



Women and Obamacare

What's at Stake for Women if the Supreme Court Strikes Down the Affordable Care Act?

Jessica Arons May 2012

Center for American Progress



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Introduction and summary

The Affordable Care Act, the Obama administration's signature piece of legislation that reforms our nation's costly and unfair health insurance market, is the greatest legislative advancement for women's health in a generation. "Obamacare," as the new law is more commonly known, holds the promise of ensuring coverage of preventive and essential services for women, eliminating gender discrimination by health insurance companies, and making health insurance more available and affordable for women and their families.

Yet all the recent talk about the constitutionality of the new law, culminating in oral arguments before the U.S. Supreme Court in March, makes it easy to forget the many lives at stake if the Affordable Care Act gets struck down—especially women's lives.

What would it mean for millions of women and their families if the Supreme Court struck down Obamacare? It would mean losing health insurance coverage guarantees that have already been put into place. And it would mean causing women to miss out on the protections that are slated to be implemented in less than two years. This would translate into poorer health for tens of millions of women, alongside more costly care for them and their families, affecting the lives of untold Americans.

Thanks to Obamacare, more than 45 million women have already taken advantage of recommended preventive services, including mammograms, pap smears, prenatal care, well-baby care, and well-child care with no cost sharing such as co-pays and deductibles. Starting this August, millions more will be able to obtain contraception, annual well-woman care (a visit with a gynecologist), screening for gestational diabetes, breastfeeding counseling and supplies, and screening for sexually transmitted infections, including HIV and the Human papillomavirus—again at no extra cost.

In addition, women will no longer encounter discrimination in the health insurance market in the form of lost maternity coverage, higher premiums due to their gender, and denials of coverage for gender-related pre-existing conditions. Indeed, close to 9 million women will gain coverage for maternity care in the individual market

starting in 2014. And provisions in the new health law that protect everyone will especially benefit women, who utilize the health care system the most.

In short, Obamacare will increase health insurance coverage for women, lower their health care costs, and end the worst insurance industry abuses against them.

Despite the clear benefits for women, opponents of health reform have taken their cause to the U.S. Supreme Court, which heard oral arguments debating the constitutionality of the law in March. The nine Supreme Court justices will rule on the matter in June. Although the case should be open and shut (see box on page 4), the result is unfortunately far from guaranteed.

Opponents of Obamacare also threaten to repeal the law if they can gain full control of Congress and the White House in the upcoming election in November. But for the time being, all eyes are on an extremely divided and increasingly conservative Supreme Court, which sadly has in recent years demonstrated little regard for precedent.¹

For women and their families, the Affordable Care Act is not a theoretical concept—it is a lifeline. Attacks on Obamacare are attacks on women's health and well-being. If the Supreme Court decides to strike down any or all of this law, then it is women who will suffer the most. Women cannot afford to lose this high-stakes lawsuit because they cannot afford to lose the benefits of this landmark health reform law. This paper demonstrates just how important Obamacare is for women in our nation today and into the future. (see box)

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Why health reform is of critical importance to women

- Women are more frequent users of health care services than men.
- Women are more likely to make health care decisions for their families.
- Women are more likely to use prescription medication.
- Women suffer from chronic illnesses more often than men.
- Women are more likely than men to experience certain mental health problems such as anxiety and depression.
- Women are more likely to have dependent coverage, which makes them more vulnerable to losing coverage if they get a divorce or their spouse loses a job.
- Women are more likely to face discrimination in the individual health insurance market.
- Women tend to have higher out-of-pocket medical expenses than men.
- Women are less able to afford the care they need and more likely to experience medical bankruptcy because women on average are paid less than men but have higher medical expenses.

