



In the
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ACA



The electorate has spoken, and come Jan. 20 we will have a new president, Donald J. Trump.

As campaign rhetoric shifts to concrete policy discussions, the natural question to ask is “What’s next for health care?”

There is a lot of uncertainty regarding what will happen in coming months, with respect to the Affordable Care Act (ACA) and other aspects of the health care landscape. Here are a few things we know and don’t know.

What will happen to ACA?

What we know: Post-election, Trump has signaled flexibility on retaining aspects of ACA, despite promising during the campaign that he would “repeal and replace” the law in its entirety. He has expressed support, for example, for popular consumer protection provisions such as the prohibition against denial of coverage due to preexisting conditions, also known as guaranteed issue, and the option for people up to age 26 to be covered by their parents’ health plans. Additionally, President-elect Trump in the days following the election has struck a more conciliatory tone in his public comments, an indication that he and his advisors are shifting out of “campaign mode” and may intend to approach governing and policymaking differently.

What we don’t know: Aside from guaranteed issue, the president-elect has been silent on the other two legs of the three-legged stool that has supported health insurance reform, the individual mandate and the premium subsidies. Removing either of the two legs will [destabilize the individual insurance market created under ACA](#). Without the individual mandate, the risk pool will skew toward less-healthy, higher-cost members, driving up the cost of policies out of the reach of more consumers. Without subsidies, fewer people will be able to afford plans. Those that do purchase plans will tend to be the less healthy and more costly to cover.

Trump has also been silent on other aspects of ACA, such as the employer mandate, essential health benefits and the [risk adjustment program](#).

How might the Trump administration approach changing ACA?

What we know: There are several methods by which ACA could be modified.

- Republicans may try to pass a law to repeal ACA, but will likely face a major roadblock in a Democratic filibuster in the Senate.
- The GOP may try to alter the law through budget reconciliation, which requires only a simple majority.
- The Trump administration might change ACA through executive orders that reverse parts of the law that were implemented by the Obama administration through regulation.
- Finally, as president, Trump can simply refocus the priorities of the administration away from implementation of ACA or pursue a non-enforcement policy for the law.

What we don’t know: What will remain of ACA will depend largely on how the administration and Congress attempt to repeal and replace the current law. Reconciliation can only implement changes that impact the budget, such as changes to entitlement spending, revenue and the debt limit, and many aspects of ACA fall outside of this category.

Who is leading the transition of Health and Human Services (HHS)?

What we know: [Reports indicate](#) that the Trump transition team has tapped Andrew Bremberg and Paula Stannard to lead the effort. Both are known to the insurance industry from their time in previous administrations. Bremberg served in HHS under President George W. Bush and was an adviser to Senate Majority Leader Mitch McConnell. Stannard is a former deputy general counsel and acting general counsel at HHS.

What we don't know: The transition team has not named a nominee for HHS secretary. [Published reports](#) say that the frontrunner is Georgia Rep. Tom Price, Chair of the House Budget Committee and an orthopedic surgeon who was among the earliest to support Trump's campaign. Former Louisiana Gov. Bobby Jindal is also reportedly under consideration.

When will the changes to ACA happen and over what period of time?

What we know: House Majority Leader Kevin McCarthy has said that Republicans have started crafting repeal plans, but also indicated they intend to include a transition period for the key aspects of ACA. In a prior unsuccessful reconciliation effort in 2015, Republicans set the repeal of the Medicaid expansion, premium subsidies at two years after the passage of the bill.

What we don't know: The entire House and about one-third of the Senate face reelection in 2018, so majorities of either chamber could change at that time. Practically speaking, because campaigning for midterms typically starts a year before election day, the new administration may have limited time past Jan. 20, during which it will have the full attention of Congress, to further major policy agendas.

Will changes in Congress affect ACA and the health insurance industry?

What we know: Despite incremental shifts in seat counts, both the House and Senate will have Republican majorities, and GOP leadership of key committees is not expected to change significantly. In the Senate, Republicans will still fall short of the 60 party-line votes needed to end a filibuster, so they may have to work across the aisle to further the president-elect's agenda.

What we don't know: It is unclear whether the Trump administration or Congress will take the lead on the repeal-and-replace effort. Republicans are currently formulating plans, but the administration could create its own approach.

What are the president-elect's main policy proposals and how do they align with those of the insurance industry?

What we know: The Trump transition team has [presented ideas](#) on reforming the health care industry. The president-elect favors returning the role of insurance regulation to the states rather than the federal government, an idea that the insurance industry has traditionally supported. The president-elect also proposes allowing carriers to sell policies across state lines, which the [National Association of Insurance Commissioners](#) has cautioned could hurt consumers if there are no provisions that give officials in the states where products are being sold regulatory authority over carriers who enter their states. Trump favors the conversion of Medicaid into a block grant program, which could potentially create opportunities for insurers in the future.

What we don't know: The president-elect and congressional Republicans have yet to settle on a unified approach toward health care reform that will replace ACA.