

WHAT YOU NEED TO KNOW ABOUT ACA'S GUARANTEED ISSUE AND COMMUNITY RATING REGULATIONS



HERE'S THE MISPERCEPTION: The Affordable Care Act includes **regulatory provisions** called “**Guaranteed Issue**” and “**Community Rating**” that are necessary to protect people with pre-existing conditions. Repealing these would harm people with health conditions.

THE FACTS ARE:

- These regulations aren't necessary to make sure that everyone has access to affordable health insurance.
- In fact, these regulations are one of the main reasons that health insurance has become so expensive and unaffordable for millions of Americans.
- There are better ways to help those with pre-existing conditions get coverage and make sure that everyone gets a fair price than these rigid government rules that warp the market and drive up prices for everyone.
- Republicans want to provide states with additional resources for the very purpose of better protecting people with pre-existing conditions.

BACKGROUND YOU NEED TO KNOW

FACTS: What are Guaranteed Issue and Community Rating?

Guaranteed Issue means everyone who applies for insurance, with any insurance company, is guaranteed to receive a policy, regardless of their health status or history.

Community Rating is a mandate that says everyone, regardless of health status, history, or other factors, must pay the same premium. Under the ACA, the only exceptions are that policies may vary by zip code, tobacco usage, and age.

HOW ARE THESE PROVISIONS SUPPOSED TO WORK?

Though guaranteed policies were available in every state before the ACA, they each offered them in different ways. The ACA architects patterned these two provisions after regulations already used in seven of the states to make the cost of health insurance equal for all people. These mandates forbid insurance carriers from asking any risk rating questions: no health questions, no occupation questions, no alcohol or drug consumption questions, no lifestyle questions. Only zip code, age, and tobacco use. Even then, insurers are required to charge the youngest adult enrollees no less than one third what they charge the oldest. This is called a 3:1 age band.

WHY GUARANTEED ISSUE AND COMMUNITY RATING DON'T WORK

While these provisions may sound nice in theory, in reality, they don't work as intended. The ACA authors knew from the results in the seven states that used this approach that these rules would change the insurance market significantly, resulting in much higher premiums for all applicants, especially the younger, healthier people.

Understanding that this might discourage those customers from buying insurance or delaying coverage until they got sick, the law also included the individual mandate, which required that everyone buy insurance or face a fine if they failed to get coverage. It also created an open enrollment period that caused some to wait 11 months for coverage. The resulting high premiums also led the federal government to create subsidies to help lower income Americans, but everyone else found these premiums becoming as much as a house payment.

Even with the ACA's mandate to buy insurance, millions have chosen to remain uninsured. All of these problems have led to the demise of the ACA and ultimately hurts consumers. As the CEO of Aetna has acknowledged, the law's exchanges are in **a death spiral**, meaning premiums will continue to go up, driving more consumers out, which only drives prices up more for those who remain. Insurers are exiting, leaving patients with fewer and fewer options.

A BETTER WAY

Understandably, people with very high health costs may be concerned that without these rules, they will not be able to find an insurance policy that they can afford. No one wants this outcome. There is a better solution, one that doesn't turn health insurance markets upside down and raise rates for everyone.

Many people are not aware of the **rules that existed before the ACA:**

1. Employer-based plans had to accept everyone, no matter what.
2. If someone lost her employer coverage, she had the right to purchase individual coverage with no exclusions for pre-existing conditions if she followed the requirements of the 1996 Health Insurance Portability and Accountability Act (HIPAA).
3. But, in accordance with HIPAA, all 50 states ensured that everyone could somehow buy an insurance policy regardless of health conditions:

- A. Seven states had a Guaranteed Issue rule like the ACA,
- B. 35 states had high-risk pools (that offered a variety of plans from different insurers to high-risk customers at subsidized rates) and
- C. The remaining 8 states had a guaranteed plan for anyone who was denied coverage when they first applied.

Repealing the ACA's Guaranteed Issue and Community Rating rules does not mean that if you have a pre-existing condition that you won't receive a plan. It merely returns these regulations back to the states to give them flexibility as to how these plans are offered to you. Those seven states that previously mandated these two ACA provisions will continue to do so. The other states can reopen their private markets and drastically reduce their premiums while offering guaranteed plans with no mandates, fines or annual enrollment periods. This would be more efficient, and ultimately more compassionate than the ACA's Guaranteed Issue and Community Rating rules.

Republicans want to provide states with additional resources for the very purpose of better protecting people with pre-existing conditions.