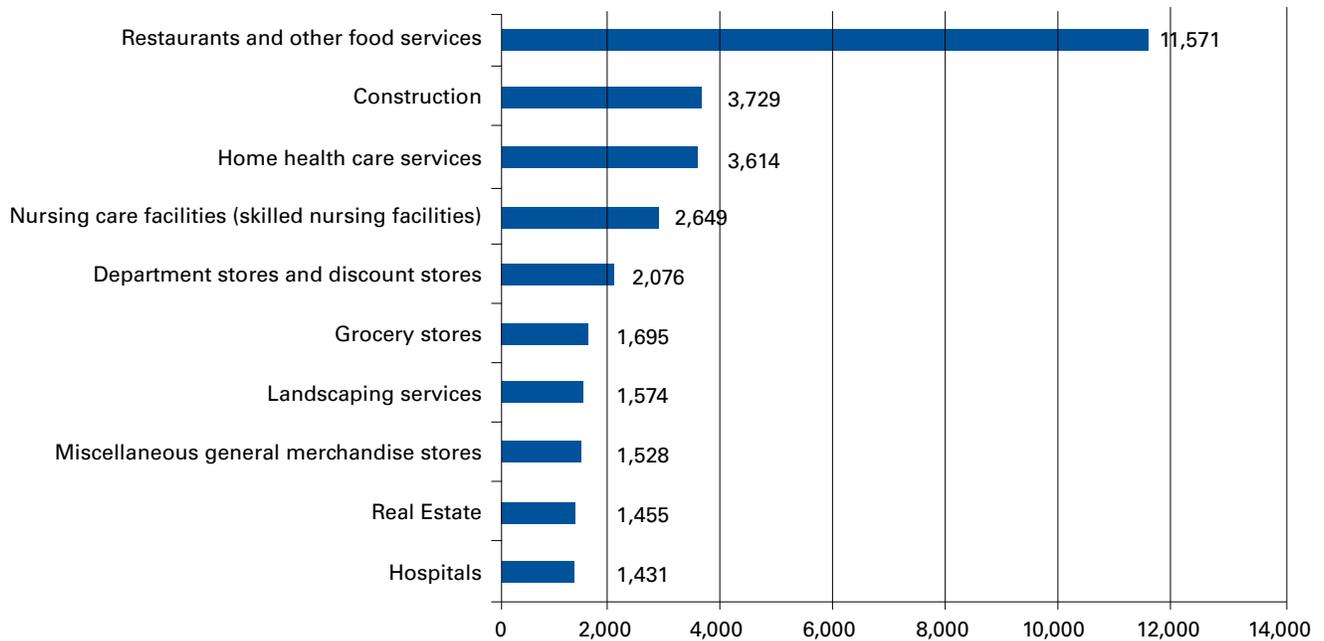
Source: Urban Institute (December 2016)

Many of the West Virginians at risk of losing coverage are working but cannot get affordable insurance through their job: between 2013 and 2015, the number of working West Virginians without health insurance declined 55 percent.²³

In West Virginia, about 70,000 adults enrolled in the Medicaid expansion are working. Many of these Medicaid expansion participants are employed in some of the state’s largest job sectors that often pay low wages (Figure 4).

FIGURE 4:

Ten Sectors With The Most Workers Using Medicaid Expansion For Health Coverage In West Virginia (2015)



Source: Adults age 19 to 64 who have worked in the past year, are enrolled in Medicaid, and are at or below 138% of the federal poverty line. U.S. Census Bureau, American Community Survey 2015.

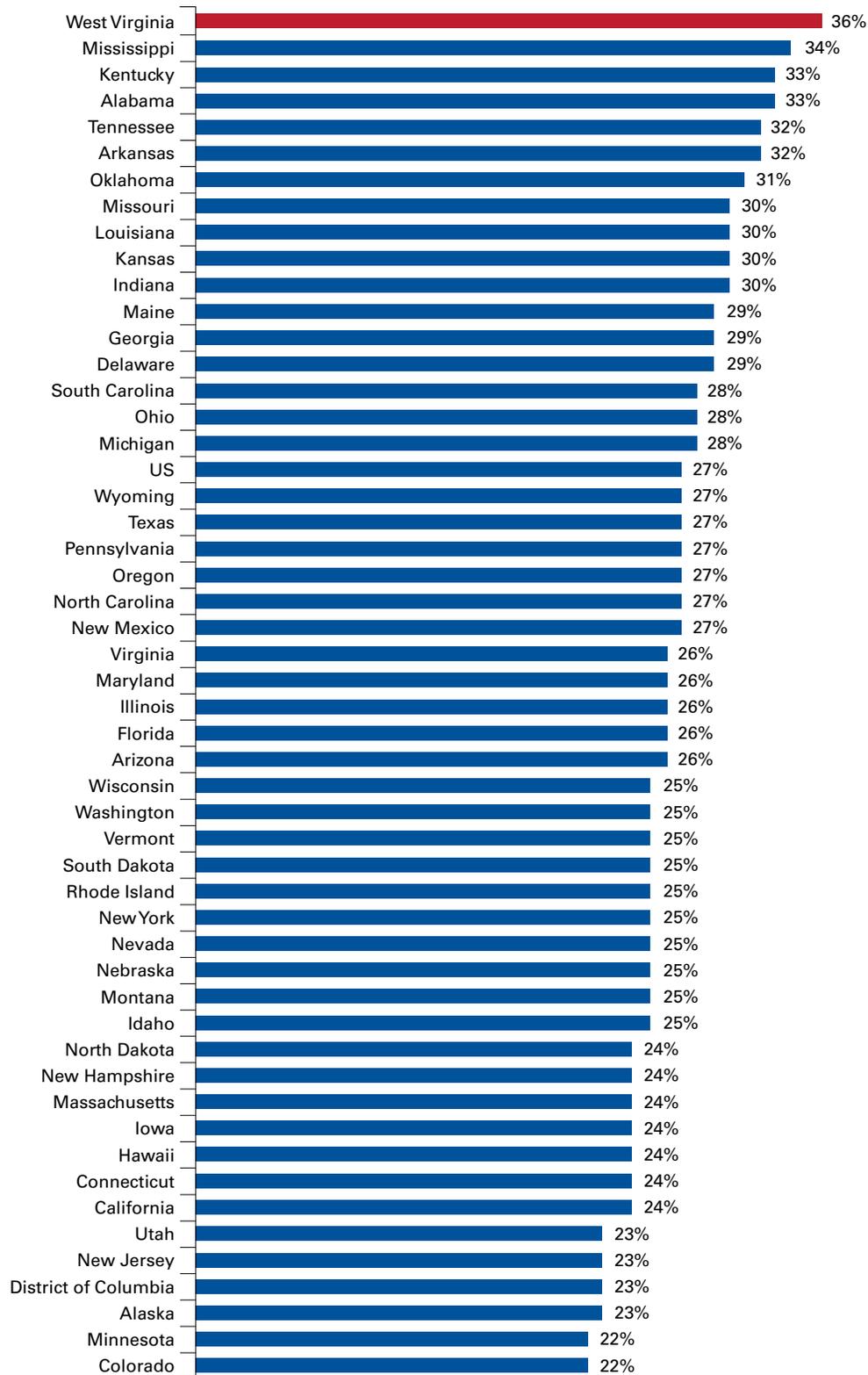
People with Pre-existing Conditions Lose Protections