Why health reform is a women's issue

Women are the nation's primary health care consumers. They typically utilize health care services more often than men, and they are more likely to choose providers, make appointments, and address health care needs for themselves and their families.² Due to their reproductive health needs in particular, women must get more frequent examinations and use more prescription drugs such as contraception.³ Women are also more likely than men to require ongoing treatment for a chronic condition such as hypertension, arthritis, and high cholesterol (38 percent of women suffer from a chronic condition, compared to 30 percent of men).⁴ In addition, women are more likely than men to experience anxiety, depression, and other mental health problems.⁵

Despite this greater need for health care, women are less likely to receive health insurance coverage through their jobs.⁶ Because they are more likely to work for a small business, to experience breaks in workforce attachment, and to work part time—often because of their caregiving duties—they may not be offered health benefits when they are employed.⁷ As a result, nearly one-quarter of women receive employer-sponsored insurance as a dependent (in contrast, only 13 percent of men have dependent coverage), which makes women more vulnerable to losing health coverage during a divorce, retirement, death, or other marital or employment disruption.⁸ As of 2010 more than 2 million women lost health care coverage due to their or their husband's job loss during the Great Recession of 2007 to 2009.⁹ And, of course, single women are not eligible to receive benefits through a spouse or partner.

Those without a source of employer-sponsored coverage must purchase health insurance in the individual market—a market that routinely discriminates against women. Through a practice known as gender rating, women pay \$1 billion more in premiums than men each year for the same set of benefits.¹⁰ And even though they pay more, women often receive fewer benefits. Individual-market plans often exclude essential health services for women such as maternity care, contraception, and Pap smears.¹¹ Women are also subject to coverage exclusions by health insurance

providers in the individual market for gender-specific “pre-existing conditions” such as breast cancer, Cesarean sections, rape, and domestic violence.¹²

Due to their higher utilization of health care, their higher premiums and cost-sharing burdens, and the lower levels of coverage for women-specific conditions, women have higher out-of-pocket health care costs than men and are also more likely to experience medical bankruptcy.¹³ Women of reproductive age spend 68 percent more on their health care expenses than men, and nonelderly adult women are more likely to be underinsured, meaning that they have out-of-pocket costs that total more than 10 percent of their income.¹⁴

What’s more, women must bear these added costs on lower incomes—among full-time workers, women earn only 77 cents for every dollar that men earn.¹⁵ As a result, affordability is a major barrier to women accessing the health care they need. More than half of women surveyed in one study could not get health care because of costs, including forgoing tests, prescription medicine, and other treatment.¹⁶

The insurance reforms enacted in Obamacare address all of these problems and more. But women would lose the law’s protections if the Supreme Court unwisely—and in contravention to legal precedent (see box)—were to strike it down.

Obamacare is constitutional

There are three legal arguments conservatives have pushed to claim that the Affordable Care Act is unconstitutional either in part or in its entirety. Here is a quick breakdown of why those arguments are without foundation.

The individual mandate

The main objection to the Affordable Care Act is its minimum coverage requirement, often referred to as the “individual mandate,” which requires people either to carry health insurance or pay a tax penalty. There are three provisions of the U.S. Constitution that authorize Congress to establish this framework.

- The Commerce Clause gives Congress broad power to regulate interstate commerce. The national health care market, which

constitutes approximately 17 percent of our nation’s economy, clearly qualifies as commerce.

- Congress has the authority to “make all laws which shall be necessary and proper” to carry out its power to regulate interstate commerce. Obamacare requires insurers to provide coverage to people regardless of their health status, but this “guaranteed issue” provision must be coupled with a minimum coverage requirement. The reason: If healthy people waited until they got sick to obtain coverage, then they would quickly drain the money out of a plan to which they had not contributed, leading insurance premiums for others to spiral out of control. Thus the individual mandate is necessary and proper to make the pre-existing conditions ban workable.

Continued on next page

- Congress has the power to “lay and collect taxes.” Obamacare slightly increases income taxes on individuals if they do not carry health insurance, which means health insurance provides people with a tax exemption in much the same way that people who own homes currently benefit from a mortgage deduction.¹⁷

Medicaid expansion

Opponents of Obamacare also challenge the new law’s expansion of Medicaid to more low-income people, claiming that Congress’s generous offer to pay 90 cents of every dollar spent on the Medicaid expansion is “coercive,” since no state could afford to turn it down. But that is exactly how the Spending Clause of the Constitution works: Congress gives money to the states, and the states agree to comply with the conditions Congress sets.

