

NACCHO Analysis of the Future of the Affordable Care Act

ACA Repeal and Replace

House and Senate leadership have publicly announced their intent to repeal or significantly alter the Affordable Care Act (ACA). House Speaker Paul Ryan (R-WI) is expected to take the lead in crafting the path forward. (To understand the policy proposals that are likely to be considered, see Speaker Ryan's 37-page "[A Better Way](#)" proposal and the Trump [Health Plan](#))

There are a variety of ways and vehicles to unwind the law – legislation to alter or repeal, defunding pieces through the appropriations process, and Executive branch action or inaction. Given that a total repeal would result in a loss of coverage for 20 million people, there is likely to be a phased approach or transition period. It's unclear how the public will respond to taking health care away from millions of people — the first time in American history that such a broad societal benefit enacted by Congress would be repealed.

Is Past, Prologue?

While Senate Democrats likely would use the filibuster to try to block any drastic changes in the law, Republicans have devised a plan to sidestep a filibuster and make the changes through the budget reconciliation process. (The ACA was passed in 2010 using the reconciliation process.) Congressional Republicans already have experience crafting and passing a budget reconciliation bill to dismantle key parts of the law, which was vetoed by President Obama in 2015. The reconciliation process is a complicated budget tool that only requires a simple majority to pass the Senate and not the 60 vote threshold. The repeal plan would have to go through elaborate review to make sure it complies with intricate budget rules and Democrats can challenge the results. However, the 2015 bill already vetted for compliance with reconciliation requirements could serve as a model for ACA repeal.

That reconciliation bill would have repealed the individual and employer mandates, the exchange subsidies, expansion of Medicaid coverage for adults up to 138 percent of the federal poverty level, presumptive eligibility, maintenance of effort, benchmark plans for Medicaid, and the taxes on medical devices and high-cost health plans. But even though it passed with strong support from Republicans, they knew at the time it wouldn't become law because Obama would veto it. That dynamic creates skepticism among some now that it could pass again in 2017 when a president could actually sign it — and take away a health benefit from people.

In addition, there will likely be a push to eliminate ACA insurance reforms such as minimum essential benefit packages and scrapping the Centers for Medicare and Medicaid Services Innovation Center and the Medicare Independent Payment Advisory Board. Repeal also ends popular ACA provisions, like the guaranteed issue of insurance, allowing young adults to remain on their parents' health plans until the age of 26, and filling in the Medicare Part D donut hole.



Mandatory spending in the ACA is also in jeopardy. This includes the Prevention and Public Health Fund, which is 13% of CDC's budget (See chart of current CDC allocation). Mandatory funding for Community Health Centers, the Maternal and Child Health Nurse Home Visiting Program, and the State Children's Health Insurance Program was also authorized in the ACA and has been extended through separate legislation, which expires in 2017. If mandatory funding is eliminated, there will be increasing pressure on discretionary spending to continue these programs.

| CDC Programs Supported by PPHF | FY2016 |
|--|--------------|
| Preventive Health and Health Services Block Grants | 160.0 |
| Million Hearts | 4.0 |
| Tobacco Prevention (Media and Quitlines), Office of Smoking and Health | 126.0 |
| Racial & Ethnic Approaches to Community Health (REACH) | 50.9 |
| Section 317 Immunization Program | 324.4 |
| Breastfeeding promotion and support grants | 8.0 |
| Diabetes Prevention | 73.0 |
| Heart Disease & Stroke Prevention | 73.0 |
| National Early Care Collaboratives | 4.0 |
| Lead Poisoning Prevention | 17.0 |
| Epidemiology and Laboratory Capacity Grants | 40.0 |
| Healthcare-Associated Infections | 12.0 |
| CDC Total | 892.3 |

Replace with What?

The Republicans are still far apart on specifically what kind of alternative to enact. Trump and Speaker Ryan have given only broad outlines of what that replacement would look like. They're relatively similar plans: Individuals would get tax credits to help them buy insurance, tax-favored Health Savings Accounts would be encouraged, insurers would be allowed to sell policies across state lines. Trump has also indicated that he favors Ryan's preferred approach of covering people with pre-existing medical conditions through state high-risk pools rather than requiring insurers to accept all applicants regardless of health status. These proposals would only marginally reduce the ACA coverage losses.

A replacement plan could not be implemented overnight. Regulations would have to be written and published for comment and mechanisms set up to handle the deductions or credits, particularly if they were provided in advance. Even a two year delay might not be enough to get a program in place.

Given that hospitals, drug makers and even some insurers have benefited from ACA's coverage expansion and other reforms, they are likely to push the GOP to preserve *some* elements that favor them. Governors are also expressing concern about the repeal of the Medicaid expansion and the negative impact that will have on their state budgets.

What about 2016 Open Enrollment?

The Obama Administration is staying the course with open enrollment which runs from November 1 to January 31. The Department of Health and Human Services announced that more than 100,000 people signed up for plans on HealthCare.gov the day after the election.

Changes Beyond the ACA

One of Ryan's Better Way proposals is to transform Medicare into a premium-support program, in which the government makes fixed per-capita contributions and beneficiaries use those payments to get their care from either traditional Medicare or private plans. A move away from defined benefits would potentially expose seniors to higher out-of-pocket costs.

On Medicaid, Trump and GOP congressional leaders want to convert the program into a system of capped federal contributions to the states and give state leaders enormous freedom to set eligibility, benefits and program structure. Democrats, healthcare providers and even many state officials oppose such a change, fearing it would slash funding, reduce provider payments and leave a large number of low-income people without healthcare.

NACCHO will continue to report on efforts to change or eliminate ACA and other changes to health insurance programs and ways NACCHO members can make the benefits of the law known to policymakers.

Questions?

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