

Strengthening the ADA and Closing the Gap in Insurance Company Claims Denials for People with Disabilities

Executive Summary:

The Americans with Disabilities Act (ADA) has been a transformative piece of civil rights legislation, yet significant gaps remain in its application, particularly within the healthcare and insurance sectors. Insurance companies frequently deny claims for necessary medical services, treatments, and devices for people with disabilities, exacerbating disparities in healthcare access. These denials often stem from outdated definitions of "medical necessity," discriminatory practices, and complex, burdensome appeals processes.

This policy proposal seeks to close these gaps by amending the ADA to directly address health insurance discrimination, establishing clear definitions of medical necessity inclusive of disability-specific needs, and creating an independent federal oversight commission. It also proposes incentivizing best practices within the insurance industry and streamlining the appeals process. The projected budgetary impact is \$600 million annually, with anticipated long-term savings from reduced healthcare disparities and increased workforce participation among people with disabilities.

I. Policy Problem

Despite federal and state laws intended to protect people with disabilities, significant challenges remain in the insurance sector. Health insurance claim denials disproportionately impact individuals with disabilities, creating barriers to accessing necessary treatments and devices that are often essential for independent living, workforce participation, and overall quality of life.

Key Challenges:

1. **High Denial Rates:** Insurance companies often deny claims for therapies, durable medical equipment (DME), and ongoing treatments necessary for people with disabilities, labeling them as "not medically necessary."
 2. **Outdated Medical Necessity Standards:** Definitions of medical necessity used by insurers fail to account for the long-term health and quality-of-life needs of people with disabilities.
 3. **Burdensome Appeals Processes:** The appeals process for denied claims is complex, time-consuming, and disproportionately affects those with disabilities, who may have limited resources to navigate this bureaucratic system.
 4. **Discriminatory Insurance Practices:** Insurers continue to implement discriminatory practices, including restrictive coverage limits and pricing models that place undue financial burdens on people with disabilities.
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5. **Lack of Accountability:** There is currently no federal body that specifically oversees disability-related insurance claim denials, leaving a significant gap in enforcement of anti-discrimination provisions in healthcare access.

II. Policy Objectives

The overall objective of this policy is to improve the ADA's application within the insurance industry by ensuring that people with disabilities are not unjustly denied necessary care. This will be achieved by strengthening legal protections, creating new oversight mechanisms, and incentivizing best practices in the insurance sector.

Specific Objectives:

1. **Amend the ADA to Address Insurance Discrimination:**
 - Explicitly prohibit insurance claim denials that disproportionately affect people with disabilities.
 - Ensure that discriminatory practices in health insurance are classified as violations of the ADA.
2. **Redefine Medical Necessity Standards for People with Disabilities:**
 - Establish new federal guidelines for "medical necessity" that reflect the unique and long-term health needs of people with disabilities.
 - Require insurance companies to incorporate these standards into their claim evaluation processes.
3. **Create a National Disability Insurance Claims Oversight Commission (NDICOC):**
 - Establish an independent federal commission tasked with reviewing denied insurance claims related to disabilities and ensuring compliance with ADA protections.
4. **Streamline the Appeals Process:**
 - Mandate a fast-track process for disability-related claims with a maximum decision time of 30 days.
 - Simplify the claims and appeals system, reducing the bureaucratic burden on claimants.
5. **Increase Transparency and Accountability in Insurance Practices:**
 - Require insurance companies to publicly report data on claims denials and appeals related to disabilities.
 - Introduce annual federal audits of insurance companies' practices concerning disability-related claims.



6. Incentivize Disability-Inclusive Practices:

- Provide federal tax incentives and grants to insurers who demonstrate a commitment to disability-inclusive coverage, such as expanding coverage for rehabilitative services and DME.
- Create a certification program for insurers who meet or exceed new federal standards, allowing them to market their plans as "disability-friendly."

III. Legislative and Regulatory Actions

To achieve these objectives, the following legislative and regulatory actions are required:

1. Amend the ADA:

- Introduce a legislative amendment to the ADA to explicitly include protections against insurance discrimination based on disability.
- Expand ADA Title III to cover discriminatory insurance practices, including the denial of necessary medical treatments and services for people with disabilities.

2. Define Medical Necessity:

- Through the Department of Health and Human Services (HHS), create new disability-specific medical necessity guidelines in collaboration with disability advocates, healthcare providers, and insurance experts.
- Mandate that insurers adopt these standards and review all claims involving disability-related services against the new criteria.

