

The End of Obamacare

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Donald Trump's triumph in the 2016 presidential election marks the beginning of an uncertain and tumultuous chapter in U.S. health policy. In the election's aftermath, the im-

mediate question is this: Can Republicans make good on their pledge to repeal Obamacare? The Affordable Care Act (ACA) has persisted largely thanks to President Barack Obama's protection. With Trump in the White House and Republicans maintaining House and Senate majorities, that protection is gone.

Obamacare's vulnerability reflects not only the 2016 election results, but also its shallow political roots. The ACA has achieved much, including a large reduction in the uninsured population. Still, it lacks strong public support and an organized beneficiary lobby, has encountered significant problems in its implementation, and

has been enveloped by an environment of hyperpartisanship.¹ If the ACA were more popular and covered a more politically sympathetic or influential population, if its insurance exchanges were operating more successfully and had higher enrollment, and if Democrats and Republicans were not so ideologically polarized and locked in a power struggle, then an incoming GOP administration would probably be talking about reforming rather than dismantling Obamacare.

The Trump administration can do much to undercut the ACA. The insurance exchanges, buffeted in many states by high premium increases, sicker-than-expected risk

pools, and insurer withdrawals, require stabilization; simply by doing nothing the GOP could damage them. A Trump administration could also stop reimbursing insurers for the cost-sharing reductions they must give low-income Americans with ACA exchange plans — a move that would severely destabilize insurance marketplaces and lead to insurers' exiting the exchanges.² Just as the Obama administration used executive orders to buttress the law, so the Trump administration could reverse those orders and take additional actions to weaken it, including leveraging waivers that enable states to opt out of ACA requirements.

The GOP-led House has already voted to repeal Obamacare dozens of times and will most likely do so again. The situation in the Senate is more complicated. The Republican majority of 51 sena-

tors is far less than the 60 votes necessary to overcome a filibuster and thereby pass contested legislation. However, the GOP can use a legislative procedure that requires only a simple majority — budget reconciliation — to overturn Obamacare's main coverage provisions.

Republicans face challenges in dismantling the ACA. Procedural limits mean that reconciliation can be used to repeal many Obamacare provisions but not the entire law (its insurance market regulations would probably be spared). Moreover, some of its provisions, such as banning insurers from discriminating against people with preexisting conditions

ing sicker people from coverage or charging them higher premiums are not viable. Picking and choosing to keep only the ACA's popular provisions is easier said than done.

Furthermore, more than 20 million Americans have gained insurance coverage since the ACA's enactment, representing a sizable constituency of beneficiaries of Medicaid expansion and subsidized marketplace insurance. Repealing those benefits without adequate replacements would de-insure a substantial share of the U.S. electorate, inviting a political firestorm.

Therein lies the GOP's chief quandary: talking about repeal-

ing something meaningful to restore the access to health insurance that repealing the ACA would take away from millions of Americans. Trump's reform vision remains largely a mystery.

Republicans could build on a June 2016 plan released by House GOP leadership, led by Speaker Paul Ryan (WI). The plan shares the above policies with Trump's platform.⁵ In addition, it calls for replacing the ACA's insurance subsidies with tax credits. Insurers could not charge higher premiums to people with preexisting conditions as long as, and only if, those people maintained continuous coverage. The plan would limit the tax exclusion for employer-sponsored insurance that has exempted employer contributions to workers' insurance from taxation. And it would reform the malpractice system by introducing caps on noneconomic damages.

Yet these policies, too, fall far short of the ACA's insurance protections and coverage expansion. Under the House GOP plan, more Americans would be uninsured, more would become underinsured, and more would be subject to insurer discrimination. Nonetheless, even that proposal is viewed by some conservatives as an overly ambitious "Obamacare lite."³ There is no agreed-upon Republican replacement plan; a new health care reform debate could expose divisions within the GOP and between Congress and Trump. If Republicans want to replace the ACA, they must resolve issues such as how ambitious a GOP reform package should be and how to pay for it. Limiting the tax exclusion for employer insurance could generate considerable funds, but many Americans will view


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and allowing children to stay on their parents' health plan until 26 years of age, are popular. The GOP could attempt to retain such reforms, which President-elect Trump has expressed interest in maintaining, while eliminating the mandates for individuals to obtain and larger employers to offer insurance coverage or pay penalties, the Cadillac tax on high-cost private plans, and other measures the GOP opposes. Many ACA policies, though, are interconnected: without a requirement that individuals either obtain insurance or pay a penalty, regulations prohibiting insurers from exclud-

ing the ACA is much easier than actually repealing and replacing it. The GOP could reintroduce a repeal bill, vetoed by Obama, that congressional Republicans passed in 2015 (through budget reconciliation in the Senate) stripping the ACA's core coverage provisions away.^{2,3} But with what, if anything, will the GOP replace Obamacare? Trump's health care platform comprises a handful of bullet points — including allowing the interstate sale of health insurance, expanding the use of health savings accounts, and establishing high-risk pools.⁴ None of those policies would do any-

that change as an unwelcome tax increase and a cut in their health benefits.

Republicans' drive for repeal thus brings with it considerable political risks. Americans are profoundly confused about the ACA's benefits, but the prospect of losing them could prove clarifying. The 32 states, including some governed by Republicans, that have expanded Medicaid do not want to have coverage taken from their residents or to lose large federal payments. Republicans may discover that it is harder to pull the plug on Medicaid expansion than on the insurance exchanges. Other issues await the GOP, such as what to do about the ACA's measures slowing down Medicare spending growth. Ending those policies would substantially worsen the federal budget def-

 **An audio interview with Dr. Oberlander is available at NEJM.org**

icit. And what becomes of the ACA's payment and delivery reforms, its expansion of Medicare prescription-drug benefits, and myriad policies affecting medical care and public health that are embedded in the law?

A host of health system stakeholders — hospitals, doctors, insurers, and others — will be anxious about the current uncertainty in the health policy landscape and worried about any

changes that substantially reduce insurance coverage and adversely affect their bottom lines. Much of the health care industry supported the ACA as part of a broader coalition that included consumer groups. Whether that coalition can reassemble to effectively resist the ACA's demise is unclear.

Health policy debates could ignite beyond the ACA. Speaker Ryan supports major changes to Medicare and Medicaid. The new Congress and the Trump administration could enact large-scale tax cuts that reduce federal revenues and increase the budget deficit, creating pressures to constrain spending on government insurance programs. The 2015 House GOP plan called for transforming Medicare into a modified voucher system, raising Medicare's age of eligibility, and converting federal Medicaid payments to states into block grants or per capita allotments. Pursuing those controversial policies, which would shift more costs onto older and lower-income Americans, could trigger a backlash. However, Trump may not support Ryan's Medicare reform plans (though he has voiced support for block granting Medicaid). The expiration of funding for the Children's Health Insurance Program also looms in 2017.

The ACA's enactment represented a major step toward making health care a right in the United States. Now after another landmark election, health care reform in the United States is headed backward. It is uncertain which parts of the ACA will survive past 2017 and what will follow it. What is certain is that Obamacare as we know it will end.

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