

[Whitepaper] This Cake Is Not Yet Baked: Implications of a Full or Partial ACA Repeal | Part 2

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The surprise results of the 2016 presidential election have left the healthcare industry with many unanswered questions. While President-elect Trump seemed to soften his position on Affordable Care Act (ACA) repeal following his election, he has nominated Congressman Tom Price (R-Georgia) as his Secretary of Health and Human Services (HHS). Price, a physician, has been a longstanding critic of the ACA and authored the Empowering Patients First Act as an ACA alternative plan. While it remains unknown whether Price's plan will be adopted as the Trump administration's ACA replacement proposal, Price is a staunch critic of the Centers for Medicaid and Medicare Services' Innovation Center, a program within HHS.

As inauguration day approaches, full or partial ACA repeal seems inevitable. On January 12, 2017, the Senate set the stage for repeal through the reconciliation process by passing a budget blueprint measure. This procedural bill instructs House and Senate Committees to develop repeal legislation by January 27. The Trump administration and Republican-led Congress's ACA replacement plan, however, is still unknown. During the 2016 presidential campaign, President-elect Trump offered seven reforms to the ACA, all touted to lower healthcare costs.

In Part 1 of this white paper, we addressed the potential repeal of Obamacare; the possibility of allowing health insurance to be sold across state lines; and the implications of changing Medicaid into a block-grant program to the states.

In Part 2, we address the remaining points (in boldface below) and related elements from GOP-aligned ACA replacement plans.

Campaign Promises

1. The complete repeal of the Affordable Care Act (Obamacare)
2. Modification of existing law that inhibits the sale of health insurance across state lines
3. **Allowing individuals to fully deduct health insurance premium payments on their tax returns**
4. **Allowing individuals to use Health Savings Accounts (HSAs)**
5. **Requiring price transparency from all healthcare providers, especially doctors**
6. Changing Medicaid into a block-grant program to the states
7. **Removing barriers to entry into free markets for drug providers that offer safe, reliable, and cheaper products**

Campaign Promise #3: Allow individuals to fully deduct health insurance premium payments from their tax returns under the current tax system. *Businesses are allowed to take these deductions, so why wouldn't Congress allow individuals the same exemptions? As we allow the free market to provide insurance coverage opportunities to companies and individuals, we must also make sure that no one*

slips through the cracks simply because they cannot afford insurance. We must review basic options for Medicaid and work with states to ensure that those who want healthcare coverage can have it.

Providing tax treatment parity between employer-sponsored and non-group-market health insurance plans is common to both President-elect Trump's campaign promises and other Republican ACA replacement proposals. While President-elect Trump's campaign signaled that an ACA replacement bill would allow individuals purchasing non-group plans to fully deduct their premium payments from those individuals' tax returns, Congressman Price's proposal would offer individuals purchasing insurance on the non-group market a refundable tax credit. This credit would be means-tested with the amount varying based on the individual's income, age, and other relevant factors.

The policy decision to rely upon premium payment tax deductions or refundable tax credits will have varying effects on taxpayers purchasing insurance through the non-group-plan market. This effect will be most pronounced for taxpayers with higher incomes as they would experience a decline in their taxable income under a tax deduction model. Conversely, taxpayers with low taxable income would benefit from a refundable tax credit system, since this model could result in these taxpayers receiving a tax refund. However, for the large percentage of low-income adults that pay no federal income taxes, these tax incentives would have little impact.

A policy that favors taxable income deductions over tax credits for the non-group market risks driving the 8.8M people that access health benefits through Exchange products back to their former, uninsured status. The part of this promise that aspires to keep uninsured Americans from slipping "through the cracks" will be a challenge to fulfill with the repeal of the ACA. Without any offset subsidies or other forms of premium support for low-income non-group-market participants, the number of uninsured should be expected to rise—resulting in higher provider bad debt.

Campaign Promise #4: Allow individuals to use Health Savings Accounts (HSAs). Contributions into HSAs should be tax-free and should be allowed to accumulate. These accounts would become part of the estate of the individual and could be passed on to heirs without fear of any death penalty. These plans should be particularly attractive to young people who are healthy and can afford high-deductible insurance plans. These funds can be used by any member of a family without penalty. The flexibility and security provided by HSAs will be of great benefit to all who participate.

HSAs combined with high-deductible health plans create an incentive for patients to act more like consumers. Various studies by the Rand Corporation have concluded that individuals are more prudent consumers and will shop for price in order to retain HSA account balances and lower premium costs.

President-elect Trump proposed to make HSA contributions tax-free, part of the estate of an individual and transferable to heirs upon an individual's death. Similarly, both Congressman Price's ACA replacement bill and other Republican ACA alternative plans look favorably upon HSAs. Also of note, both Congressman Price and other conservative ACA-alternative plans would allow HSA funds to be used to pay for direct primary care or concierge medical care payments.

While creating a tax-advantaged vehicle to set aside pre-tax dollars to pay for deductibles, co-payments, and uncovered medical expenses is beneficial to taxpayers that have sufficient income to fund their HSA,

low-income citizens will not have the means to contribute to an HSA account. Absent the health insurance coverage mandate and premium subsidies currently in place through the ACA, many people without employer-sponsored coverage may either elect to not pay premiums or fund HSA accounts, or will be unable to afford the premiums and/or to fund their HSA account. Fulfillment of this campaign promise will likely result in fewer people having insurance coverage, and in increased bad debt and charity care for providers.

