

California Counters Trump Attacks on the ACA; Seeking to Shield Consumers from Sabotage

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Since the November 2016 election, Californians have rallied together to oppose all efforts to repeal and replace the Affordable Care Act (ACA) and cut and cap Medicaid. While the Congressional repeal efforts stalled, President Trump had repeatedly said that he wanted to let the ACA “explode.” Trump continues to take a series of steps to sabotage the ACA that lead to destabilized insurance markets and a reversal of the historic gains in health coverage we’ve seen in California and nationwide. In response and in resistance, Attorney General Xavier Becerra has sued against many of these actions, including attack on the health care of immigrants (public charge) and women (Title X). California has taken other extraordinary actions to protect its residents and our health system so consumers would not lose coverage, premium spikes are prevented, and health plan choices stay in the market. Although California has been able to blunt these administrative attacks, the Trump Administration’s threats, including the litigation in the *Texas vs. US* case that seeks to undo subsidized coverage for 5 million Californians and consumer protections for millions more, would cost California’s health system \$25 billion a year.

The chart below summarizes California’s actions to protect consumers and our state’s individual market.

TRUMPCARE	CALIFORNIA’S RESISTANCE
Federal marketplace outreach, enrollment, and marketing budget was slashed by 90%, from \$100 million to \$10 million for the entire country.	As a state-operated exchange with its own revenue sources, Covered California increased its own outreach, enrollment, and marketing budget by around 10% to \$111 million in 2019.
CMS “Market Stabilization Rule” cut the annual open enrollment period in half , from 90 days to 45 days.	California enacted AB 156 (Wood, 2017), which maintains CA’s existing 90-day annual open enrollment period for future years, providing consumers with adequate time to shop, compare, and choose the best health plan option.
The Trump Administration stopped payments for cost-sharing reduction (CSR) subsidies , and Congress has yet to appropriate permanent funding for these payments. California stood to lose \$700 million in CSR payments to help over 750,000 low and moderate income people afford out-of-pocket costs. To make up the money that would be lost from ending the CSR subsidies, consumers were facing a 12% surcharge.	To prevent the CSR surcharge, Covered California kept premiums stable with a creative workaround to hold consumers harmless. Through “ silver loading ,” the surcharge only applies to Silver plans in the exchange, where the surcharge are covered by additional premium tax credits paid for the federal government. Premiums that consumers paid stayed the same or decreased. Unsubsidized consumers are held harmless, with the option to buy the Silver plan off-exchange with no CSR surcharge. (California Attorney General Becerra, with 18 other state attorneys general, also sued the Trump Administration for refusing to make CSR payments.)

FACT SHEET: California's Efforts to Shield Consumers from Trump Sabotage

<p>The Trump Administration rolled back ACA rules that required employers to provide contraceptives in their health plans with no out-of-pocket costs, allowing employers to interfere with women's health care based on a moral or religious objection.</p>	<p>California law required health plans, regulated by the state, to cover contraceptives as a guaranteed benefit and a no-cost preventive service (SB 1053, Mitchell 2014). Unfortunately, over 6 million Californians in employer self-funded health plans do not receive this protection because of federal pre-emption of those plans. (CA Attorney General Becerra also filed a lawsuit challenging the legality of the Trump Administration's actions.)</p>
<p>President Trump signed an executive order that promoted "junk insurance" plans which undermine protections for people with pre-existing health conditions and destabilize the individual and small group markets. The rule expands the availability of junk coverage – like short-term insurance and association health plans. These are not subject to the ACA's rules like providing comprehensive coverage and essential health benefits.</p>	<p>California was the first state in the nation to outright ban the sales of short-term insurance plans (SB 910, Hernandez 2018), protecting people with pre-existing conditions and ensuring the continued coverage of essential health benefits.</p> <p>California also limited the formation of association health plans (AHPs) by enacting SB 1375 (Hernandez, 2018). The law prevents those with their own AHPs from expanding, and made sure that newly formed AHPs meet ACA market rules and consumer protections.</p>
<p>The Trump Administration, through CMS, changed federal rules making it easier for states to lower standards that would allow more money to go to insurance company overhead and profits and less to medical care.</p>	<p>California enacted a law to ensure the value of health coverage is preserved by requiring insurers spend at least 80 cents out of every premium dollar on health care and limiting insurer overhead and profits (AB 2499, Arambula 2018).</p>
<p>The Federal Centers for Medicare and Medicaid Services has been pushing states to apply for waivers that would require Medicaid recipients to work in order to receive benefits. "Work requirements" in Medicaid are shown to lower enrollment in the vital health care program, and in some cases kicks tens of thousands off of coverage.</p>	<p>California enacted SB 1108 (Hernandez) in 2018 to prohibit the state from pursuing waivers that make it harder for low-income people to enroll in Medi-Cal (our state version of Medicaid).</p>
<p>The U.S. Congress zeroed out the penalty for not having health care insurance in 2017. This destabilized our marketplace, and contributed to nearly half of the average rate increase in premiums (at least 3%) in 2019.</p>	<p>The 2019 – 2020 California Budget re-instated a state-level health care coverage mandate, similar to the one in the ACA. As a result of this and other state-based stabilization efforts in 2019 including additional affordability assistance, Covered California announced its lowest premium increase in its history, at only 0.8% for the 2020 plan year. Many consumers will actually experience a reduction in premiums due to new state subsidies.</p>

While legal and other threats continue, these state actions show that if we can keep Medicaid, Medicare, and the framework and financing of the Affordable Care Act intact, California has demonstrated the will and the wherewithal to protect consumers from Trump's systemic sabotage of our health care system.