3. Establish the NDICOC:

- Create the National Disability Insurance Claims Oversight Commission (NDICOC) within HHS.
- This independent body would have the authority to investigate and review insurance denials involving disability claims and provide an appeals mechanism that bypasses the insurance company's internal review process.
- NDICOC would also conduct annual audits to ensure compliance with ADA standards.

4. Appeals Process Reform:

- Amend federal insurance laws to require that disability-related claim appeals be resolved within 30 days of filing.
- Simplify the appeals process by reducing documentation requirements and providing clear criteria for evaluating claims.



5. Reporting and Transparency:

- Mandate that insurance companies publicly report claims denial rates, with specific reporting on disability-related claims, outcomes of appeals, and the types of services denied.
- HHS will publish an annual report on the state of disability-related insurance practices, highlighting companies that perform well and those that fail to meet ADA standards.

6. Incentivize Best Practices:

- Introduce a federal program offering \$200 million annually in grants and tax incentives to insurers who adopt best practices in disability-inclusive coverage.
- Develop a certification program under HHS for insurers who meet the new standards, granting them the right to advertise their plans as "ADA Compliant" or "Disability-Friendly."

IV. Budgetary Details and Calculations

This proposal would require initial investment but would ultimately lead to long-term cost savings by reducing healthcare disparities, improving workforce participation, and lowering healthcare costs through preventive care and better-managed conditions.

1. NDICOC Budget:

- **Personnel Costs:** \$100 million annually
 - 500 staff members (including claims reviewers, legal experts, disability advocates, and administrative staff) at an average salary of \$100,000 per year.
- **Administrative Costs:** \$50 million annually
 - Office space, technology infrastructure, and operational support.
- **Claims Review Operations:** \$50 million annually
 - Funding for claims reviews, independent investigations, and audits.

Total NDICOC Annual Budget: \$200 million

2. Public Awareness Campaign:

- A one-time allocation of \$75 million for a nationwide education and outreach campaign to inform individuals with disabilities about their new rights, the revised claims process, and available resources under the NDICOC.



3. Incentives for Insurance Companies:

- **Grants and Tax Credits:** \$200 million annually
 - Federal grants and tax credits for insurers that expand coverage and meet new ADA standards.
 - This amount is designed to incentivize insurers while offsetting potential revenue loss from expanded coverage obligations.

4. Legal Aid and Advocacy Support:

- **Increased Legal Aid Funding:** \$75 million annually
 - Funding for nonprofit legal advocacy groups and disability rights organizations to support individuals in pursuing claims under the amended ADA.

5. Reporting and Transparency Mechanism:

- **Technology Infrastructure and Data Reporting Costs:** \$50 million annually
 - Funding for developing a national database to track claims denials, appeals, and insurance company compliance with the ADA.
 - Includes costs for insurance companies to comply with reporting requirements and for HHS to manage the data.

6. Total Annual Budget:

- **NDICOC Operating Costs:** \$200 million
- **Public Awareness Campaign:** \$75 million (one-time)
- **Incentives for Insurance Companies:** \$200 million annually
- **Legal Aid and Advocacy Support:** \$75 million annually
- **Reporting and Transparency Costs:** \$50 million annually

Total Annual Budget (Year 1): \$600 million

Total Annual Budget (Years 2+): \$525 million

V. Sources and Calculations

1. Personnel Costs:

- Calculated based on average federal salaries for professionals working in claims review and disability rights, adjusted for overhead costs such as benefits and pensions.
- Source: U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics (2023).



2. **Administrative and Claims Review Operations:**

- Estimated based on similar federal regulatory commissions and their administrative overhead.
- Source: Government Accountability Office (GAO) reports on regulatory body operating costs.

3. **Public Awareness Campaign:**

- Cost derived from previous federal awareness campaigns such as the ACA rollout and census outreach programs.
- Source: Congressional Budget Office (CBO) and HHS outreach budgets for ACA implementation.

4. **Grants and Incentives:**

- Based on comparable federal incentive programs for healthcare providers and insurers under ACA and Medicare.
- Source: CBO reports on healthcare incentive programs.

5. **Technology and Reporting Infrastructure:**

- Based on the cost of developing and maintaining data reporting systems within HHS and CMS (Centers for Medicare & Medicaid Services).
- Source: CMS budgetary reports.

VI. Conclusion

This comprehensive policy proposal addresses a critical gap in the ADA's application to health insurance. By introducing new protections, redefining medical necessity standards, establishing a national oversight commission, and incentivizing best practices, this proposal will ensure that people with disabilities are treated equitably in the health insurance system.

