



North Coast Physician



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"BARNACLE LOG MOON 1"
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Now What Happens to the ACA?

Stephen Kamelgarn, M.D.



One of Donald Trump's 2016 campaign promises was that, if he were elected, one of the first things he would do would be to "Repeal Obamacare." He made this promise with the full complicity of all the Congressional Republicans. Unfortunately, for those twenty million Americans who have benefitted from the ACA, this is one campaign pledge he has lived up to. On Friday, Jan 27, one week after his inauguration, Trump issued an executive order to "ease the burden of Obamacare," whatever that means.

But, can the new Republican Trifecta really repeal the Affordable Care Act (ACA, Obamacare) without causing significant disruption to millions upon millions of people obtaining healthcare? When the ACA was passed in 2010, there were forty-five million Americans without health insurance, and were therefore, essentially excluded from the healthcare system, except in emergency situations, and emergency care is far and away the most expensive, least cost-effective way to provide medical care to people.

Since the passage of the ACA with all of its provisions, including Medicaid expansion, twenty million of those people were brought into the system with affordable health insurance. That is the largest decrease in the number of uninsured since the enacting of Medicare in 1965.

However, since the passage of the ACA in 2010, the Republicans in Congress have voted to repeal the law or have appealed to the Supreme Court fifty-four times to have the act nullified. Each time the vote

either failed or was vetoed by President Obama, and the court has ruled repeatedly that the act is constitutional.

More importantly, no one, not the Congressional Republicans nor Trump, have come up with anything remotely viable to replace the ACA. They have not advanced one single plan. Full stop.

It's not that they advanced bad or ill-conceived plans. They have advanced absolutely no plans to replace the ACA. I've heard a lot of rhetoric, but have seen very little action.

Recently, there has been some action. On January 23, 2017, four Congressional Republicans introduced a "Replacement for Obamacare." The only action it would accomplish, if passed, is to allow the states to opt out of the ACA law. In other words, it proposes exactly nothing, and could completely destroy the ACA, if insurance companies unsure about markets also withdraw from the health exchanges under which the ACA functions.

Economic Disruption

The Congressional Budget Office, at the request of three Democratic Senators, did a study on the impact of "repealing" Obamacare. They found that eighteen million people would lose coverage in the first year. The economic effects would be equally devastating. The report states that "...premiums for marketplace policies would increase 20% to 25% in the first year and double within 10 years." The insurance industry comes out ahead, while the rest of us file for bankruptcy.

The Kaiser Family Foundation esti-

mates that a repeal of Obamacare and a cap on federal Medicaid spending, such as through a block grant or a per capita cap, could cut Medicaid funding by 41% over the next decade. A block grant is a large sum of money granted by the national government to a regional government with only general provisions as to the way it is to be spent. In this case it means that each state would be given its "Medicaid" money by the federal government at the beginning of the fiscal year, and it would have to last all year. Also, it wouldn't necessarily have to be spent on medical care for the medically needy. A per capita cap means that the state can only spend a fixed sum on each person on Medicaid, irrespective of that person's actual medical need.

This type of funding scheme would likely handicap states' ability to respond to larger enrollments during recessions. For example, Democratic state lawmakers in New Jersey said on January 30, that their state could lose up to \$3 billion in federal aid if the Affordable Care Act is repealed and have to spend \$1 billion more from its budget.

Here in California, giving a block grant to the state for Medi-Cal reimbursement, while a hardship for everyone on Medi-Cal would hit people with chronic illness much harder. It is also a case of being "penny wise and pound foolish."

For example, there are currently tens of thousands of people with HIV who are covered by Medicaid (Medi-Cal here in California). Dozens of studies have shown conclusively that treatment of individuals who are HIV positive, not only improves

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SOMETHING ON YOUR MIND? WANT TO SHARE YOUR THOUGHTS WITH YOUR COLLEAGUES? PLEASE SEND THOSE THOUGHTS FOR PUBLICATION IN THE NORTH COAST PHYSICIAN OR IF YOU'RE INSECURE ABOUT YOUR ABILITY TO WRITE - LET US HELP YOU.

