1,000 CUTS

"Republicans like to say 'Obamacare is in a death spiral.' The only way that's the case is **because Republicans have had their hands around its throat**."– Senator Durbin

A Report on the Trump Administration's Health Care Sabotage

Prepared by the office of U.S. Senator Richard J. Durbin (D-IL)

October 20, 2017

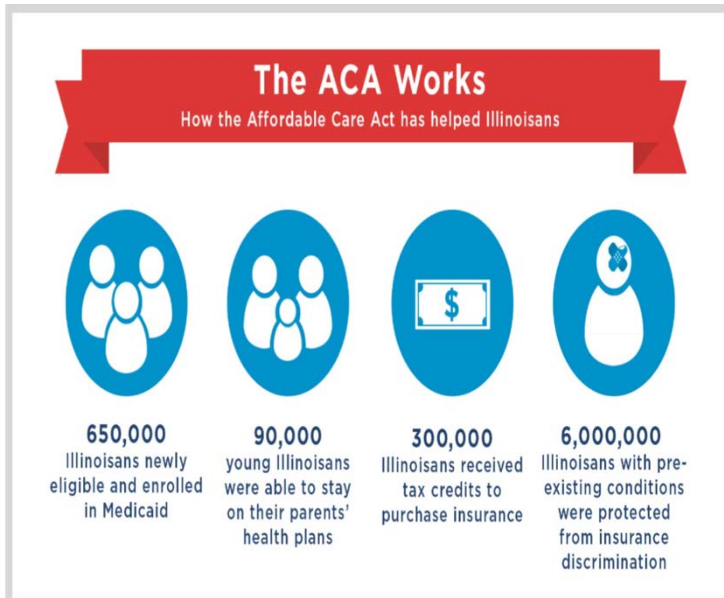
Executive Summary

Since the Affordable Care Act (ACA) was signed into law in 2010, the uninsured rate in Illinois has fallen by 49 percent.

Thanks to the ACA, **more than one million** previously uninsured Illinoisans now have health insurance.

The ACA also included many insurance reforms to protect Illinoisans—including prohibiting insurance companies from:

- Charging women more than men for the same coverage;
- Imposing annual or lifetime caps on benefits;
- Denying maternity, mental health, or substance abuse treatment coverage;
- Charging seniors exorbitantly higher premiums than younger people; and
- Denying insurance to people with pre-existing conditions.



Finally, thanks to the ACA, young Illinoisans are now allowed to stay on their parents' health plans until age 26 and the solvency of Medicare has been extended by over a decade.

However, from his very first day in office, **President Trump has orchestrated a deliberate campaign to sabotage the ACA**—starving it of funding, stoking marketplace uncertainty, and throwing up roadblocks to harm patients. This effort has occurred in tandem with repeated efforts by congressional Republicans throughout the year to repeal the health care law, the threat of which has created further instability in the individual market where approximately 12 million Americans—including 350,000 in Illinois (three percent of the state)—purchase their health insurance.

This report examines the repeated actions by the Trump Administration to undermine the ACA, and the resulting impact on Illinois consumers, patients, and families. This report also provides information for consumers to sign up for health insurance during the 2018 Open Enrollment window.

Timeline of Trump Administration's Sabotage

January 20, 2017:	On the first day of his presidency, President Trump issues an Executive Order that directs agency heads "to waive, defer, grant exemptions from, or delay the implementation" of provisions of the ACA.
January 26, 2017:	The Trump Administration pulls advertisements encouraging people to sign up in the federal health care exchanges during the final week of the 2016 open enrollment period.
April 2017 — October 2017:	President Trump threatens to eliminate federal funding that helps keep health care costs low for seven million Americans (cost-sharing reductions) - as a result, insurers announce that premiums will increase next year in the individual market.
April 13, 2017:	The Trump Administration announces that the 2018 open enrollement period will be cut in half — giving individuals and families less time to sign up for health insurance next year.
May 4, 2017:	House Republicans pass the American Health Care Act, which would repeal the ACA and throw more than 20 million people off of health insurance.
May 23, 2017:	President Trump's budget proposes a $305 million cut to marketplace consumer information, enrollement, and outreach efforts. This includes cuts to call centers, in-person "navigator" assistance, and cuts to advertisements encouraging people to sign up for health care.
June 2017:	The Department of Health and Human Services (HHS) begins to publicize on Twitter and YouTube a series of testimonial videos featuring people who have allegedly been harmed by the ACA.
July 29, 2017:	Senate Republicans fail to pass a bill to repeal or replace the ACA. Subsequently, President Trump threatens to stop CSR payments on Twitter, calling these payments "bailouts for insurance companies."
August 31, 2017:	The Trump Administration announces it will cut funding for marketplace outreach by at least 90 percent, and cut consumer enrollment assistance through the navigator programs by about 40 percent.
September 22, 2017:	The Centers for Medicaid and Medicare Services (CMS) announces that people will not be able to sign up for health insurance on Healthcare.gov for 12 hours almost every Sunday during the 2018 enrollement period. The website will also be shut down overnight on November 1, the first day of the 2018 enrollment period, for "scheduled maintenance."
September 27, 2017:	Regional HHS officials for the first time ever will not participate in enrollment events.
October 12, 2017:	President Trump issues an executive order destablizing the marketplace by promoting bare-bones association and short-term health plans that do not comply with the ACA's consumer benefits and protections.
October 12, 2017:	White House officially announces it will terminate CSR payments, raising premiums for customers and possibly forcing insurers to flee the market.
November 1 — December 15, 2017:	2018 Open Enrollment period.