The ACA protects people with pre-existing conditions from being denied coverage, from being sold plans that excluded the very services they need, and from being charged higher premiums for coverage. While leadership in Congress has said everyone will have “access” to coverage – it is unclear at what price and whether the coverage will include critical health care services.

West Virginia has the highest estimated share of non-elderly adults with health conditions that would cause them to be excluded from coverage or result in insurer denials under pre-ACA practices – 36 percent or 392,000 West Virginians (Figure 5).²⁴

FIGURE 5:

West Virginia Has Highest Share Of (Non-Elderly) People With Declinable Pre-Existing Conditions Under Pre-Aca Practices



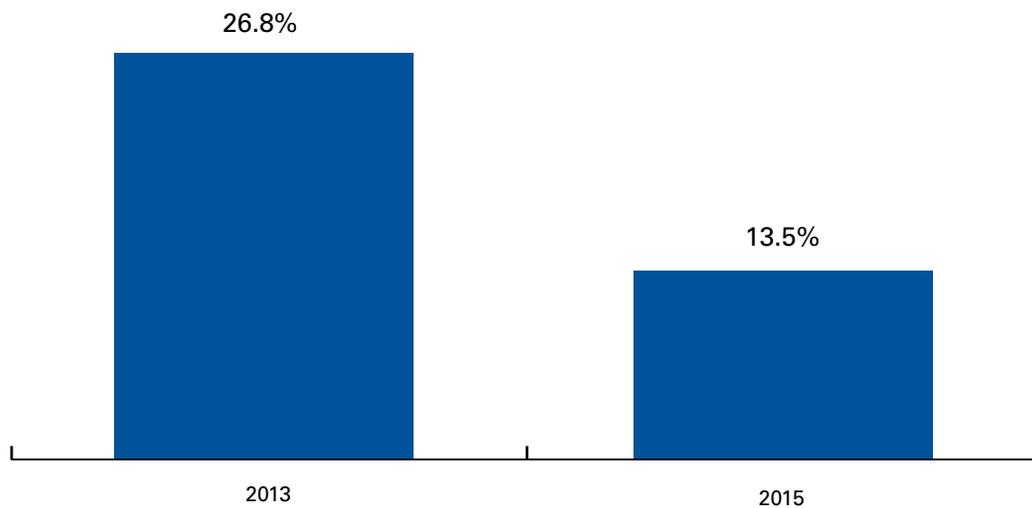
Source: Kaiser Family Foundation analysis of data from National Health Interview Survey and the Behavioral Risk Factor Surveillance System. NOTE: Five states (MA, ME, NJ, NY, VT) had broadly applicable guaranteed access to insurance before the ACA.

West Virginia Small Businesses Lose Insurance Options

Small business employees and entrepreneurs represent another group at risk if the ACA is repealed. The majority of West Virginia small business owners and employees must purchase individual market insurance for themselves and their families and the ACA has given them new affordable options. After the ACA's coverage expansions were implemented in 2014, thousands more workers at West Virginia's small businesses were able to access health coverage through both Medicaid and the Marketplace. The share of uninsured employees of small businesses (those with fewer than 50 employees) dropped to just 13.5 percent in 2015 from 26.8 percent in 2013.

FIGURE 6:

Big Insurance Coverage Gains for Small-Business Workers in West Virginia Under Health Reform (Uninsured Rate)



Source: U.S. Census Bureau American Community Survey (2013 and 2015) data for employers with less than 50 employees.

Under ACA Repeal: West Virginia Will Lose Billions of Federal Dollars

Eliminating the Medicaid expansion and private insurance subsidies could put billions of federal dollars that support West Virginia healthcare services and spur economic growth at risk. This loss of funds would directly and indirectly impact the state budget.

