

Determining the Effect of the Trump Administration's Erosion of the Affordable Care Act on Americans Needing Healthcare

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Abstract

The purpose of this paper is to determine the legal and economic effects on the Affordable Care Act (ACA) from recent attempts by the Trump administration to undermine the law. After failing to repeal the law and seeming to lack the patience to see if it will unravel on its own, the Trump administration has used executive orders and administrative agency rules to take steps designed to reduce consumers' ability to benefit from the law. The enrollment period was cut in half and the marketing budget to promote enrollment cut 90%. Trump cancelled Cost-Sharing Reduction subsidies for those lower-income buyers in the healthcare insurance exchanges. Insurers are being allowed to sell short-term and Association policies that do not meet the ACA regulations for minimum benefits. The Republican controlled Congress repealed the tax penalty for those not having insurance beginning 2019. (Center for American Progress, 2018). The projected net effect of these acts means millions will forego or not be able to afford insurance (Beaton, 2018; Levitz, 2018). Insurers can circumvent ACA rules regarding pre-existing conditions and sell plans without minimum benefits. The young and healthy will leave the insurance market, causing premium prices and costs to rise for those needing insurance and healthcare. (Beezley-Smith, 2018) All but the repeal of the tax penalty mandate can be changed immediately by the next presidential administration and its administrative agencies. Those states that did not support the ACA will find this administration helpful in undermining the law. Those states that have supported the ACA, can exercise their state powers to promote the law at their level. The ACA was operating soundly at the time Trump took office. The damage these recent acts might have will depend in part on how long they are in place. One also finds that the acts lack any ideology, appearing to be more disruptive and malicious than attempting to achieve any policy purpose (Dickinson, 2018). Upon learning Trump dismissed a bi-partisan effort Senator Lamar Alexander (R-TN) was working on to fund the subsidies for the exchanges, the Senator asked, "What's conservative about creating chaos so millions cannot buy health insurance." (Williams, 2017) Ultimately the effects of the sabotage are not uniform across all states and some consumers will benefit from the continued operation of the ACA.

Introduction, Focus, and Research Question

Although failing to repeal the Affordable Care Act (ACA) the Trump administration and Republican controlled Congress have continued their efforts to undermine the law. The full frontal attack to repeal the ACA failed, so with the exception of Congressional legislation repealing the tax penalty for not having insurance, the activities being used are executive orders and administrative agency rule changes. The purpose of this paper is to identify what actions have been taken to attempt to undermine or erode the ACA. Next an analysis will be done to determine what damage or benefits there have been to the ACA and those needing healthcare. Finally, we will assess what those needing healthcare can expect from the ACA in the future. The focus will be on the legal, policy, and economic issues. Political and ideological issues will be addressed only as they tangentially relate to our primary focus.

The Trump Administration's Efforts to Undermine the ACA

The Health of the ACA When Assumed by Trump in 2017

When Trump assumed office the Affordable Care Act (ACA) was operating soundly. Abelson (2017) observed that in the early months of 2017 the insurance markets had been stabilizing and insurers were becoming more profitable. However, in August of 2017 insurance company representatives began to worry about the threats and unknowns from the Trump administration (Abelson, 2017). Sperling and Jennings (2017) reported that the healthcare industry expected to be stable and the Congressional Budget Office agreed. Juan Williams (2017), an author and political analyst for Fox News Channel, remembers Trump promised, "We're going to have insurance for everybody. We're going to have healthcare that is far less expensive and far better." Williams says he is still waiting. Williams also notes that a Kaiser Family Foundation survey said 77% of Americans wanted Trump to make the ACA better. Sam Berger, Senior Policy Advisor for the Center for American Progress stated the ACA was not unraveling, as Trump claimed at the time, but was quite strong (Holland, 2017). Holland (2017) said the law was working very well when Trump took office despite Trump's mantra that the ACA was imploding. Medicaid expansion under the ACA took effect in 2014 and the numbers of uninsured dropped from 18% down to 10.9%, an all time low (Holland, 2017). Since Trump took office, the number of uninsured has risen to 12.3%. The trend to greater coverage and fewer uninsured under Obama has reversed (Holland, 2017). Dickinson (2017) observed that Trump's self-fulfilling prophecy was that the ACA would fail and Trump has done whatever he can to ensure that.