If the Medicaid expansion under the Affordable Care Act is unconstitutional now, then it means the three expansions of the program under President Ronald Reagan and multiple expansions in the 1990s also were unconstitutional.¹⁸ It also means the original program was unconstitutional when it was passed in 1965, as were a number of

other important programs for women, including the Title IX law that prohibits sex discrimination in education. Although Medicaid is not always thought of as a women’s program, almost 7 in 10 adult beneficiaries are women, making Medicaid a critically important source of health insurance coverage for women.¹⁹

Severability

Opponents of the health law also argue that the entire law must be struck down if the minimum coverage provision is found to be unconstitutional. Yet under a doctrine known as “severability,” the Supreme Court will not invalidate the constitutional provisions of a law unless it is evident that Congress would not have enacted the constitutional measures independently. By that logic, only the pre-existing condition exclusion ban is tied closely enough to the individual mandate to fall with it.²⁰ There is no reason to believe that Congress thought that insurance reforms such as guaranteed maternity coverage and no-cost preventive services could not operate effectively without an individual insurance mandate.

Women’s gains under Obamacare —and what they could lose

Women have gained so much already from Obamacare and have so much riding on the successful implementation of the entire Affordable Care Act that it is hard to imagine the chaos that would ensue should conservative activists on the Supreme Court prevail in striking down the law in June. But cataloguing what women would lose in contrast to the critical gains in health care they will enjoy if Obamacare remains the law of the land is worthy of detailed analysis. Specifically:

- Women would lose coverage for no-cost preventative services.
- Insurers would be allowed to continue to discriminate against women.
- Women would lose critical protections for themselves and their families.
- Women of color, lesbian women, and transgender people would lose important tools to improve access to quality care and to reduce health disparities.

Let’s explore each of these scenarios in more detail to demonstrate the significant protections women have gained under Obamacare and the acute harm hovering over them today from threats to health reform.

Women would lose coverage for no-cost preventive services

When essential preventive health care is not covered, and individuals do not have the financial resources to pay for care out of pocket, then the needed services are often delayed, and care ultimately becomes more expensive. Indeed, more than 50 percent of women have delayed seeking medical care due to cost, and one-third of women report forgoing basic necessities to pay for health care.²¹

For this reason, the Affordable Care Act guarantees that a range of recommended preventive services be covered by Medicare and all new private health plans, with no cost sharing including co-pays, coinsurance, or deductibles. Under this provision 20.4 million women with private insurance and 24.7 million women

with Medicare have already received recommended preventive services such as mammograms, Pap smears, and screenings for high blood pressure and obesity.²²

And there's more to come. Starting in August 2012, numerous other preventive services will be made available to women at no additional cost—thanks to a provision known as the Women's Health Amendment.²³ The list of services, which was recommended by a panel of experts at the nonpartisan, nonprofit Institute of Medicine, includes contraception.²⁴

Planned pregnancies result in overall better health outcomes for women and their children.²⁵ Moreover, 58 percent of women use birth control pills for at least one noncontraceptive medical reason.²⁶ But contraception can account for almost a third of an insured woman's out-of-pocket medical costs.²⁷ Without insurance contraception can cost a woman up to \$1,210 per year when both the cost of the method and related doctors' visits are considered.²⁸

The list of guaranteed no-cost services also includes breastfeeding counseling and equipment for nursing moms; DNA testing for the Human papillomavirus starting at age 30; annual well-woman visits; and screening and/or counseling for domestic violence, gestational diabetes, and sexually transmitted infections, including HIV.