The Urban Institute estimates that West Virginia would lose a total of \$14 billion in federal funds from 2019-2028, including \$12 billion that supports Medicaid/CHIP and \$2 billion in Marketplace premium and cost-sharing subsidies.²⁵

West Virginia Hospitals and Providers Hurt

By increasing the number of West Virginians with insurance, the Affordable Care Act reduced the level of uncompensated care. Uncompensated care is the unreimbursed cost of care provided by hospitals to people who are uninsured or underinsured. It includes free or charity-care, and medical bills that are not collected. While uninsured people do seek less care – waiting until a health condition becomes a crisis that is more difficult and expensive to treat – these West Virginians do not disappear. Without a source of payment for care, a larger uninsured population would put a greater financial strain on West Virginia's health-care infrastructure.

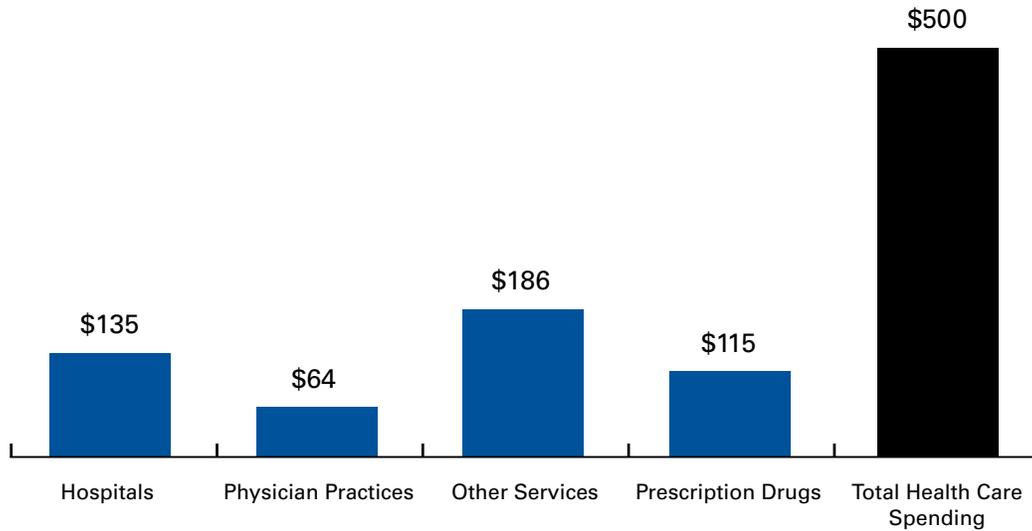
By greatly reducing the number of West Virginians who are uninsured, the ACA has reduced hospitals' uncompensated care costs. In addition, doctors and other health care providers who shouldered the burden of caring for uninsured patients pre-ACA, gained financial relief as more of their patients had a source of payment for necessary services. Thus, the ACA improved the financial viability and stability of health care providers across the state. This influx of support has been especially important for rural health-care providers.

As the ACA moved thousands of West Virginians into the ranks of the insured, it reduced the availability of federal dollars that partially reimburse hospitals for the uncompensated care provided to the uninsured. It is unclear if a replacement plan that does not sustain the state's coverage gains will reinstitute help to hospitals to pay for uninsured care. Acknowledging the great risk to hospitals, the American Hospital Association and the Federation of American Hospitals have already expressed their opposition to an ACA repeal without a replacement plan.²⁶

- In West Virginia, under a partial repeal of the ACA, the increase of uninsured West Virginians could lead to a \$500 million increase in total uncompensated care sought from providers by 2019, including:
 - West Virginia hospitals would be asked to provide \$135 million more
 - Physicians would be asked provide \$64 million more
 - Uncompensated prescription drug costs would rise \$115 million²⁷

FIGURE 7:

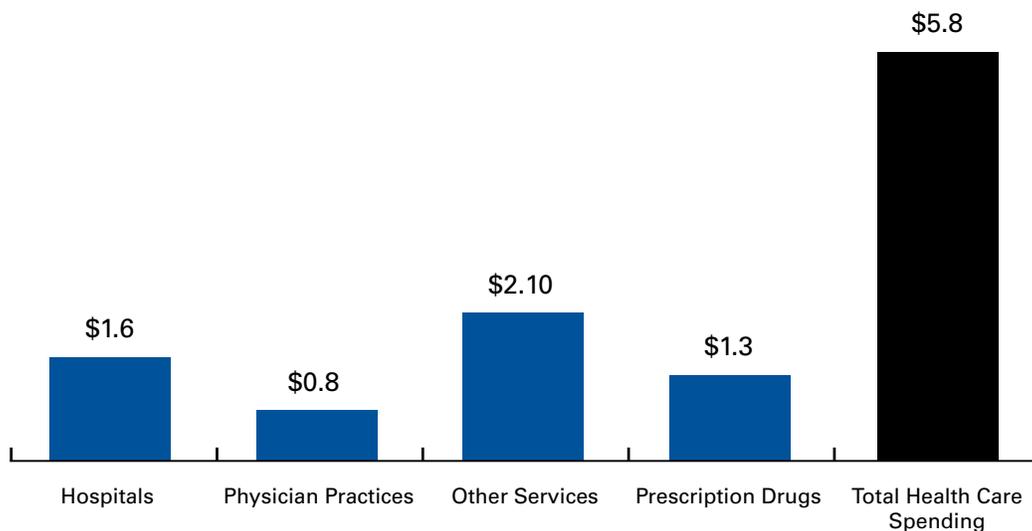
West Virginia Uncompensated Care Spending in 2019 Could Rise by \$500 Million Under Partial Repeal (in Millions)



