A Viewer’s Guide to the Next Battles in Health Care Reform

Lanhee J. Chen, J.D., Ph.D.
David and Diane Steffy Research Fellow, Hoover Institution
Director of Domestic Policy Studies, Public Policy Program
California Association of Health Plans Annual Conference
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So, what’s next?
Key Takeaways

• Trump Administration plans executive/administrative action, including expanding access to association health plans and short-term plans.
• Graham and Cassidy continue work on their state-based alternative to the ACA, while Sanders and other Democrats push ahead with Medicare-for-all legislation
• States consider possible reforms through Section 1332 waivers but Trump Administration has been resistant to all but a few proposals
• Expect possible return to health care reform in 2018 (after the debate over tax reform) but still unlikely the outcome will be full-scale repeal and replace
Partisan Views on ACA Remain Polarized

Kaiser Health Tracking Poll: The Public’s Views on the ACA

We asked: “Given what you know about the health reform law, do you have a generally favorable or generally unfavorable opinion of it?”

Democrats are more likely than Republicans to have a favorable opinion of the ACA. As of September 2017, 75% of Democrats have a favorable opinion compared to 57% of Republicans. Conversely, 17% of Republicans have a favorable opinion, while 47% of Democrats have an unfavorable opinion.

Kaiser Family Foundation | kff.org/polling
ACA Replacement Plans Were Broadly Unpopular

Public Opinion on ACA Replacement Plans

<table>
<thead>
<tr>
<th>Organization</th>
<th>Method</th>
<th>Field period</th>
<th>Question wording</th>
</tr>
</thead>
<tbody>
<tr>
<td>CBS News</td>
<td>Live interview by telephone</td>
<td>June 15-18, 2017</td>
<td>As you may know, Republicans in Congress passed a bill in the House of Representatives to repeal and replace the 2010 health care law. From what you have heard or read, do you approve or disapprove of this plan?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>September 21-24, 2017</td>
<td>As you may know, Republicans in the Senate recently put forward a new plan, called Graham-Cassidy, that would repeal and replace the Affordable Care Act of 2010. From what you have heard or read, do you approve or disapprove of Graham-Cassidy, the new Republican plan?</td>
</tr>
<tr>
<td>Fox News</td>
<td>Live interview by telephone</td>
<td>July 16-18, 2017</td>
<td>As you may know, the Senate recently released its version of a health care plan that would replace the Affordable Care Act, also known as Obamacare. Do you favor or oppose this legislation?</td>
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<tr>
<td></td>
<td></td>
<td>June 25-27, 2017</td>
<td>As you may know, the Senate recently released its version of a health care plan that would replace the Affordable Care Act, also known as Obamacare. Do you favor or oppose this legislation?</td>
</tr>
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# Republicans Still Care a Lot About ACA Repeal

<table>
<thead>
<tr>
<th>Critical Domestic Issues</th>
<th>Total</th>
<th>Republicans</th>
<th>Democrats</th>
<th>Independents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taking action to lower Rx drug prices</td>
<td>40</td>
<td>30</td>
<td>51</td>
<td>36</td>
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<tr>
<td>Raising the current $7.25 an hour federal minimum wage</td>
<td>33</td>
<td>14</td>
<td>42</td>
<td>29</td>
</tr>
<tr>
<td>Reducing the budget deficit and overall federal spending</td>
<td>30</td>
<td>36</td>
<td>29</td>
<td>30</td>
</tr>
<tr>
<td>Taking action to repeal and replace the Affordable Care Act, also known as the ACA or Obamacare</td>
<td>26</td>
<td>53</td>
<td>18</td>
<td>21</td>
</tr>
<tr>
<td>Increasing spending to improve the nation’s roads, bridges, airports and other infrastructure</td>
<td>24</td>
<td>18</td>
<td>29</td>
<td>24</td>
</tr>
<tr>
<td>Investigating Russia’s involvement in the 2016 US election</td>
<td>23</td>
<td>10</td>
<td>44</td>
<td>18</td>
</tr>
</tbody>
</table>

Many Democrats Interested in Single-Payer

Do you think Democrats in Congress should focus their efforts on improving the way the Affordable Care Act is working or should they focus their efforts on trying to pass a national health care plan in which all Americans would get their insurance from a

- 52% Improving the way the ACA is working
- 43% Trying to pass a national health care plan
- 5% Other/Don't Know/Refused

Source: Kaiser Family Foundation Health Tracking Poll (September 13-18, 2017)
What Happened to “Repeal and Replace?”