Forty-three million women of reproductive age in the United States are sexually active but not seeking to become pregnant.²⁹ Ensuring access to basic birth control will have a huge impact on women's health and economic security and will significantly decrease unintended pregnancy and the need for abortion.

Screening for cervical cancer can reduce the number of new cases and the number of resulting deaths by 80 percent.³⁰ Yet in 2005 approximately 13 million women reported not having a Pap test in the previous three years.³¹ Coverage for screening services means that the illness can be detected earlier, leading to increased survival rates and potentially lower treatment costs.

Childhood immunizations generally save more than they cost. The federal Centers for Disease Control and Prevention estimates that every \$1 spent on routine childhood vaccines in 2001 saved \$5.30 on direct health care costs and \$16.50 in total societal costs by reducing and preventing disease.³²

No-cost coverage puts vital preventive services within the reach of women who have previously struggled to pay for this care, making them and their children

Without insurance contraception can cost a woman up to \$1,210 per year when both the cost of the method and related doctors' visits are considered.

healthier while also reducing costs to the health care system by investing in prevention. A Supreme Court ruling that strikes down Obamacare might eliminate these guarantees.

Insurers would be allowed to continue to discriminate against women

Women currently face many forms of discrimination in the individual and small-group health insurance markets. These two marketplaces do not offer the kind of large-group coverage that Obamacare will create for individuals and small businesses seeking health care beginning in 2014, which will provide more affordable coverage precisely because the new health insurance plans will include more participants. In contrast, individual and small-group plans today often deny coverage for maternity care, charge women higher premiums than men, and reject women for coverage due to gender-related health conditions.

All of those discriminatory practices could continue if the Supreme Court rules against Obamacare. So let's explore just how important those protections are to women.

Maternity care would remain uncovered

Coverage for maternity care—health care that only women need—is routinely excluded in the individual insurance market. Only 12 percent of plans sold in the individual market even offer maternity coverage, and that calculation includes the nine states that require all individual-market plans to do so. In states where there is no such requirement, only 6 percent of plans offer maternity coverage. Even when offered, the coverage may be lacking. Some plans have waiting periods of up to a year before a woman can use the maternity benefit, and several plans charge costly maternity deductibles of up to \$10,000, which can overtake the cost of a birth itself.³³

Some plans do not include maternity coverage in the underlying plan itself but allow women to purchase separate, supplemental coverage known as a “rider.” The scope of coverage under a maternity rider, however, can be quite limited. The rider may require extended waiting periods of one or two years, and the cost of the rider may exceed the cost of the underlying policy.³⁴ But once the Affordable Care Act becomes fully operational in 2014, all new plans in individual and small-group markets will be required to include coverage for maternity care,³⁵ and approximately 8.7 million women will benefit directly from that guarantee.³⁶

Women could still be charged higher premiums

Women currently pay \$1 billion more than men each year for the same health plans in the individual market.³⁷ Under a practice known as “gender rating,” insurers charge women higher premiums for the same set of health benefits. The different charges are so varied, both within and among states, that they cannot be justified by actuarial methods or theories about the higher costs of women-specific care. Indeed, only 3 percent of the best-selling plans covered maternity care, yet 92 percent of them charged women higher premiums.³⁸

Gender rating also occurs in the group market. Small businesses that primarily employ women—such as day care centers, hair salons, and nonprofits—are frequently charged higher rates than male-dominated and mixed-sex businesses.

Again, under Obamacare this gender-based rating will become illegal throughout the country in all new individual and small-group plans in 2014.³⁹ All health insurance premiums will finally have to be gender neutral.

Insurers could continue to deny coverage for gender-related health conditions

The Affordable Care Act also prohibits insurance companies from denying women coverage for discriminatory reasons. A common insurance industry strategy to avoid high-cost enrollees is to restrict coverage for so-called pre-existing conditions. This tactic has often taken on a discriminatory character in the individual market. Some plans, for instance, treat Cesarean sections, or even pregnancy, as a pre-existing condition. Domestic violence and sexual assault also have been placed in this category.⁴⁰

The plans then deny coverage for those services or charge excessively high premiums to cover them. And sometimes, when a woman has had a condition like breast cancer or heart disease, a provider may refuse to cover her altogether.