Source: The Urban Institute (January 2017)

FIGURE 8:

West Virginia Uncompensated Spending Could Grow to \$5.8 Billion Under Partial Repeal From 2019 to 2028 (in Billions)



Source: The Urban Institute (January 2017)

- From 2019 to 2028, the increase of uninsured West Virginians (Figure 8) could lead to a more than \$5.8 billion increase in total uncompensated care sought from providers, including:
 - West Virginia hospitals would be asked to provide more than \$1.6 billion more
 - Physicians would be asked provide more than \$800 million more
 - Uncompensated prescription drug costs would rise to close to \$1.3 billion²⁸

Direct Loss of ACA Federal Dollars Increase State Budget Gaps

Federal dollars directed to the state from the ACA allowed West Virginia to cut the number of uninsured residents by half and allowed the state to reduce some areas of state-only health-care spending. While more quantitative analysis is needed to identify all the areas of direct savings in West Virginia’s budget, several examples of savings can be easily identified:

- The governor’s plan to close the 2016 budget gap included excess cash of \$4.8 million from the expiration of the West Virginia Health Insurance Plan Fund – the state’s high-risk health insurance pool (called AccessWV). The implementation of the Medicaid expansion as well as the Affordable Care Act Marketplace health insurance premium subsidies reduced the need to offer coverage options through a high-risk pool.
- The Affordable Care Act shifted children in the Children’s Health Insurance Program (CHIP) into the Medicaid expansion saving the state nearly \$10 million in FY 2017 due to the higher federal dollar matching rate.
- The Medicaid expansion and the new federal dollars flowing into the state paid for \$43 million in behavioral health services in 2015.²⁹
- The Medicaid expansion is providing Medicaid coverage to inmates who are hospitalized for more than 24 hours. This reduces the amount the state spends on inmate care due to the federal match in Medicaid. The West Virginia Bureau of Medical Services and the state’s Division of Corrections also are working together to target discharged inmates, individuals on probation and parole, and substance abusers to community-based care that can be reimbursed through Medicaid for both short-term and long-term savings.³⁰

Loss of ACA Federal Dollars Hurts West Virginia Economy and Lowers State Revenue

The impact of the loss of federal dollars flowing into West Virginia also has negative indirect impacts on both the state budget and economy.

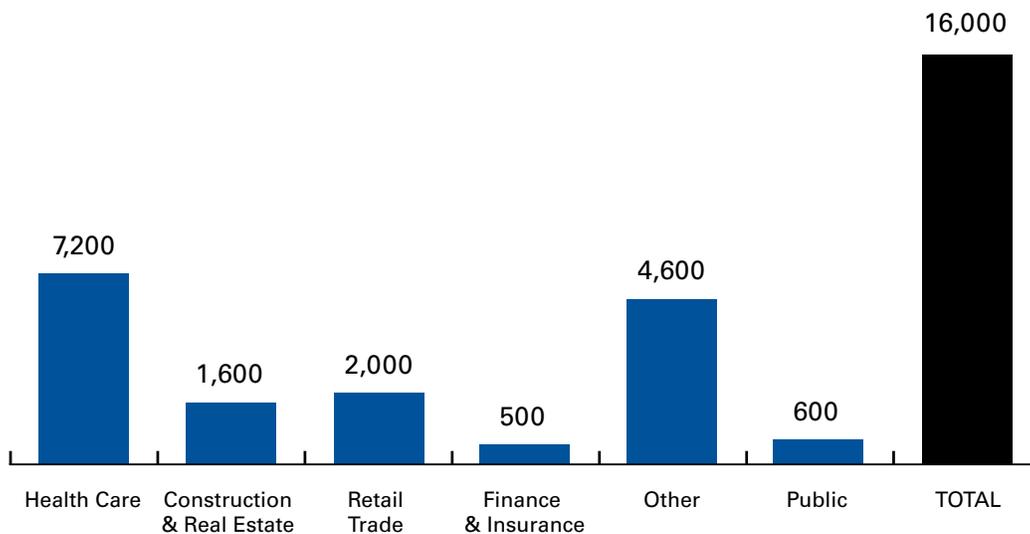
Medicaid and private insurance payments have a direct, positive impact on the health sector of the state economy; they pay for health care goods and services and support health-related jobs in the state. In West Virginia, health care services are one of the few sectors that is growing and adding jobs to the state economy (Figure 10).

New federal dollars also trigger successive rounds of earnings and purchases as they continue to circulate through the economy beyond the health sector. For example, health care employees spend part of their salaries on new cars, which adds to the income of employees of auto dealerships, enabling them to spend part of their salaries on washing machines, which enables appliance store employees to spend additional money on groceries, and so on. This ripple effect of spending is called the “economic multiplier effect.”