• GOP internal disagreements on health care policy
• Coalition for repeal did not equal the coalition for replace
• Failure to use “regular order” and the difficulty of using the budget reconciliation process for health care legislation
• Democrats were unified
• Jimmy Kimmel
Why Do Conservatives Continue to Oppose the ACA?

• A one-size-fits-all, federally dictated regulations governing health plans
  • Essential Health Benefits
  • Guaranteed Issue
  • Modified Community Rating
• Huge expansion of entitlement spending (Medicaid expansion and tax credits)
• Significant and multiple tax increases to finance the legislation
• Mandates for coverage
Over 1,000 Counties in America Only Had One Exchange Insurer in 2017

Source: Kaiser Family Foundation analysis of data from the 2017 QHP Landscape file released by healthcare.gov on October 24, 2016. Note: For states that do not use healthcare.gov in 2017, insurer participation is estimated based on information gathered from state exchange websites, insurer press releases, and media reports as of August 26, 2016. Enrollment is based on 2016 signups.
Trump Administration Has Wide Administrative Discretion on ACA

• Why? The ACA grants significant authority and latitude to the administration. “The Secretary Shall…”

• Possible actions include:
  • Pay (or don’t pay) cost-sharing subsidies
  • Make it harder to “game the system” by tightening certain insurance regulations
  • End or minimize enrollment efforts in Obamacare marketplaces
  • Reduce or limit scope of essential health benefits, including coverage for contraceptives under preventive services requirement
  • Loosen enforcement or change exemptions from individual mandate
  • Allow state waivers through Section 1332 of Obamacare, giving states freedom and flexibility to formulate their own health plans
People Generally Don’t Like Undermining of the ACA

Figure 11

A Majority of Americans Say President Trump and his Administration Should Do What They Can to Make ACA Work

Moving forward, do you think President Trump and his administration should do what they can to make the current health care law work or should they do what they can to make the law fail so they can replace it later?

Do what they can to make the law work 75%

Do what they can to make the law fail so they can replace it later 19%

Don’t know/Refused 6%

SOURCE: Kaiser Family Foundation Health Tracking Poll (conducted March 28 – April 3, 2017)
Section 1332 State Innovation Waivers: The Big Idea

- Unified waiver for all federal health programs
- Use ACA funding
- Waive major ACA provisions
- Meet core ACA requirements
- State-designed health care system
Section 1332 Waivers May Propose Alternatives On:

- Benefits and Subsidies
  - Covered benefits
  - Structure and administration of subsidies (states can get aggregate value of cost-sharing subsidies and tax credits to implement alternative approaches)

- Marketplaces and Qualified Health Plans
  - Replace marketplaces or supplant plan certification process
  - Implement reinsurance program to improve affordability (Alaska and Minnesota)

- Individual Mandate

- Employer Mandate (Hawaii)

- BUT NOTE: Cannot waive market reforms, like guaranteed issue or modified community rating
...But There’s a Catch! States Must:

- Provide coverage at least as comprehensive as that defined in Section 1302(b) and offered through Exchanges
- Provide protections against excessive out-of-pocket spending that are at least as affordable as in ACA
- Provide coverage to a comparable number of people as ACA would (but note: not the same people necessarily)
- Not increase federal deficit in 10-year window
Some States Are Considering Section 1332 Waivers

STATUS OF STATES’ ACTION AROUND 1332 WAIVERS

- Approved Waiver (3)
- Waiver Application Submitted, with Legislation (3)
  CA-Application Withdrawn
  OK-Application Withdrawn
  VT-Incomplete Application
- Waiver Application Submitted, Without Legislation (1)
  IA-Pending Application
- Public Draft of Application (2)
- Authorizing Legislation Passed, Waiver Application in Process* (6)
- Authorizing Legislation Passed, Vetoed (2)
- Legislation Filed, Did Not Pass (12)
- No Submitted Application (22 including Washington, D.C.)

*Note that the effect of state laws vary considerably.

SOURCES: National Conference of State Legislatures (NCSL), Oliver Wyman Health, State Health Reform Assistance Network
But, most importantly…

Anyone who says they can predict what’s going to happen in health policy over the next three years is probably not telling you the truth!
“Medicare for All”

• Has the potential to go beyond what “single-payer” means in countries like Canada
• Would make the federal government the single payer of health coverage and expenses
• Actually expands the coverage benefits in Medicare and many private plans
• Costs are significant and possible pay-fors include higher taxes, particularly on the wealthy, and elimination of the existing exemption from taxation of employer-sponsored health insurance
• Has become a litmus test amongst some progressives, particularly those who may make up a disproportionate percentage of the Democratic Party primary electorate in 2020
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