But with Obamacare, starting in 2014 new insurance plans will no longer be able to treat women as pre-existing conditions.

In addition to the above protections, Obamacare also prohibits sex discrimination in federal health programs, health programs that receive federal dollars, and programs created by the Affordable Care Act. This measure applies not only to insurers and hospitals that receive federal funds but also to the health insurance

Women currently pay \$1 billion more than men each year for the same health plans in the individual market.

exchanges, where consumers will be able to compare and purchase health plans.⁴¹ And the law now requires employers with more than 50 employees to provide nursing mothers with breaks and a private space to pump breast milk.⁴²

But all of these protections against discrimination could be eradicated by a reckless decision from the Supreme Court declaring Obamacare unconstitutional.

Women would lose critical protections for themselves and their families

There are a number of general provisions in the Affordable Care Act, many already in place, that benefit women especially due to their high health care utilization rates on behalf of themselves and their family members.

Under Obamacare women and their families are already protected from the horrible practice of rescission—when a policy ends the moment a beneficiary gets sick, just when insurance is needed the most. Insurers also are no longer allowed to drop enrollees just because they made a technical mistake on their application.

Also, thanks to the Affordable Care Act, insurance companies can no longer place a limit on the amount of medical expenses covered throughout one's life. Approximately 39.5 million women have already been helped by this provision.⁴³ Similarly, insurers are currently phasing out the use of annual dollar limits on essential health benefits until they are fully eliminated in 2014.

Obamacare already prevents insurance companies from denying coverage to a child younger than 19 years old because of a pre-existing condition. And adults with pre-existing conditions who have been uninsured for at least six months due to a health condition can purchase insurance through Pre-existing Condition Insurance Plans, also known as high-risk pools, until full protections kick in for them in 2014. So far more women than men have enrolled in these temporary plans.⁴⁴

Adult children can now stay on a parent's plan up to age 26, an especially helpful provision in this tough economy, when college graduates have had difficulty landing any job, let alone one that offers health benefits. Young women in particular report delaying needed health care because of the high cost.⁴⁵ To date, 2.5 million young adults have gained coverage under the health reform law.⁴⁶

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In addition, Obamacare has empowered women to choose their primary care provider and their child's pediatrician from among the available participating providers. And women no longer need to get a referral to see their obstetrician-gynecologist.

Beginning in 2014 the federal government will provide tax credits for premium assistance based on a sliding scale to individuals, families, and small businesses that cannot afford to purchase health insurance on their own. The credit will apply to individuals who earn up to \$43,000 per year and to families of four with incomes between \$30,657 and \$92,200.⁴⁷ This provision will especially help women, who generally earn less than men and tend to have lower incomes.

Also in 2014 up to 10.3 million women will gain insurance coverage when Medicaid expands its eligibility to include people with incomes below 138 percent of the federal poverty level—under \$15,000 for individuals and about \$31,809 for a family of four in 2011.⁴⁸ Women will no longer need to be pregnant or parenting to enroll in Medicaid so long as they meet the income requirements.

Under a rule known as the “medical loss ratio,” insurers must give enrollees rebates if they do not spend a sufficient percentage of premium dollars on medical care as opposed to administrative costs and must make public whether they have stayed within the spending limits. This provision will make it easier for women to choose the plans that offer the best value.

Finally, women enrolled in Medicare Part D who have high prescription costs that put them into the “donut hole”—a gap in Medicare coverage for prescription drugs that limits reimbursements past a certain amount until a higher threshold is reached—are receiving discounts and rebates to make their medication more affordable. This assistance will be in place until the donut hole is phased out entirely in 2020.

Each of these protections could be put at risk by a Supreme Court ruling that strikes all or part of the Affordable Care Act.