The Milken Institute School of Public Health at George Washington University modeled the impact of the loss of federal dollars sent into West Virginia’s economy and budget from repeal of the premium tax credit subsidies in the ACA Marketplace and the Medicaid expansion:

- 16,000 jobs in West Virginia would be lost in 2019
 - More than half – 57 percent - of the new jobs were in sectors other than health care
- the loss of \$9.1 billion in Gross State Product over five years: 2019-2023
- the loss of \$16 billion in business output
- the loss of \$348.5 million in state and local taxes³¹

FIGURE 9:
 Repeal of ACA Medicaid Expansion and Premium Credits Could Cost West Virginia 16,000 Jobs



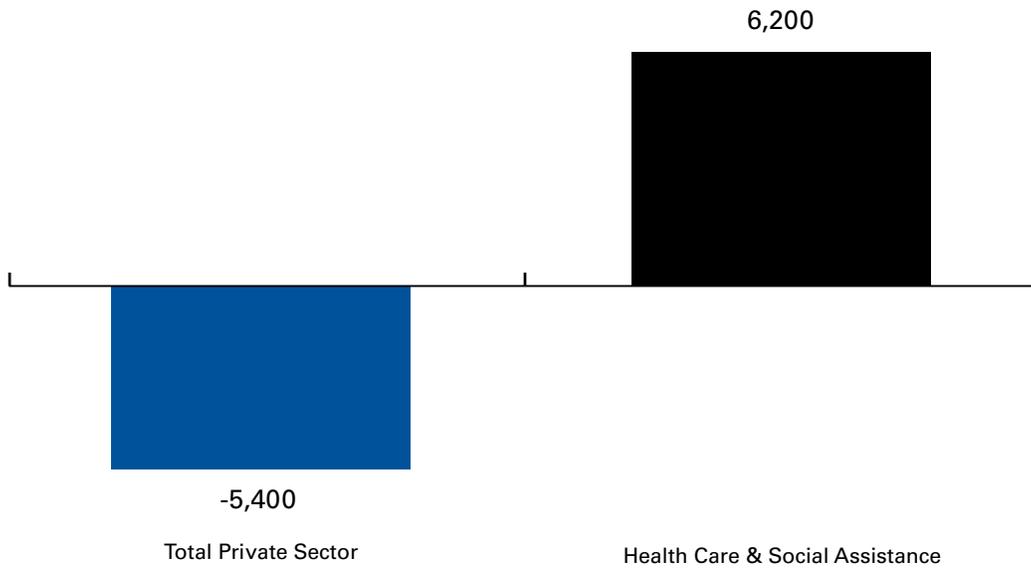
Source: *The Commonwealth Fund* (January 6, 2017)

West Virginia’s Weak Economy Would Be Worse Without Health-Sector Growth

While West Virginia has yet to fully recover from the Great Recession and the downturn in energy markets, one bright spot in the state’s economy is the growth of jobs in the health sector. This is especially true since the state implemented Medicaid expansion in January of 2014. Since that time, the state has gained 6,200 jobs in health care and social assistance, while the private sector, as a whole, has lost 5,400 jobs. The hundreds of millions of additional federal dollars coming into the state to provide care for the newly insured likely played a role, along with the state’s growing elderly population.

FIGURE 10:

Since Medicaid Expansion, Health Care Jobs Are Growing in West Virginia
Change in West Virginia Employment from January 2014 to October 2016 (seasonally adjusted)



Source: Bureau of Labor Statistics (CES), November 2016

Repeal Puts All of Medicaid at Risk

- In West Virginia, more than 650,000 people were served by Medicaid in 2015³²
- 30 percent of the West Virginia population relies on Medicaid: pregnant women, children, people with disabilities and chronic health conditions, working adults who do not have affordable insurance coverage through their jobs, lower-income seniors, and people who need long-term care (in nursing homes and in home- or community-based care).³³
- Twenty counties in West Virginia had more than 30 percent of their residents enrolled in Medicaid in 2015, with higher shares in the southern coalfields and in higher-poverty counties. McDowell County had nearly half its residents enrolled in Medicaid (See Page 17).

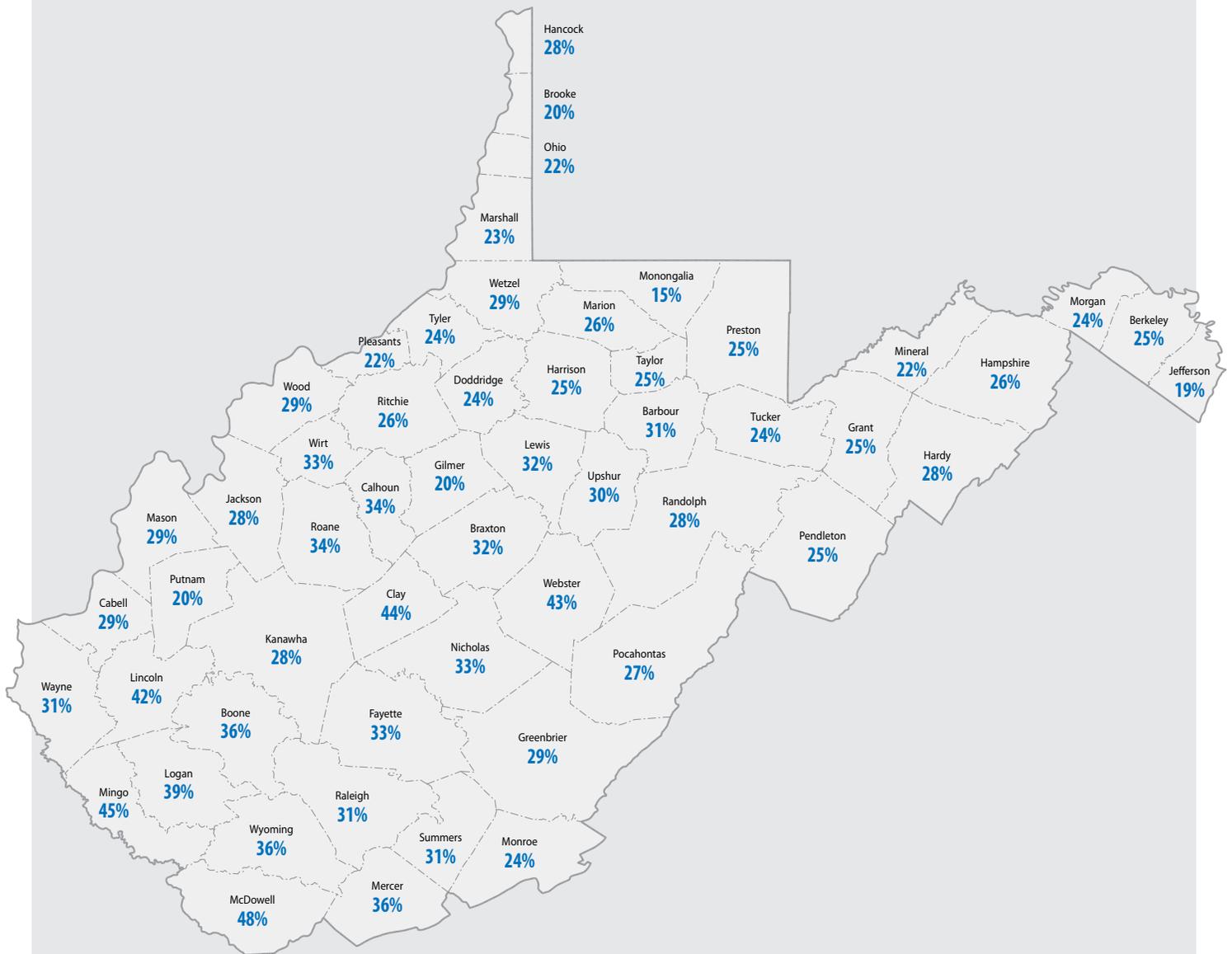
ACA Repeal and replace proposals target all of Medicaid program:

It is very important to understand that proposals to limit federal funding for the **entire Medicaid program** are on the table as part of the ACA repeal and replace effort.

Leaders in Congress, in the context of repealing and replacing the Affordable Care Act, have proposed significant changes to the Medicaid and CHIP programs. All share a key aspect: they would dramatically reduce the federal dollars available to West Virginia for the entire Medicaid and CHIP programs and shifts costs onto the state. Hand-in-hand with the loss of federal dollars for these programs will be new rules that will allow states to erode the health benefit package and out-of-pocket spending protections in the Medicaid and CHIP programs. This endangers the ability of Medicaid and CHIP to effectively serve more than 600,000 West Virginians.

FIGURE 11:

Medicaid Enrollment Varies Between 15 And 48 Percent Of Residents In West Virginia Counties (July 2015)



Source: West Virginians for Affordable Health Care (July 2015)
<http://wvahc.org/wp-content/uploads/WVAHC-Medicaid-Data-by-County.pdf>

ACA Repeal Would Negatively Impact West Virginians with Medicare and Private Insurance

The Affordable Care Act also made improvements for West Virginians with Medicare coverage and for people with private insurance through their employer, including people who are under the West Virginia Public Employee Insurance Agency.

After repeal, it is unclear if the eventual replacement plan will retain these improvements or reverse them.

Medicare Improvements

The Affordable Care Act made two significant improvements to the Medicare program that serves more than 423,000 West Virginians:

■ Ending the Prescription Drug Donut Hole.

Under the ACA, the so-called prescription drug coverage “donut hole” in Medicare was being phased out. The ACA closes the donut hole in stages, completely eliminating it by 2020. (For 2016, the gap in prescription drug coverage began when Medicare enrollees and their insurers spent \$3,310 for medication and closed after they reached \$4,850 in costs.) At risk, seniors and people with disabilities in West Virginia who have already saved about \$221 million on drug costs under the ACA as of December 2015.³⁴ In 2015 alone, about 45,000 West Virginia seniors and people with disabilities saved, on average, \$1,197 on drug costs.³⁵

■ Lowering Insurance Premiums and Other Out-Of-Pocket Costs.

Under the ACA, Medicare enrollees spent less for their health care and coverage. The ACA lowered the growth of deductibles and co-payments in Medicare Part A (hospital coverage) and lowered the growth of premiums in Medicare Part B (doctors visits and other non-hospital medical services). The ACA did this by slowing the rate of payment to hospitals and other providers, and reducing the overpayments made to Medicare Advantage plans in the past. These savings translate into lower premiums for Medicare enrollees because the premiums and deductibles in Medicare are linked to the growth of federal spending on the program.³⁶

■ Free Wellness and Preventive Services.

Under the ACA, coverage of an annual wellness visit was added as a Medicare benefit, and the ACA eliminated cost-sharing for recommended preventive services such as screenings for cancer, high blood pressure, cholesterol, and diabetes. In 2015 alone, more than 213,000 West Virginia seniors – 71 percent of all West Virginia seniors enrolled in Medicare Part B – took advantage of at least one free preventive service.³⁷

Private Insurance Consumer Protections

About 840,000 West Virginians have private health insurance through their employer (including PEIA) or the individual market (including the ACA Marketplace).³⁸ The ACA provided these West Virginians with a set of important consumer protections so they know that their insurance coverage – even if they lose their employer-based coverage - will be there when they need it. Leaders in Congress have said they will provide “universal access” to coverage but that does not guarantee comprehensive coverage at an affordable price for the West Virginians who need it the most.

■ Vital Protections For People with Pre-Existing Conditions.

Under the ACA, people with pre-existing conditions were protected from insurance company discrimination.

