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The ACA: A Train Wreck and a Lie

Preexisting conditions, guaranteed renewability — HIPAA already covered those issues.

By Jeffrey A. Singer

In his State of the Union address Tuesday night, President Obama repeated one of the biggest lies behind the Affordable Care Act (ACA), and it wasn't that you could keep your health-care plan or your current doctor. In fact, most people don't even know it's a lie.

That became obvious when he received a standing ovation after saying it: "Because of this law, no American can ever again be dropped or denied coverage for a preexisting condition like asthma, back pain, or cancer." The president and his supporters keep pretending that, before the ACA, an insurance company could drop individual policyholders, when in reality it could not.

Comes as a shock, doesn't it? But the truth is that for decades there have been safeguards in our health-insurance system to protect people just like the physician's assistant, Amanda Shelley, mentioned by the president.

Before 1996, if you purchased individual health insurance through a broker, you would have been offered a "guaranteed renewability" option. This would guarantee that your policy could not be canceled if you developed an expensive and chronic condition. The insurance company would also have to renew the policy on its anniversary date without charging a higher premium because of the chronic condition. This option was so popular that, by 1996, 75 percent of people buying individual health insurance also bought the guaranteed-renewability option.

Then, in 1996, Congress passed the Health Insurance Portability and Accountability Act (HIPAA). Among HIPAA's many mandates was the requirement that all individual insurance plans have guaranteed renewability. It also prohibited all group health-insurance plans sold to businesses from denying coverage to individuals because of preexisting conditions.

And so, for the past 18 years, all insurance companies have been legally forbidden from dropping an individual policyholder who developed a chronic illness and have not been able to raise anyone's rate because of it.

Moreover, Medicare covered anyone age 65 or older regardless of preexisting conditions. Ditto for the indigent on Medicaid. Yet a major goal of the ACA supposedly was to address the problem that some people couldn't obtain insurance because they had preexisting conditions that rendered them either "uninsurable" or insurable only for an unaffordable premium.

These are people who do not already have individual or group health insurance and are not eligible for Medicare or Medicaid. An example would be someone who lost his job and his employer-provided insurance, has a chronic illness, and has exhausted his coverage under COBRA. Just what percentage of the non-Medicare/non-Medicaid population could have this

problem? According to a 2001 survey by the Department of Health and Human Services, corroborated by other academic studies, just 1 percent of the under-65 population has ever been denied health insurance.

Ironically, the president tried to minimize the failure of his “like your plan, keep your plan” pledge by arguing, “We’re talking about 5 percent of the population.” In his State of the Union, he didn’t mention the 5 percent, which comes out to approximately 5.4 million Americans, who had their plans canceled because of the ACA. Instead, he patted himself on the back for helping free people from “substandard plans” that, he claims, would have dropped them if they developed some chronic and costly illness.

So to address a problem afflicting a minute portion of the under-65 population, Congress committed trillions of dollars to drop a nuclear bomb on the U.S. health-care system, remaking it in the image of your local DMV. For a tiny fraction of those trillions, Congress could have adopted one or more of the many alternative solutions to the problem faced by that small group of people, from the promotion of “health-status insurance” to the creation of viable high-risk pools.

It is difficult to decide what is more infuriating: the dishonesty or the incompetence of the designers of the Rube Goldberg scheme known as the Affordable Care Act.