The Acts of Erosion by the Trump Administration

Holland (2017) says the core of undermining the ACA has been a concerted effort by political appointees in the White House and the Department of Health and Human Services to ensure the ACA doesn't work. The Center for American Progress (2018) has identified a number of acts that are the essence of the effort. The enrollment period to sign up for insurance plans in the healthcare exchanges has been cut in half. The

advertising and marketing budget to promote open enrollment has been cut 90%. Other sources have confirmed these acts and listed others. Levitz (2017) cites the fact the Trump Administration openly encouraged Americans not to enroll in exchanges for health insurance as convincing evidence Trump is trying to undermine the ACA.

Other more serious acts of sabotage have been cited by other sources (Benen, 2017; Caldwell, 2017; Copeland, 2018; Holland, 2017; Kaiser Family Foundation, 2018; Levitz, 2018; Levitz, 2017; Norris, 2017; Sperling and Jennings, 2017; Vartorella, 2018; Williams, 2017.) These acts have been implemented by executive order or through changing rules in administrative agencies. The ACA was designed to operate state level health insurance exchanges in order to create a market where insurance plans could be competitively bought and sold at low cost premiums. Insurers who participate are required to offer only approved plans that guarantee to the consumer a standard set essential benefits like free annual physicals and other preventive care exams. Depending on one's income a buyer may be eligible for government subsidies that offset the cost of the insurance. These Cost-Sharing Reductions (CSR's) are for the benefit of consumers and paid to insurers by the government. They typically are for those not eligible for Medicaid, but not able to afford the full cost of insurance.

The Trump administration has begun to erode the exchanges at two levels. The Trump administration has approved states who request them, the ability to offer on a regular basis the sale of plans outside the healthcare exchanges, referred to as short term and Association plans. Normally short-term plans are sold only for short duration until open enrollment, but now Trump is allowing these to replace the approved ACA plans that meet minimum benefits. Association plans are stripped down versions also sold with less than ACA approved benefits. The second level of attack on the exchanges has been stopping the Cost-Sharing Reductions (CSR's). Mistakenly claiming these were illegal and only benefitting insurers, Trump stopped the subsidies. When the Obama administration began the subsidies, Congress had not yet authorized the funding for the CSR's and Republicans sued claiming they were unconstitutional. While still in appeal, Trump withdrew from the suit. Trump gave no consideration to a bi-partisan legislative effort by Senators Lamar Alexander (R-TN) and Patty Murray (D-WA) who were arranging the funding for the subsidies. This prompted Senator Alexander to say, "I would ask what's conservative about unaffordable premiums. What's conservative about creating chaos so millions can't buy health insurance?" (Holland, 2017). The only act of erosion involving the Republican controlled Congress has been inserting into a tax bill the removal of the ACA penalty tax for not having health insurance. These acts are being tracked by several sources (Beaton, 2018; Center for American Progress, 2018; Norris, 2017).

Analysis of the Sabotage on Healthcare and the ACA

The Congressional Budget Office and Joint Committee on Taxation predicts repeal of the tax penalty for not having health insurance will discourage 13 million Americans from participating in the insurance market by 2022. Premiums will grow 20% as insurers hike premiums to offset their losses. Consumer purchases of short-term and Association plans

will rise (Beaton, 2018). Copeland (2018) explains consumers will find these plans will not cover the essential benefits an ACA minimum benefits plan covers like mental health coverage, maternity care, drugs, and preventive care. Additionally insurers selling these plans can drop or refuse to cover consumers for pre-existing conditions, as commonly practiced before the ACA. The Center for American Progress (2018) argues the administrative agency policy changes under the Trump administration will interfere with the operation of the healthcare exchanges, scaring insurers away and driving up prices. Cancelling the CSR's is expected to reduce participation in the exchanges. (Holland, 2017). Hospital admissions will decline (Japsen, 2017).