- About 800,000 West Virginians – including 91,000 children - with pre-existing conditions like diabetes, asthma, cancer, and heart disease are at risk that they will again face coverage denials, holes in covered benefits, or higher premiums.³⁹
- West Virginia has the highest rate of deniable pre-existing conditions among non-elderly in the nation.⁴⁰

■ **Women Pay the Same as Men.**

Under the ACA, women cannot be charged more for health insurance just because of their gender. All women are at risk of being charged more than men; prior to the passage of the ACA, 100 percent of the “best-selling plans” in the state (as defined by e-healthinsurance.com) practiced gender rating in West Virginia; on average the premium difference between men and women was 34 percent.⁴¹

■ **An End to Annual and Lifetime Limits.**

Under the ACA, insurers were barred from imposing annual and lifetime limits on the value of benefits they provide. These routine caps cut off coverage for the sickest individuals when they needed it most. At risk are about 580,000 West Virginians – including 147,000 children - with employer or individual market coverage that had a lifetime limit on their insurance plan before the ACA.⁴²

■ **Free Preventive Care.**

Under the ACA, health plans must cover recommended preventive services – like flu shots, immunizations, blood pressure screenings, cancer screenings, mammograms, and contraception – at no cost to the enrollee. At risk are about 773,000 West Virginians – including 152,000 children – who will lose this benefit.⁴³

■ **Young Adults Covered Until Age 26.**

Under the ACA, parents were guaranteed the option to keep their children on their health insurance plan up to age 26. At risk are about 12,000 young adults in West Virginia.⁴⁴

■ **More Value for Consumers’ Premium Dollars.**

Under the ACA, insurance companies are required to limit their administrative costs and profits so that they spend at least 80 percent of the premium dollars they collect (85 percent for the large group market) on medical services and quality improvement. Insurance plans that do not comply are required to give a rebate or otherwise return the difference to enrollees.

- West Virginians received more than \$445,000 in rebates – an average rebate of \$329 per enrollee - from insurance companies who overcharged for premiums in 2014 alone.⁴⁵
- An estimated \$3.3 million in rebates from plans that overcharged for premiums have been given to West Virginians since the ACA took effect.⁴⁶
- The average premium for West Virginia families with insurance through their employers grew 5.2 percent per year from 2010 (when the ACA implementation first began) through 2015, compared with 7.6 percent over the previous pre-ACA 10 years.⁴⁷

■ **Chaos in the Individual Insurance Market:**

A December 2016 report by The Urban Institute describes the impact of repeal of the ACA and the individual responsibility provision (which requires people to have health insurance or pay a penalty) on the current private individual insurance market (both inside and outside the ACA Marketplace). Eliminating the personal responsibility provision would cause some relatively healthy people to drop coverage – 4.3 million nationwide in the first year – resulting in unanticipated financial losses for insurers, who would either pull out of the market or raise premiums dramatically for the customers who remained the following year. By 2019, when the subsidies would have been repealed, Urban estimated that the individual market would be near collapse, with a 92-percent reduction in enrollees to just 1.6 million people nationwide, undoing all the progress made in making this market accessible to a broad swath of consumers.⁴⁸

The ACA Is a Key Tool in Battling West Virginia's Opioid Addiction Crisis

The nation is facing an opioid addiction crisis that is devastating families from all economic classes. No state is harder hit by this crisis than West Virginia.

- West Virginia filled more opioid prescriptions than there are people with 1,049 opioid prescriptions per 1,000 West Virginians.⁴⁹
- West Virginia had the highest drug overdose mortality rate in the nation in 2015: 41.5 deaths per 100,000 people.⁵⁰

The ACA increased access to substance-use disorders and addiction treatment in West Virginia in three significant ways:

1. Increased the number of West Virginians with health insurance through Medicaid and the state Marketplaces
2. Required Medicaid and more private health insurance plans to cover evidence-based treatment of substance use disorders
3. Mandated that the coverage of substance use disorder treatment be comparable to physical health treatment under insurance plans.

Medicaid: The ACA requires all states that expanded Medicaid to provide coverage for ten categories of health benefits (EHBs), including mental health and substance use disorder treatment. For example, among the types of prescription drugs that must be covered are opioid treatment replacement agents (but not necessarily every type) and at least one form of naloxone, which is used to reverse opioid overdoses.

However, the EHB requirement still gives states a tremendous amount of flexibility and control to decide the type of treatment and medication that would be covered, and many states are still developing programs using Medicaid dollars to pay for treatment. The State Health Reform Assistance Network (a program of the Robert Wood Johnson Foundation) has called Medicaid “the states’ most powerful tool to combat the opioid crisis” and found that 1.2 million people with substance use disorders have gained access to treatment. Medicaid is the most significant source of coverage and funding for substance use prevention and treatment.⁵¹

Private Insurance: The ACA improved access to treatment for substance use disorders – including opioid addiction – in two ways. First, the ACA required that all individual private and small-employer insurance plans cover the ten essential health benefits (EHBs) categories, as mentioned above. Second, the ACA guaranteed that coverage for these treatments be meaningful by extending what is called “parity protections.”

Before the ACA, the 2008 federal Mental Health Parity and Addiction Equity Act (MHPAEA) required that when large employers (more than 50 employees) offered health insurance that already included coverage of mental health substance use disorder treatment, this benefit had to be provided in “parity” with the coverage for other physical health conditions.⁵²

The ACA expanded the MHPAEA, requiring that individual private and small-employer insurance plans also comply with “parity” for these treatments. Under parity requirements, mental health and substance use disorder services cannot have higher deductibles or co-payments, nor more restrictive barriers to treatment such as pre-authorization, or arbitrary limits on the number or duration of services not required for other treatment of physical conditions.

