

# IF YOU CARE ABOUT AFFORDABLE HEALTH CARE, YOU CARE ABOUT OUR FEDERAL COURTS

Every year, federal courts decide cases that impact our right to affordable, quality health care. Judges play a critical role in interpreting how federal statutes affect the health and well-being of millions of people in our country. With the Trump Administration's attack on this most basic human necessity, the courts are our last defense to protect health care.

## ACCESS TO AFFORDABLE HEALTH CARE

The Affordable Care Act (ACA) expanded health insurance coverage to [20 million](#) Americans. Opponents of affordable, quality health care have sought to use the courts to erode this landmark legislation.

- In 2012, the Supreme Court [upheld](#) the bulk of the ACA, but blocked the requirement that states **expand Medicaid**. As a result, [4.9 million](#) low-income adults faced a loss of health care.

Many of the Trump Administration's attempts to chip away at the ACA have thus far failed.

- On March 27, 2019, a federal judge [struck down](#) **Medicaid work requirements**.
- One day later, a federal judge appointed by President George W. Bush [blocked association health plans](#), which would allow certain businesses to avoid providing coverage to employees with preexisting conditions. The court explained that the rule was "clearly an end-run around the ACA" and that it "d[id] violence to" federal law.

Yet, despite these victories, the ACA remains under attack. The Trump Administration has [argued](#) that the entire ACA is unconstitutional, [including](#) protections for people with **preexisting conditions**.

- In December 2018, a federal judge in Texas [agreed](#) and **declared the ACA unconstitutional**. The law remains in effect pending appeal.

## WOMEN'S HEALTH CARE

The federal courts are not only integral to protecting *Roe v. Wade's* promise of a constitutional right to **abortion care** (1973), but also to providing vital health care such as **contraceptive care**, enumerated in *Criswold v. Connecticut* (1965).

- In 2019, the Supreme Court temporarily [blocked](#) a law that would **have left only one women's health clinic** that offered abortion care open in the entire state of Louisiana.
- In 2018, the Eleventh Circuit [struck down](#) an Alabama law that in effect **prohibited all abortions performed as early as 15 weeks**.
- In 2019, a federal judge [invalidated](#) a Trump

Administration rule that would have allowed large for-profit businesses to **refuse to cover contraceptives** for their employees, contradicting the plain text of the ACA.

Unfortunately, as state legislatures have attacked women's access to reproductive care, women's health is suffering in other ways, such as access to cancer screenings and family planning education.

- In 2019, the Sixth Circuit [allowed](#) Ohio to defund Planned Parenthood, including eliminating funding for programs that targeted sexually transmitted diseases, breast cancer and cervical cancer, teen pregnancy, infant mortality, and sexual violence.

## FAMILY AND MEDICAL LEAVE

In 2003, the Supreme Court [held](#) that government employees could sue under the Family and Medical Leave Act, meaning that they can enforce their right to **12 weeks of leave** for illness, pregnancy, or other conditions.

## DRUG PRICING

The price of drugs has soared, leaving low- and middle-class Americans without access to life-saving medication. The federal courts often have the final say on cases involving drug pricing.

- After the Trump Administration [attempted](#) to dismantle a federal program that allows hospitals to serve low-income populations, a federal judge [blocked](#) its rule as an attempt to "fundamentally rework the statutory scheme."
- Retail pharmacies and purchasers of generic drugs are bringing suit in [Minnesota](#) and [Pennsylvania](#), [alleging](#) conspiracy to fix prices of generic drugs in violation of antitrust laws. The claim brought in Minnesota alleges several billion dollars in damage due to illegal price inflation.
- In February 2019, the Supreme Court [rejected](#) the state of Maryland's attempt to enact its drug price-gouging law, which was passed after generic drug prices [skyrocketed](#) in 2015. After the Fourth Circuit [struck down](#) the law, the Supreme Court [declined](#) to reconsider.

# PRESIDENT TRUMP'S NOMINEES TO THE FEDERAL BENCH THREATEN AFFORDABLE, QUALITY HEALTH CARE

*Trump himself explicitly stated he was looking for nominees who are hostile to the ACA. These nominees would make it harder for all Americans to afford health coverage, access women's health resources, and find reasonably priced drugs. Low-income communities, women, and those with preexisting conditions will face particularly difficult hardships if Trump's judicial nominees succeed in dismantling our health care protections.*

## THE ACA

[Brett Kavanaugh](#) (Supreme Court), while on the D.C. Circuit, dissented from two rulings upholding the ACA. In one dissent he wrote what a Kavanaugh clerk described as a "road map" to invalidate the law.

Trump nominees [Britt Grant](#) (Eleventh Circuit), [Gregory Katsas](#) (D.C. Circuit), [Eric Murphy](#) (Sixth Circuit), [Howard Nielson](#) (District of Utah), [Andrew Oldham](#) (Fifth Circuit), [Michael Park](#) (Second Circuit), and [Chad Readler](#) (Sixth Circuit) all fought the legality of parts of the ACA.

[Amy Coney Barrett](#) (Seventh Circuit) and [Neomi Rao](#) (D.C. Circuit) criticized the Supreme Court's decisions upholding the ACA. Rao also criticized the conservative justices on the Supreme Court for not creating a "revolution" that would overturn "important" acts such as the ACA.

[Michael Truncale](#) (Eastern District of Texas) argued, "If Obamacare is allowed to stand, there is no limit to what the federal government can do to you. It's going to create 111 agencies that get between you and your doctor, it's going to lead to government rationing of healthcare."

[David Porter](#) (Third Circuit) wrote several columns arguing the ACA is unconstitutional.

## WOMEN'S HEALTH CARE

[Kyle Duncan](#) (Fifth Circuit) represented Hobby Lobby in its efforts to avoid providing contraceptive coverage to over 13,000 employees as required by the ACA. This suit was successful.

[Brett Kavanaugh](#) (Supreme Court), while on the D.C. Circuit, dissented in *Garza v. Hagan*, a case involving a young immigrant woman in government custody. He would have blocked her access to abortion care even after she successfully completed the burdensome requirements mandated by Texas.

[Wendy Vitter](#) (Eastern District of Louisiana) urged supporters to distribute materials that claimed abortion services are a cause of breast cancer, and that birth control pills "kill" and make a woman more likely to be the victim of violent assault and murder.

## PUBLIC HEALTH AND SAFETY

[Eric Murphy](#) (Sixth Circuit) fought to allow pharmaceutical companies to be able to sell drugs for uses that are not FDA approved.

[Neil Gorsuch](#) (Supreme Court) held that a medical device company could not be held accountable for a patient's injuries when it sold a product for a use that has never been approved by the FDA and never found to be safe and effective.

[Eric Miller](#) (Ninth Circuit) argued that medical device companies should not have a duty to warn hospitals about their devices' potential dangers.

[Michael Brennan](#) (Seventh Circuit) supported severely limiting damages for a boy who was left partially paralyzed and with a deformed arm due to a doctor's negligence.

[Paul Matey](#) (Third Circuit) served as senior vice president of a hospital with severe deficiencies in its patient safety standards.