Women of color, lesbian women, and transgender people would lose important tools to improve access to quality care and to reduce health disparities

Obamacare also helps women of color in several specific ways in addition to the many ways it helps all women more generally. To begin with, women of color are

disproportionately more likely to be uninsured. While they represent 36.3 percent of women in the United States, they account for 53.2 percent of uninsured women.⁴⁹ Thus the coverage provisions of the Affordable Care Act are especially important for ensuring women of color affordable access to quality insurance coverage.

Moreover, economic inequality and structural racism create health disparities for women of color across a wide spectrum of health conditions. These include disproportionately higher rates of diabetes, obesity, heart disease and hypertension, and certain forms of cancer. Women of color also encounter a number of reproductive health disparities, including unintended pregnancy, abortion, HIV/AIDS, sexually transmitted infections, maternal mortality, and birth outcomes such as infant mortality, premature births, and low birth weight.⁵⁰

Again, the expanded insurance coverage offered under Obamacare will eliminate a primary driver of these disparities—lack of access to decent health insurance and health care. But the reforms in the health law also include several quality care provisions that will help to reduce health disparities.

For instance, Obamacare makes investments in uniform data-collection standards across the entire U.S. Department of Health and Human Services for the categories of race, ethnicity, sex, disability, and primary language.⁵¹ This will provide the government with a granular level of information—say, for only Vietnamese-American women versus all Asian Americans—so that it can better understand the health disparities that exist and better allocate resources for targeted interventions.

The Affordable Care Act also makes a commitment to increasing health literacy for consumers and developing cultural competency for providers. Insurers must use plain language that makes it easy for consumers with low literacy levels and those who may have limited English proficiency to understand their coverage options and what their plans include.⁵² In addition, the health law offers incentives for increasing racial and ethnic diversity among the health care workforce and creates opportunities for medical professionals to receive training in ways to provide culturally sensitive care.⁵³

Many of the provisions that benefit women of color will also benefit those who have been marginalized on the basis of gender, including lesbian and bisexual women and transgender people. Like communities of color and other disadvantaged communities, lesbian, gay, bisexual, and transgender Americans are disproportionately uninsured and subject to higher rates of health disparities. Gay

adults are more likely to be uninsured than heterosexuals, and the disparity is even greater for transgender people.⁵⁴

Other challenges they and their families face include discrimination in employment, housing, relationship recognition, and health care access—all of which give rise to health disparities such as greater exposure to violence, higher rates of conditions such as HIV and cancer, and a greater burden of mental health concerns such as depression.⁵⁵ Lesbian women in particular have higher rates of obesity, tobacco use, and alcohol and drug abuse, which increase their risk for type-2 diabetes, lung cancer, and heart disease.⁵⁶ Gay and transgender people of color typically experience even worse health outcomes, as living at the intersections of multiple marginalized communities compounds health disparities.⁵⁷

Among the many ways the law will advance the health of the gay and transgender community:

- The Department of Health and Human Services plans to add sexual orientation and gender identity to its data collection efforts, in addition to the list of categories already required by the health reform law.
- The Department of Health and Human Services is providing cultural competency training on sexual orientation and gender identity to members of the National Health Service Corps and supporting the development of similar cultural competency resources at the Substance Use and Mental Health Services Administration and the Health Resources and Services Administration.
- Obamacare prohibits discrimination on the basis of gender identity and sexual orientation in the state-based health insurance exchanges.
- Same-sex couples can now search for health plans that offer coverage for domestic partners on HealthCare.gov, a one-stop shop for health care maintained by the Department of Health and Human Services.⁵⁸

In addition, people living with HIV and AIDS will benefit from no-cost screening for HIV and other sexually transmitted infections, the prohibition on pre-existing condition exclusions, provisions making prescription drugs more affordable, nondiscrimination protections for people with disabilities, and a measure that enables people with HIV to qualify for Medicaid without being required to first obtain an AIDS diagnosis.⁵⁹

Like communities of color and other disadvantaged communities, lesbian, gay, bisexual, and transgender Americans are disproportionately uninsured and subject to higher rates of health disparities.