- Repeal of the ACA threatens 45 percent of the state’s funds for evidence-based Medication Assisted Treatment using buprenorphine to help West Virginians who are fighting opioid addiction.
- West Virginia covers more than 214,000 people with mental illnesses and substance use disorders through the Medicaid expansion and private insurance through the ACA Marketplace. Of these, 204,000 are covered through the Medicaid expansion.⁵³
- In West Virginia, the Medicaid expansion brought in \$43 million federal dollars to pay for behavioral health services in 2015, including substance use disorder treatment.⁵⁴ Without Medicaid, West Virginia would be forced to pay for these services with state-only funds.
- The ACA extended mental health parity protections to about 130,000 West Virginians insured in the ACA Marketplace, the individual market outside the Marketplace, and the small group market. These West Virginians have the protection of expanded coverage for mental health and substance use disorders – including evidence-based treatment for opioid addiction.⁵⁵

TABLE 3:
Opioid Related Mortality, Prescription Opioid Use and Buprenorphine-based MAT in 2015

|  | Drug Overdose Deaths (rate/100,000) | Rx Opioid Use per 1,000 Population | Buprenorphine use per 1,000 Population | % Share of Bupe paid by Medicaid |
|---|--|------------------------------------|--|----------------------------------|
| West Virginia | 725 (41.5) | 1,049 | 158 | 44.7% |

Source: Richard G. Frank and Sherry A. Glied (The Hill 1-11-17)
<https://www.hcp.med.harvard.edu/background-information-richard-frank-article>

TABLE 4:
People with Behavioral Health Needs in Exchanges and Expansion Population in 2016

|  | # with Serious Mental Illness in Marketplaces | # with Substance Use Disorder in Marketplaces | Total Mental Illness and Substance Use Disorders in Marketplaces | # with Mental Illness and Substance Use Disorder Conditions in Medicaid Expansion | Total Behavioral Health (Columns 4+5) |
|---|---|---|--|---|---------------------------------------|
| West Virginia | 3,207 | 2,916 | 9,682 | 204,819 | 214,501 |

Source: Richard G. Frank and Sherry A. Glied (The Hill 1-11-17)
<https://www.hcp.med.harvard.edu/background-information-richard-frank-article>

Coal Miner Black Lung Compensation at Risk?

The Affordable Care Act included three sentences, commonly called the Byrd Amendments after their sponsor, the late Senator Robert C. Byrd, that reinstated two provisions regarding coal miners' and survivors' entitlement to benefits that were eliminated in 1981. The ACA provisions make it easier for coal miners to establish a successful claim for compensation if they are disabled by "Black Lung" – a severe respiratory problem linked to breathing coal mine dust.⁵⁶

The first amendment mandates a presumption of total disability or death caused by Black Lung disease (pneumoconiosis) for coal miners who worked for at least 15 years in underground (or comparable surface) mining and who suffer or suffered from this totally disabling respiratory impairment. The second amendment provides automatic entitlement for eligible survivors of miners who were themselves entitled to receive benefits as a result of a lifetime claim.

Without this shift in presumption – miners had to prove that they had Black Lung, that their Black Lung breathing problems were disabling, and that their breathing problems were caused by working in the coal mines. With the burden of proof on the coal miner, it was not difficult for the coal companies to block claims. The shift of burden means coal miners must still present evidence that they have Black Lung, but they do not have to prove that their respiratory problems were directly and solely due to their work in the coal mines.

It is unclear if a repeal of the ACA will include the Black Lung Byrd amendments. The possibility of repeal puts thousands of West Virginian coal miners and their families at risk:

- Eighteen black lung clinics are located in areas most populated by coal miners.⁵⁷
- 125,367 West Virginians received Black Lung compensation benefits in federal fiscal year 2016.⁵⁸
- \$39,175,493 in total compensation was paid to West Virginia coal miners and their families in 2016, more than in any other state.⁵⁹

Looking Forward:

Opportunities to Lower Health Care Costs and Expand Coverage

The debate in Washington about a full or partial repeal of the ACA is still unfolding, but the stakes are enormous for West Virginia. We call on Congress and the President to move with deliberation and carefully evaluate policy changes that have the potential to have a tremendous impact on the daily lives of hard-working people across West Virginia and the country.

First and foremost, we should not turn back the clock on the expanded health coverage and insurance market protections that the ACA has brought to West Virginia. These must be maintained and built upon for the future.

At the same time, there are key areas of opportunity that could make a tremendous positive difference in the lives of West Virginians. There are still approximately 29.7 million Americans without health insurance coverage, including 108,000 West Virginians.⁶⁰ Congress should address issues that require a national solution, including:

1. High and rapidly escalating cost of prescription drugs.
2. High out-of-pocket costs for people with health insurance – in particular the middle class who do not qualify for Medicaid or for the cost-sharing subsidies in the ACA Marketplaces.
3. The availability of health insurance premium subsidies for families who have unaffordable employer-based coverage (currently the so-called “family glitch”) that bases affordability on the cost of coverage for the worker alone and not on the cost of coverage for the family unit.
4. Improved competition in health insurance marketplaces through a regulated approach – one that does not undermine existing federal or state consumer protections – including the potential of one or more health plans that would be available across all the states. This could include a public insurance option.

While these four areas of opportunity present significant challenges both from the perspective of policy design and political will, they highlight some options to meet the challenge of moving West Virginia even further forward toward a better health care system.

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