The information contained within this report has been compiled from a variety of sources, including: the websites for the White House, Department of Health and Human Services, and Centers for Medicare and Medicaid Services; the Center on Budget and Policy Priorities; "A Manufactured Crisis," a Democratic Staff Report from the House Energy & Commerce Committee and Senate Health, Education, Labor, and Pensions Committee; and the non-partisan Congressional Budget Office.

Trump's Executive Order Number 13765

On January 20, 2017, President Trump's Inauguration Day, his first act as President was to direct—via executive order—the Secretary of Health and Human Services (HHS) and other agency heads to minimize the "economic and regulatory burdens" of the ACA, and "waive, defer, grant exemptions from, or delay the implementation" of the ACA. This immediate action threw into uncertainty whether the Internal Revenue Service (IRS) would enforce the individual and employer mandates, bringing about confusion for consumers and insurers.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release January 20, 2017

EXECUTIVE ORDER

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MINIMIZING THE ECONOMIC BURDEN OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT PENDING REPEAL

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. It is the policy of my Administration to seek the prompt repeal of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended (the "Act"). In the meantime, pending such repeal, it is imperative for the executive branch to ensure that the law is being efficiently implemented, take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market.

Sec. 2. To the maximum extent permitted by law, the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.

Sec. 3. To the maximum extent permitted by law, the Secretary and the heads of all other executive departments and agencies with authorities and responsibilities under the Act, shall exercise all authority and discretion available to them to provide greater flexibility to States and cooperate with them in implementing healthcare programs.

Sec. 4. To the maximum extent permitted by law, the head of each department or agency with responsibilities relating to healthcare or health insurance shall encourage the development of a free and open market in interstate commerce for the offering of healthcare services and health insurance, with the goal of achieving and preserving maximum options for patients and consumers.

Sec. 5. To the extent that carrying out the directives in this order would require revision of regulations issued through notice-and-comment rulemaking, the heads of agencies shall comply with the Administrative Procedure Act and other
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applicable statutes in considering or promulgating such regulatory revisions.

Sec. 6. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

The individual mandate balances the insurance market risk pool and helps bring premiums down by requiring all Americans to obtain health care coverage or pay a penalty. Two days after President Trump signed the order, White House counselor Kellyanne Conway said the Executive Order would help President Trump "get rid of that Obamacare penalty almost immediately."

The lack of clear guidance regarding future enforcement of the individual mandate created great uncertainty for states, health care providers, insurance companies, and patients about the stability of the individual market and the affordability of coverage. As a result, insurance companies began to consider significant premium increases to compensate for the loss of healthy individuals in the marketplace risk pool.

Health Alliance of Illinois: *"What's different this year is the high level of uncertainty on the regulatory front. Health plans must plan for the possibility [of] the individual mandate and/or federal subsidies going away."*

Chet Burrell, Chief Executive of CareFirst BlueCross BlueShield: *"[CareFirst] tacked an* ***extra 15 percent*** *onto its premiums <u>because it does not expect the Trump administration to enforce the individual mandate</u>. 'The current approach at the federal level has been to say they're not going to enforce it,' he says. 'We think the effect of that is to encourage healthy people not to enroll.'"*

