

Ever been depressed? Had cancer? Preexisting conditions can define your future

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Robin Shine Maddox has racked up \$160,000 in charges for biopsies, chemotherapy, medications and scans since being diagnosed with breast cancer in February. Now the 55-year-old Mt. Airy resident looks forward to finishing treatment and being able to call herself a cancer survivor.

But even then, she'll be among the one-fourth of Americans under age 65 who could be uninsurable on the individual market at any price, should the latest effort to water down federal [insurance](#) protections prevail. People insured through Affordable Care Act marketplaces, rather than a large employer, may be most nervous about a lawsuit brought by 20 Republican attorneys general that would let insurers return to the days when they could just say no to people like Maddox.

But doing away with that protection could affect even more Americans. On top of people who couldn't buy insurance at all, there also are those with a preexisting condition judged just severe enough to warrant much higher premiums. Anyone with a history of depression, an old smoking habit, or a chronic condition like diabetes could be at a serious disadvantage in paying for [health care](#), should they lose large-employer coverage because they want to go to work for a small company, lose their job, or just want or need to retire before hitting Medicare age at 65.

"We kind of all have something, and if we don't have something today, chances are by next month we will," said Karen Pollitz, a senior researcher at Kaiser Family Foundation.

'WINNERS AND LOSERS'

The Texas-based lawsuit stems from another way the ACA has been weakened since the Obama administration. Congress decided to stop penalizing people who don't buy health insurance beginning in January 2019. That vote did away with a mandate that was unpopular, but that meant insurers could make enough money on [healthy people](#) to afford covering the unhealthy ones.

In 2012, the Supreme Court ruled that the Affordable Care Act was legal because it was not forcing people to buy insurance. Rather, it was charging a tax to anyone who didn't, which government is allowed to do. The lawsuit argues that if Congress won't enforce the tax, the so-called individual mandate is unconstitutional and the whole law should go.

The Justice Department is partly supporting the suit, specifically the portion opposing required coverage for those with preexisting conditions.

The lawsuit may be a longshot, legal analysts said. But it reflects a serious threat to something that once had bipartisan support—making health care more accessible to people who need it most. And if it, or a future such effort, succeeds, it could also spell the end of ACA features such as required coverage for [mental health care](#) and drug treatment, as well as income-based premium subsidies.

"There's no margin for error," said Sen. Bob Casey, D-Pa., in an interview with the Philadelphia Inquirer. "We have to assume the worst and assume this case could have the kind of far-reaching impact many have argued."

Insurers used to be able to use your medical history to decide if you could buy an individual policy, and what it would cost. Twenty-seven

percent have a history of a condition, such as cancer, that would have been grounds for flat-out denial in the individual insurance market, according to the Kaiser Family Foundation. Others with more benign ailments, such as acne, faced higher rates.

The ACA required insurers to charge everyone roughly the same price, with adjustments for age and geography.

If the lawsuit succeeds, the chasm between sick and healthy would return.

"There's winners and losers," said Mark Pauly, a health economist at the Wharton School at the University of Pennsylvania. Healthy people could see their insurance rates go down, while sick people could be charged more. The immediate impact would be on people with ACA policies, he noted, while most Americans have insurance through employers, Medicare or Medicaid.

"It's a tiny segment of the population that's directly affected, but they're going to be really woefully mistreated," Pauly said.

'WE WON'T COVER YOU AT ANY PRICE'

Andrea Deutsch remembers what it was like to be part of that group.

For years, Deutsch held onto a health plan she couldn't afford, because she couldn't find another that would cover the Type 1 diabetes she's had since infancy.

"I looked everywhere for coverage, contacted everyone I knew who was out there," said Deutsch, 50, of Narberth. "The answer came back, 'No, you're Type 1 diabetic—we won't cover you at any price.' "

Through the ACA, her insurance is \$650 a month, a price that reflects a tax subsidy and is half the cost of her old plan. Deutsch, a pet store owner and the mayor of Narberth, worries about how she will pay for her medications and supplies without it.

"It feels like they're making us choose between bankruptcy or death," she said.

But even people insured through large employers, which must follow equal-coverage rules that predate the ACA, are not immune to the Texas lawsuit's outcome. Before the ACA, people who lost their job, or just wanted to change jobs, often couldn't get insured.

"It's that concept of freedom and access to coverage—no matter who you work for or where you are—that is under fire," said Pennsylvania Insurance Commissioner Jessica Altman.

For Liz Leavens, 25, who also has Type 1 diabetes, [health insurance](#) would be a major factor in planning her future. She works at an Allentown life insurance company where she pays hardly anything for the pump, glucose monitor and other vital supplies that cost her hundreds of dollars under her father's insurance plan, she said.

"If I were to change jobs at any point in my career, it would hinge on the benefits the employer was able to offer me," the Berks County woman said.

The insurance Shine Maddox has through the Pennsylvania Senate, where she works for Vincent Hughes, offers good coverage for her cancer treatment.

But if her cancer made her too sick to work, she could be on her own to pay for her care.

"My savings, I know, is not enough to cover that," she said. "I really don't know what I would do."

A resolution to the lawsuit won't be swift, as any decision by the Texas district judge will be followed by a series of appeals, possibly all the way to the Supreme Court. Sixteen Democratic attorneys general, including New Jersey's Gurbir S. Grewal, have challenged the suit.

In the meantime, economists expect the suit to make a turbulent insurance market even more uncertain.

Premium increases are already on the horizon, as insurers grapple with the likelihood of an overall sicker membership as healthy people drop out.

It's unclear how the Trump administration will handle the open enrollment period for the insurance marketplaces, which already have lost participation from spooked insurers.

The system's fragility is a source of constant anxiety for those who rely on it most.

"It's like walking on a tightwire," Deutsch said. "You feel like one false move and it all comes crashing down."

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