Campaign Promise #5: Require price transparency from all healthcare providers, especially doctors and healthcare organizations like clinics and hospitals. *Individuals should be able to shop to find the best prices for procedures, exams, or any other medical-related procedure.*

President-elect Trump also proposed during the presidential campaign that an ACA replacement plan would require healthcare providers to make pricing information available to patients. This proposal follows the lead of many states that have either established websites that disclose healthcare pricing information or otherwise require providers to disclose procedure prices. For advocates of healthcare pricing transparency, disclosing pricing information is seen as a mechanism for encouraging greater consumer-oriented behavior among patients. In theory, patients with access to procedure pricing information will choose a provider that offers the greatest value, with value being determined according to the patient's subjective analysis of service quality and objective pricing information. This may work in elective and non-urgent situations, but urgent and emergency services are by nature less likely to be preceded by price shopping.

The effectiveness of pricing transparency to drive down procedure costs is mixed. Of the peer reviewed materials on this matter, reports have found that patients either do not rely upon pricing tools, perceive higher priced services as higher quality and opt for those services, or become overwhelmed by the choices and eventually make poorer decisions. For price transparency to reduce healthcare spending, health insurance plans may require modification. For example, in California, retired public-sector employees are required to pay the difference if they choose a higher cost provider. This change in benefit design is credited with reducing prices across different procedures ranging from 17 to 28 percent.

Campaign Promise #7: Removing barriers to entry into free markets for drug providers that offer safe, reliable, and cheaper products. *Congress will need the courage to step away from the special interests and do what is right for America. Though the pharmaceutical industry is in the private sector, drug companies provide a public service. Allowing consumers access to imported, safe and dependable drugs from overseas will bring more options to consumers.*

This campaign pledge is difficult to parse as it suggests both increased regulation of pharmaceutical manufacturers as a "public service," and the reduction of barriers for those same manufacturers to accelerate the introduction of "safe, reliable and cheaper" new products. The president-elect's pledge also suggests the removal of barriers to importing drugs from overseas to increase competition in the pharmaceutical market.

It is unclear how these issues will be addressed by the incoming administration and how big pharma will react. What is clear is that the president-elect has the bully pulpit and will use it. The most concrete statement to come from the president-elect was offered at his recent press conference, where he

pledged to end the statutory restriction forbidding the government from negotiating with the drug companies on prices for seniors using Medicare. This statement had a direct impact on the stock market, causing pharmaceutical and biotech stock prices to fall.

Further Considerations

Both President-elect Trump and Republican congressional leaders have signaled their intent to grant the states greater authority to regulate health insurance plans. Relaxed regulations on health insurance plan requirements will usher in a rollback of many ACA market reforms and insurers will likely press for less stringent premium rating standards than those mandated by the ACA. If greater authority is delegated to the states to regulate health insurance plans, providers should be aware that limited retention of existing ACA health plan regulations may come at the expense of economical access to care, leading to personal ruin for individual citizens and families.

If premium subsidies and the individual insurance mandate are repealed, other popular measures of the ACA, (i.e., caps on administrative costs and prohibition of annual and lifetime coverage caps by health insurer, the ability for parents to keep their adult children on their health insurance plans until the age of 26, and the requirement to cover people with pre-existing conditions) will be difficult to preserve using replacement legislation without significant increases in premiums for people currently receiving their insurance through the exchange mechanism established by the law. The predictable result will be improved margins for insurers at the expense of more uninsured Americans, more medically induced bankruptcies, and more bad debt and charity care for providers that are already struggling to remain financially stable.

So...Now What?

Even before the election, our industry was in transition. We faced the challenge of changing fundamentally the way that care was delivered and providers were compensated. As we moved toward population health, and the understanding that healthcare providers would now be financially incentivized to keep populations well instead of sick, we began learning that we must do things differently—and that doing things differently means improving the quality of care delivery and taking steps to prevent illness before expensive treatment is needed. It means joining together to share resources and increase efficiencies so we can provide the best care for the most people at the lowest cost.

As we face the prospect of new changes under an unexpected administration, the IHI's Triple Aim still stands, and we must keep it in our sight. A full or partial repeal of the Affordable Care Act could mean an increase of 24 million uninsured Americans, and 14.5 million could lose Medicaid coverage in states that had expanded Medicaid under the ACA, as well as other unknown unintended consequences. For us in the healthcare industry, the melody has changed but the song remains the same. To ensure access to healthcare for those who stand to lose it, we must do more with less. We will do this, essentially, by continuing to improve the quality and efficiency with which we deliver care. The strategy that would have led to success under the ACA is still the right path regardless of an impending full or partial repeal.

While we don't yet know what changes are in store in the new administration, we can reasonably predict that there will be increased pressure on providers' bottom lines. Whether that pressure comes from increased competition, rising costs, reduced revenue, or more bad debt and charity care as people lose the insurance they gained under the ACA, focusing on quality and efficiency remains critical to the fiscal health of providers and is fundamental to success under payment systems driven by fee-for-service, capitation or any permutation or combination of the two. Keep doing the good work you're doing, and remember that we're all in this together. The Stroudwater team will be here to advise you along the way.

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