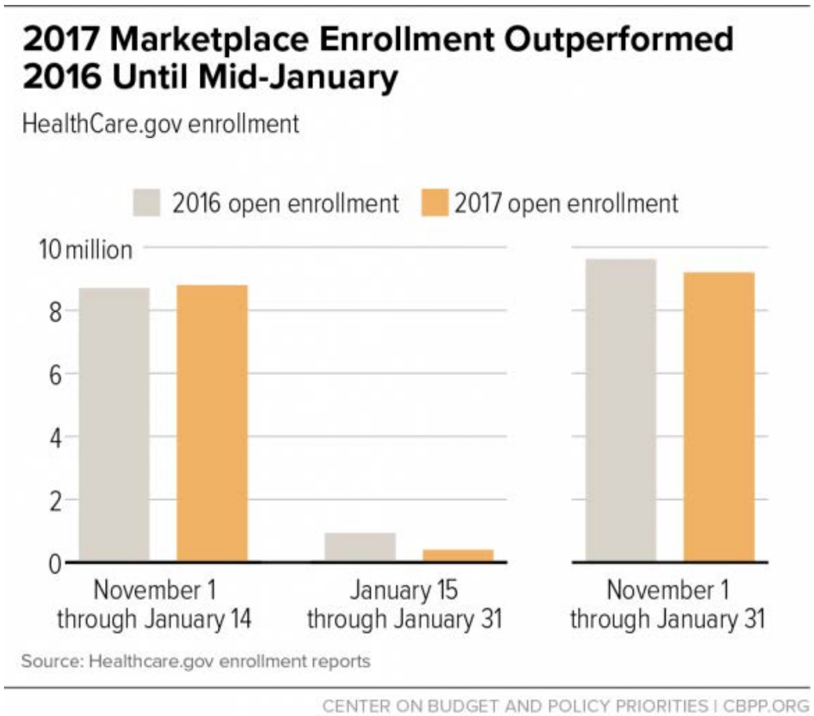
Open Enrollment Periods

Open enrollment is the annual period when people can sign up for a health insurance plan for the following year. Each year, 350,000 Illinoisans obtain their health insurance through the individual market, which is operated under the federal website: HealthCare.gov.

2017 Open Enrollment: The 2017 Open Enrollment period took place between November 1, 2016 and January 31, 2017—a full three months. On January 26, 2017, the Trump Administration announced that it would stop all planned advertisements for open enrollment in the final days of the 2017 open enrollment period. Historically, healthy and young people (18-34 year olds) are a large share of those who enroll in the marketplace during the final week of open enrollment (nearly 40 percent) because they are particularly responsive to deadline pressure. These healthy and young people balance out the risk pool for insurers, because they are less expensive to cover, and are crucial for keeping premium rates down.

By yanking advertisements and attacking the ACA in the final days of open enrollment, 12.2 million people enrolled in the federal marketplace for the 2017 enrollment period – **424,000 less people than the year before** during the 2016 open enrollment period.

Reduced outreach efforts during the closing days of the 2017 open enrollment period disrupted enrollment for these consumers and threatened marketplace stability. *Prior to the Trump Administration's announcement, the number of people signing up for health care plans in the federal marketplace exceeded that of the 2016 open enrollment period by as many as 250,000 people during the same time period*. After the Trump Administration's announcement, enrollment numbers decreased relative to the 2016 open enrollment period during the same time period.



2018 Open Enrollment: On February 15, 2017, the Centers for Medicare and Medicaid Services (CMS) proposed a rule to shorten the 2018 Open Enrollment period from three months to six weeks — cutting it in half. Billed as a rule that would "stabilize markets" in 2018, the proposed rule created more chaos by also allowing insurers to increase deductibles and cost-sharing requirements for different health insurance plans. These changes would discourage healthier individuals from signing up and make it harder for people to enroll in coverage. On April 13, 2017, the Trump Administration finalized the rule—limiting open enrollment from November 1, 2017, to December 15, 2017—a full one and a half months shorter than the previous year's open enrollment period.

On April 13, President Trump finalized regulations to **slash the 2018 Open Enrollment period in half.**

<u>Cost-Sharing Reduction (CSR) Payments</u>

The ACA created CSR payments to help working class families afford health coverage in the individual market by lowering out-of-pocket costs. For individual market enrollees with incomes between 100-250 percent of the federal poverty line, insurance companies are required to provide specialized health plans with reduced co-pays and deductibles. The federal government provides approximately $7 billion annually in CSR funding to help nearly seven million consumers afford their health care (nearly 60 percent of individual market enrollees depend on these payments).