Thus a Supreme Court decision invalidating Obamacare would not only upend established legal precedent but would also deliver a harsh blow to improving care for our country's most vulnerable communities.

While the new law is not everything it could be (see box), its successful implementation without interference from an activist Supreme Court is critical to improving the health and well-being of all Americans, especially women.

More work to be done

As beneficial as Obamacare is for women overall, two groups of women in particular were left out of the law—undocumented and recent immigrant women and women who need abortion services.

Several antiabortion groups continue to claim that the Affordable Care Act funds abortion, but nothing could be further from the truth. Indeed, there is even a section of the law titled “Special Rules Relating to Coverage of Abortion Services—Prohibition on the Use of Federal Funds”⁶⁰ that ensures only private money is used to pay for any private insurance costs related to abortion coverage. And the Medicaid expansion includes the Hyde amendment, which already denies abortion coverage to low-income women.⁶¹

All women, however, deserve insurance coverage for the full range of their health care needs, regardless of their income level and the source of their insurance coverage. Political compromises on abortion coverage were necessary to ensure passage of the Affordable Care Act, but the work to obtain abortion coverage for all women continues.

Similarly, work remains to be done to ensure that all people can obtain health insurance in our country. As a result of political wrangling,

the Affordable Care Act prohibits undocumented immigrants from purchasing private health plans in the new insurance exchanges and from enrolling in Medicaid. Legal residents may purchase plans in the exchanges and may receive premium subsidies if their income level qualifies, but they cannot enroll in Medicaid until they have been in this country for more than five years.

Ironically, the supporters of the immigration-related restrictions claimed that including all immigrants in health reform would be too costly because it would encourage more immigration. But by pushing a relatively young and healthy group of people out of the reformed health insurance market, we lose the opportunity to offset costs that will be incurred by less healthy people in the insurance pool. We also encourage those excluded from coverage to utilize costly services such as emergency care that ultimately get passed onto taxpayers in the form of higher health insurance premiums and increased government expenditures. Thus these measures not only ignore the health care needs that all people have, but they will raise—not lower—the costs for everyone else.⁶²

Conclusion

Women predominantly choose doctors, make appointments, and rely on our health care system more than men throughout their life cycle. They need the tools to make these important decisions for themselves and their families—that means health insurance that works for them, that is affordable, and that does not discriminate against them. In short, they need the protections that Obamacare provides to prevent avoidable health conditions, to end discriminatory practices, and to bring a baseline of decency and common sense into our health insurance system.

The Affordable Care Act is the greatest legislative advancement for women's health in a generation. Congress had every reason—and every authority—to sculpt the law in the way it did. The Supreme Court should not seek to substitute its own judgment for that of Congress in the regulation of an economic activity that affects the lives of every American. A ruling that strikes down this important law would not only undo decades of precedent, it would have a devastating effect on the health and well-being of our nation's women. Millions of women have already benefited from the health reform law and millions more will benefit in the years to come.

Women have gained so much from Obamacare. They cannot afford to lose it now.

About the author

Jessica Arons is the Director of the Women’s Health and Rights Program and a member of the Faith and Progressive Policy Initiative at the Center for American Progress. Prior to joining the Center, she worked at the American Civil Liberties Union Reproductive Freedom Project, the labor and employment law firm of James & Hoffman, the Supreme Court of Virginia, the White House, and the 1996 Pennsylvania Democratic Coordinated Campaign. She currently serves on the board of the Virginia American Civil Liberties Union and the advisory board of Law Students for Reproductive Justice, and she is a former board member of the D.C. Abortion Fund. Arons is an honors graduate of Brown University and William and Mary School of Law. At William and Mary she was an associate editor of the William and Mary Law Review, managing editor of the William and Mary Journal of Women and the Law, and a board member of the William and Mary Public Service Fund.

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