



May 7, 2019

## **Key Vote NO on the Protecting Americans with Preexisting Conditions Act, H.R. 986**

On behalf of our activist community, I urge you to contact your representative and ask him or her to vote NO on the Protecting Americans With Preexisting Conditions Act, H.R. 986, sponsored by Rep. Ann Kuster (D-N.H.). The Protecting Americans With Preexisting Conditions Act, contrary to its short title, would do nothing to protect Americans with preexisting conditions and would instead only make it more difficult for Americans both with and without preexisting conditions to have the choices they need to get the best health insurance and subsequently to get the best quality of healthcare for themselves.

In October of last year, the Trump Administration issued guidance to allow states increased flexibility for some provisions of Obamacare through the use of its Section 1332 waivers. This guidance, called the “State Relief and Empowerment Waivers,” did not allow for waiverability of the Title I regulation in Obamacare that deals with mandated coverage for individuals with pre-existing conditions, as the law does not allow for this. The guidance did, however, open up the ability of states to increase competition and choice within their insurance markets.

It expanded the definition of health insurance coverage and allowed states to direct Obamacare’s tax credit subsidies towards health insurance plans that do not cover the full scope of Obamacare’s requirements, including short-term, limited duration insurance plans and association health plans. This move, quite simply, allows those who benefit more from a less comprehensive plan to choose such a plan, without affecting individuals with pre-existing conditions and the coverage they need at all, should they not benefit from such plans.

Therefore, although the short title of H.R. 986 indicates that it deals with pre-existing conditions protections, it actually just reverses the effect of the State Relief and Empowerment Waivers guidance and limits future similar administrative action. The bill states that “the Secretary of Health and Human Services and the Secretary of the Treasury may not take any action to implement, enforce, or otherwise give effect to the guidance entitled ‘State Relief and Empowerment Waiver’ (83 Fed. Reg. 53575 (October 24, 2018)), and the Secretaries may not promulgate any substantially similar guidance or rule.” As is evident from reading the bill itself

and the guidance it pertains to, there is nothing there that affects the provisions of Obamacare pertaining to protections for individuals with pre-existing conditions.

Put bluntly, this is no more than a messaging ploy by Democrats to try to claim to Americans that Republicans don't care about healthcare for individuals with pre-existing conditions. Not only is it not true that the bill addresses pre-existing condition protections at all, but it is also not true that, even if it did address these protections, this would be the correct route to go. In fact, the strict, inflexible pre-existing condition protections that are in Obamacare are one of the largest reasons that health insurance and healthcare has become increasingly unaffordable since Obamacare's enactment. The legislation and the current system it has created harms, every day, the very people with pre-existing conditions that it purports to protect.

Instead of allowing Democrats to get away with deceiving the American people with their messaging bills on pre-existing conditions, Republicans need to be actively seeking their own solutions to the best way to address this population. Over the past decade of Obamacare, we have seen that federally-driven mandates on coverage have resulted in inaccessible health insurance that does not allow individuals with pre-existing conditions to access the healthcare they need at an affordable price. The "Affordable" Care Act has been anything but that.

These solutions are out there, and they center around shifting the incentive structure and the very nature of the way health insurance functions further toward empowering individuals to control their own healthcare decisions. Increasing competition in the marketplace and eliminating the negative incentives that currently exist that drive up the costs of healthcare and health insurance will lead us to a more free-market model of healthcare instead of a government-controlled one. H.R. 986 does the opposite of this, by re-tightening the already-too-numerous strings that the federal government has to control the health insurance marketplace and taking choices away from consumers who know best the health insurance and healthcare that they need.

FreedomWorks will count the vote on H.R. 986 when calculating our Scorecard for 2019 and reserves the right to weight any votes. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes Members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized flourish at the end.

Adam Brandon  
President, FreedomWorks