President Trump has repeatedly threatened to cut off the CSR payments — **spooking insurers and injecting uncertainty** into the marketplace.

By refusing to firmly commit to making CSR payments, patients and insurers are left playing a "will he, won't he" guessing game, one that has a tangible impact on health care costs. If the Trump Administration terminates CSR payments, it could create immediate individual market chaos—with many insurers potentially leaving the marketplace.

"Obamacare is dead next month if it doesn't get that money … what I think should happen and will happen is the Democrats will start calling me." – President Trump, April 12, 2017

"The best thing politically is to let Obamacare explode." – President Trump, May 24, 2017

On May 22, 2017, the Los Angeles Times reported that CMS Administrator Verma suggested in a meeting with health insurance executives that the Trump Administration would make CSR payments ***<u>if insurers expressed support for the Republican health care repeal legislation.</u>***

The Kaiser Family Foundation found that average marketplace premiums would **increase 19 percent if CSR payments disappeared**, and the non-partisan Congressional Budget Office (CBO) estimated that **premiums would increase 20 percent if CSR payments were cut off**.

In its 2018 rate filing, **BlueCross Blue Shield of Illinois** attributed its proposed premium hikes to, "uncertainty regarding continued federal reimbursement for … Cost-Sharing Reductions."

Cigna of Illinois went even further, *<u>proposing a 38 percent increase by assuming that the Trump Administration would not continue funding CSR payments</u>*

On October 12, 2017, the White House officially announced it would terminate CSR payments. This deliberate action – over the objections of virtually every health care stakeholder, and just three weeks before open enrollment – may increase premiums and cause insurers to leave the market immediately.

Former HHS Secretary Tom Price's Anti-ACA Campaign

Using funds earmarked for "consumer information and outreach," HHS began to air a series of testimonial videos featuring people who have allegedly been "harmed" by the ACA. The first video was published on YouTube on June 7, 2017. HHS used its Twitter profile, run by then-HHS Secretary Tom Price, to amplify these videos and anti-ACA messages.

HHS's anti-ACA actions call into question the appropriateness of using these federal funds for partisan purposes rather than informational purposes to educate people about health and human service programs offered by the government.

Photo Credit: The New York Times

"You are not hired into the administration to decide whether you agree with the law you're asked to execute. That's not your job…Congress appropriates funds for you to carry out laws that they passed, not to spend those funds on activities that counteract those laws." – Andy Slavitt, former Acting Administrator, Centers for Medicare and Medicaid services, July 20, 2017

"I'm on a daily basis horrified by leaders at the Department of Health and Human Services who seem intent on taking healthcare away from the constituents they are supposed to serve. We always believed that delivering health and human services was the mission of the department. That seems to not be the mission of the current leadership." – Kathleen Sebelius, former HHS Secretary, July 20, 2017

Slashing Funding for Navigator Grants

At the end of August 2017, the Trump Administration announced it would reduce funding for marketplace advertisements and outreach by at least 90 percent, and cut consumer enrollment assistance through the navigator programs by about 40 percent — **an overall $115 million cut. Illinois navigator awardees saw their funding cut by 31 percent, nearly $800,000.**

The Navigator program helps facilitate enrollment of people into the individual marketplace by providing information and educational outreach about health insurance coverage. Navigators raise awareness about marketplace coverage, provide fair and impartial information about health plan options and subsidies to make coverage more affordable, and make referrals for people to get appropriate assistance if they have coverage issues.

Since its inception, the navigator program has helped educate more than nine million consumers about their health insurance options. Without navigators, many people will remain uninsured or pick coverage options that do not suit price range or health care needs.

According to the Kaiser Family Foundation, **80 percent of these consumers sought face-to-face assistance** because they lacked the confidence to apply on their own and needed help understanding plan choices.

"We just got word that the ACA Navigator program will be defunded for the upcoming year that starts tomorrow! We have not been able to get ANY answers from our contacts at CMS. [Our specific award] may be fully funded, but we don't know… We are [therefore] stopping the program." – Illinois Navigator Awardee, in email to Sen. Durbin staff, August 31, 2017

Shutting Down Healthcare.gov Website

CMS announced that consumers would not be able to sign up for health insurance on Healthcare.gov for 12 hours almost every Sunday during the 2018 enrollment period—reducing by approximately three days the already-condensed sign-up window. The website will also be shut down overnight on November 1—the very first day of the 2018 enrollment period—reportedly for "scheduled maintenance," despite no major technical challenges during the past two years' enrollment periods. During these windows, the entire website will be taken offline, and people will not be able to sign up for coverage or access the website for informational purposes.