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their health, it also stops transmission of the HIV virus, dropping the rate of infection nationwide. If HIV positive individuals were to lose their health insurance, many would be unable to afford the medication and testing that is required to keep their HIV at bay. This will almost certainly result in both higher death rates and increased rates of infection. This will force people to go to the ER for care as their disease worsens. This will ultimately cost more money for these people’s hospital care.

Hospitals are obligated by EMTALA (Emergency Medical Treatment and Labor Act) to provide services to all people who come to an emergency department, irrespective of their ability to pay. This means that hospitals will have to provide uncompensated care to many HIV positive patients, as well as patients with other chronic diseases, who show up in their ERs. This could force many hospitals into bankruptcy, or force the states to cover their needlessly high medical expenses.

Many people with one of the rheumatologic diseases that require the expensive drugs, constantly advertised on TV, to induce and maintain remission also require regular, continuing care. If they lose access to their care for financial reasons it will ultimately cost the state billions of dollars in lost revenue and increased expenses. Because of these therapies many of these people can lead productive tax-paying lives. If they lose access to their medication, they may lose their jobs, and they too will fill the emergency rooms for uncompensated care.

In a perspective piece, published online January 25, 2017, in the *New England Journal of Medicine*, Benjamin D. Sommers, MD, PhD, and Arnold M. Epstein, MD, from the Department of Health Policy and Management at the Harvard T.H. Chan School of Public Health in Boston, Massachusetts, argue that rolling back Medicaid expansion would “hurt patients, hospitals, and state budgets.”

What Does “Repeal” Actually Mean?

The other issue that must be considered in dismantling Obamacare is how will it be accomplished? Cynthia Cox, associate director of health reform and private insurance for the Kaiser Family Foundation, told *Medscape Medical News* it will be months before the next steps toward ultimate repeal become clear and what effects they would have on insurers for 2018 and beyond.

Right now Congressional Republicans have no idea how to dismantle the plan without causing major disruptions in healthcare delivery. “The emerging strategy is ‘repeal, delay, and replace,’ and it comes with a host of complications,” writes Robert Doherty, senior vice president of governmental affairs and public policy at the American College of Physicians, in an opinion piece published online in *Annals of Internal Medicine* on December 13, 2016. “If Congress is able to pass a repeal-and-delay law,” Doherty says, “millions will lose coverage because insurers, unsure about a replacement plan, will likely flee the ACA insurance markets by the end of 2017.”

The strategy may have direct consequences for many groups, according to Doherty. “The people who will be most affected by repeal include working-class people, women who are concerned about loss of contraception coverage, and entrepreneurs with medical conditions who fear they will have to give up their startups for jobs that offer coverage — not to mention the many more people with preexisting conditions who may again find themselves turned away by insurers.” In a cruel irony, this situation may be made worse since many people who were insured by the ACA health exchanges, have been found to have chronic diseases that will no longer be covered if Congress removes the “no denial of care for pre-existing conditions” clause, and insurance companies can go back to their discriminatory practices.

A huge feature of the ACA is that

insurance companies can no longer exclude patients or charge exorbitant premiums if the patients have a “pre-existing condition,” something insurance companies used to do with impunity. And just about anything can constitute a pre-existing condition including mild high blood pressure, high cholesterol or any other of the plethora of easily controllable conditions that patients come to see the doctor for. Before the ACA passed I had an adult patient who was turned down for his insurance because he had been treated for acne when he was a teenager!

The “pre-existing condition” clause had the effect of turning away the sickest people from obtaining health insurance, and therefore, their health care was unaffordable or non-existent.

If Congress removes this clause, then we can be sure that insurance premiums will soar even higher, forcing more people off the rolls of the insured.

Implications for Legislators

There are many benefits the ACA provides—coverage for those with preexisting conditions, allowing young people to remain on their parents’ insurance until age twenty-six, tax credits for small businesses, subsidies for individuals, and Medicaid expansion, to name just a few of those benefits.

However the ACA is not a perfect product, and it needs a lot of fixes: too few people are covered, insurance premiums are still way too high for people without subsidized care, nineteen states opted out of Medicaid expansion and now, insurance companies are dropping out of the state healthcare exchanges created by the ACA. Nothing has been done to curb runaway drug costs. And too many people resent the “compulsory” purchase of health insurance.

But the ACA is fixable. In fact, a recent survey, reported in the January 25, 2017, *The New England Journal of Medicine*, showed

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