Republican controlled states will have support from the federal Trump administration working against the survival of the health insurance exchanges and driving up premiums on those who need the exchanges for insurance. Williams (2017) reminds us Steve Bannon, formerly an advisor of Trump's in the White House had said, "We are going to blow up those exchanges." Pennsylvania had predicted a hike of only 7.6% in premiums in its exchanges, but now will go to 30% due to Trump's undermining the marketplace exchanges, especially ending the subsidies for the poor (Williams, 2017). Levitz (2018) projects 5 million will be uninsured by 2019. Analyses by Benen (2017) and Levitz (2018) see the federal government will be paying out more money after discontinuing the subsidies. By ending payments to insurance companies in the exchanges, insurers will be driven from the market, spiking premium costs, and increase the deficit, according to the Congressional Budget Office (Dickinson 2018). The deficit may go as high as \$6 billion (Williams, 2017). The young and healthy will leave the health care insurance market with no mandate penalty, leaving premiums to increase for those needing insurance the most (Benen, 2017; Levitz, 2018).

Conclusions Regarding the ACA and Americans Needing Healthcare

Effect on ACA Functions

Others have reached conclusions regarding the ACA following Trump's sabotage attempts. Senator Orrin Hatch (R-UT) has suggested the removal of the tax penalty on the mandate is the beginning of the end of the ACA. On the other hand Jonathan Gruber observes the law is fundamentally in place. The ACA is a shrunken version of what it could be. While having the force of law now, the executive orders and administrative rules can be overturned easily by the next administration and its administrative agencies. Larry Levitt of Kaiser Family Foundation says protection for pre-existing conditions for most insurance plans are still in place. (Beezley-Smith, 2018).

Trump's assertions the ACA is effectively repealed (Center for American Progress, 2018) is more likely an attempt to convince his supporters he has fulfilled a campaign promise than truly and accurately characterizing the operational status of the ACA. Yet some states that did not support the ACA prior to the Trump administration will cooperate and even facilitate its demise in that state. On the other hand other states have taken steps to promote and support the ACA. States supporting the ACA are running their own exchanges, expanded Medicaid with federal dollars, and are operating soundly. Nine of

those states are considering replacing the repealed mandate tax with their own mandate at the state level. The ACA is on the books and operating, but not uniformly across states.

Effect on Americans Needing Healthcare

States control what kind of insurance is sold in that state. Some will avoid allowing proliferation of the short-term and Association plans as not good for consumers. Once the removal of the tax penalty for not having insurance goes into effect in 2019, these alternative plans may not be that appealing, even in states that allow them. A state can offer its own subsidies to replace the loss of federal subsidies in the exchanges, but no state has done that to date. Even without subsidies exchanges promoted by that state may still offer to consumers the best place to find competitively priced plans with essential benefits. On the other hand some consumers in states not supporting the ACA may be confronted with few if any choices in the exchanges. Alternative short-term and Association plans may be available, but will lack essential benefits. These may be the only option for those with pre-existing conditions, but these plans could be exempt from that ACA requirement.

Acts of Erosion and Improving Healthcare

The consequence of Trump's open rhetoric undermining the ACA and the acts of erosion seem to be more disruptive than uniformly ending the ACA or eliminating all benefits to consumers. However, the long-term effect of these disruptions is unknown. That effect is dependent in part on how the states and consumers respond to the disruption. Further disruptions or promises for better healthcare would be coming from a President who Juan Williams (2017) reminds us once said, "Who knew healthcare could be so complicated." Some have questioned the purpose of the attacks on the ACA. After close examination it is difficult to see how any of the acts of erosion move our nation any closer to a policy like insuring as many as possible or even reducing expenditures or the deficit. These acts take us no closer to any of those goals. So why was it necessary to attempt to undermine the ACA and move so many away from their affordable insurance coverage? Dickinson (2018) has very direct concerns: "He (Trump) is willing to disrupt businesses, hurt millions of Americans and cost the federal government hundreds of billions of dollars not to achieve any policy purpose but simply out of a malicious drive to avenge the legacy of the first black man to hold the oval office."

Whatever the intent or motive behind them, Trump's efforts to undermine the ACA have not had uniformly negatively effect across all states or applicability to all consumers. In summary we have identified the acts of erosion and analyzed the effects of these acts. We determined that while the ACA has been disrupted, it is still in operation. The exchanges function better in some more supportive states than others. We conclude that the reasoning behind the acts is not obvious. Benefits to consumers are limited, but still available. How long is still a question.

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