These extensive blackout periods will severely hamper sign-up efforts. Sunday mornings are popular times for open enrollment outreach efforts through community events and faith-based gatherings. Without the ability to peruse the website or show consumers how to sign up immediately, enrollment efforts will be severely diminished.

"The mission of HHS is to 'enhance and protect the health and well-being of all Americans.' Yet their decisions appear instead to undermine the Marketplaces created by the ACA, and to harm the consumers those markets were designed to serve." – Consumers Union, October 2, 2017

HHS Refusing to Attend 2018 Open Enrollment Events

This year, the HHS regional representatives will not be participating in state open enrollment events despite traditionally having done so in the past. All 10 regional directors were told not to participate in state events promoting the 2018 open enrollment period. Traditionally, states and organizations partner with these HHS regional representatives to host events raising awareness about open enrollment and community resources to help people enroll.

This directive is part of the Trump Administration's larger reduction of federal resources and assistance to help enroll people in the individual marketplace during the upcoming 2018 open enrollment period. Without the help and support of HHS representatives, some states, like Mississippi, have cancelled planned awareness events this year. These events are particularly critical for awareness during the 2018 open enrollment period because it is a shortened period.

"Another setback for Illinois Marketplace enrollment. Our contact at HHS Region V has been told today to cease engagement with organization on open enrollment. He is prohibited from participating in the Illinois Coalition for Health Access and similar other states, unlike the last four years where … former Regional Administrator Falk actively participated in promoting enrollment." – Illinois consumer advocate, in email to Sen. Durbin office, September 18, 2017

Senator Durbin at an ACA Open Enrollment Event with HHS Regional Officials in Chicago, Illinois on January 26, 2016

October Executive Order Promoting Bare-Bones Insurance Plans

Following the collapse of the latest Republican iteration of health care repeal legislation, and just two weeks prior to the beginning of the 2018 open enrollment period, President Trump issued an executive order that jolted the marketplace by promoting under-regulated association health plans and short-term insurance plans. For years, congressional Republicans and President Trump have sought to "allow the sale of insurance across state lines." Despite already having flexibility to do this, insurers and actuarial experts question whether this would actually lower costs, while also raising concerns about segmenting the market.

Photo Credit: Doug Mills / The New York Times

President Trump's executive order seeks to exempt association health plans (where a group of small businesses band together to purchase insurance) from federal requirements that require coverage of important essential health benefits (including mental health, maternity, hospitalization, prescription drug, and substance abuse treatment). Further, the executive order seeks to expand the use of these bare-bones plans by possibly allowing individuals (not just small businesses) to buy these plans. As a result, younger and healthier individuals would likely flock to these less generous and cheaper plans, leaving older and sicker enrollees with higher premiums in the individual market.

The executive order also seeks to expand the availability of short-term insurance—which is entirely exempt from the ACA's benefit requirements—from three-month plans to nearly year-long plans, promoting these skimpy plans against more comprehensive plans, which will further destabilize the market. Combined, these two actions bolster the availability of bare-bones plans and creates a back-door into de-regulating the individual marketplace.

"Association health plans would fragment and destabilize the small group market, resulting in higher premiums for many small businesses." – National Association of Insurance Commissioners

Congressional Republicans' Attempts to Repeal the Affordable Care Act

As the Trump Administration led a campaign to undermine the ACA through regulatory sabotage and neglect, **Congressional Republicans dedicated an entire nine months of the congressional calendar to repeal the health care law.**

Starting in the first full week of the 115th Congressional session, Senate Republicans passed a budget resolution that would pave the way for their failed attempts to repeal the ACA under an expedited process that would only require 50 Senate votes, rather than the traditional 60-vote requirement. From that moment on, Republicans in the House, Senate, and White House charted a partisan legislative path in hopes of repealing the ACA. For nine months, repeal of the ACA was the primary legislative focus for congressional Republicans.

All told, congressional Republicans worked behind closed doors — without any input from Democrats, experts, or the American public — to craft a number of ACA repeal bills that failed to solve any of the problems Republicans cited as reasons for their legislation.

According to the nonpartisan CBO, each iteration of the partisan Republican health care repeal bills would have:

- Ripped health insurance away from 16-32 million Americans;
- Gutted protections for people with pre-existing conditions;
- Increased costs for low-income, rural, and older Americans; and
- Decimated the Medicaid program by slashing hundreds of billions in federal funding for states.

The Republican repeal bills were opposed by virtually every major medical, patient, provider, and disease group nationwide—including the AARP, the American Hospital Association, the American Medical Association, the American Academy of Pediatrics, the Illinois Health and Hospital Association, the American Heart Association, the American Lung Association, the American Diabetes Association, the American Cancer Society, Access Living, and The Arc.

Statement from A.J. Wilhelmi, President & CEO
Illinois Health and Hospital Association
Re: The Graham-Cassidy-Heller-Johnson ACA Repeal Proposal

The Illinois Health and Hospital Association opposes the latest Senate proposal to repeal the Affordable Care Act, which would do great harm to patients, hospitals, the healthcare delivery system, and our state budget and economy. The Graham-Cassidy-Heller-Johnson bill is even more damaging than the previous Senate and House repeal proposals. Not only will it result in the loss of healthcare coverage for up to one million Illinoisans, but it will erode key protections for patients and consumers and will cut federal healthcare resources to Illinois by more than $150 Billion.

IHA also opposes changing Medicaid to a capped funding model. Illinois already ranks 50th in the country in federal funding support per Medicaid beneficiary. Capped funding would lock Illinois into low, insufficient federal funding levels and shift costs to the state.

Illinois cannot absorb additional financial burdens that would be imposed on the state and would be forced to reduce eligibility, covered services, and payments to providers. The magnitude of these cuts and changes to Medicaid is staggering.

We were encouraged by recent bi-partisan negotiations to stabilize the individual marketplace. The Graham-Cassidy-Heller-Johnson bill will do nothing in the short or long term to create marketplace stability.

We urge the Senate to reject this proposal, and we implore the members of the Illinois House Delegation to oppose the bill if it passes the Senate. There is a great deal at stake for the health and well-being of the people of Illinois.

"**The Graham-Cassidy-Heller-Johnson bill** is **even more damaging** than the previous Senate and House repeal proposals. Not only will it result in the loss of healthcare coverage for up to one million Illinoisans, but it will erode key protections for patients and consumers and will cut federal healthcare resources to Illinois by more than $150 Billion." – **Illinois Health and Hospital Association**

Rather than taking steps to lower costs and expand coverage—such as reauthorizing the Children's Health Insurance Program or Community Health Center Fund (the authorizations for both of which expired on October 1)—or address drivers of health care costs—such as the skyrocketing price of prescription drugs—congressional Republicans dedicated nine months to an unsuccessful campaign to repeal the ACA. The constant rhetoric and legislative threat of repeal created tremendous year-long uncertainty for American families and health care stakeholders.

2018 Open Enrollment Period Guide

Despite the uncertainty stemming from President Trump's sabotage efforts and Congressional Republicans attempts to repeal the ACA, Illinois health care consumers should know that their insurance options will be there for them in 2018. *The 2018 Open Enrollment period begins November 1, 2017, and ends December 15, 2017, for insurance coverage beginning January 1, 2018*. Health coverage can also be more affordable than people think—eight out of ten people qualify for financial help lowering monthly premiums to between $50 and $100.

In-Person/Local Assistance Enrollment Resources

- Get Covered Illinois: https://getcovered.illinois.gov/how-to-get-covered/get-help
- Illinois Coalition for Health Access: http://www.ilcha.org/
- Protect Our Care Illinois: https://protectourcareil.org/
- Get America Covered: https://connector.getcoveredamerica.org/en-us/widget/?original=/

Get Covered Illinois: Phone 866-311-1119 (open Monday-Friday 8 am to 5pm)
Marketplace call-in assistance center: 1-800-318-2596 (available 24 hours a day, 7 days a week)

Useful Open Enrollment Links

- Illinois Consumer Resources: https://www.cms.gov/CCIIO/Resources/Consumer-Assistance-Grants/il.html
- Open Enrollment Frequently Asked Questions: https://www.healthcare.gov/get-answers/
- Tax Credit Estimator: http://www.taxpayeradvocate.irs.gov/estimator/premiumtaxcreditchange/
- Cost Savings Estimator: https://www.healthcare.gov/lower-costs/
- 2018 Marketplace Application Checklist: https://marketplace.cms.gov/outreach-and-education/marketplace-application-checklist.pdf
- Affordable Care Act Glossary: https://www.healthcare.gov/glossary/index.html

For Medicaid Enrollment/Eligibility: Illinois Department of Healthcare and Family Services http://www.illinois.gov/hfs If you need help, please call (800) 226-0768.