

“They write politics, we write government”

HEALTH INSURANCE, PART IV

Repeal and Replace?

“If the idea behind Obamacare was to get everyone covered, that’s one of the many failures...Many Americans who actually did get insurance when they did not have it before have really bad insurance that they have to pay for, and the deductibles are so high that it’s really not worth much to them.” – Mitch McConnell, R-KY

“If we’re just going to replace Obamacare with Obamacare-lite, then it begs the question, ‘Were we just against Obamacare because it was proposed by Democrats?’” – Raul Labrador, R-ID

Republicans do not like Obamacare.

They are quick to point out faults in the law, real or imagined. It doesn’t cover enough people. It forces people to have coverage. It requires people to pay too much out of pocket. It covers unnecessary benefits. It is a vast increase in government spending. Doctors hate it. Insurance companies are fleeing. It’s a giveaway to the insurance companies, or the drug companies, or the trial lawyers, or the bureaucrats.

While the ACA has problems – serious ones – it is a fact that in the seven years since it has passed, the Republican Party has not come up with a plausible alternative. After the 2016 election, they can no longer pass symbolic repeal measures – they will come up with a plan or be forced to admit they have nothing. But don’t worry – when the Democrats tried to fix it, the sailing was smooth.

- What are the different ways to repeal the ACA?
- What are the GOP proposals to replace the ACA?
- What has the Trump Administration done so far?

A note from the writer:

Just as Volume 8 was in final draft stages, [this](#) document leaked to Politico. It is, without question, “a healthcare plan.” The provenance of the document is not yet clear. It could be an early draft, it could have been superseded already, or it could be The Real GOP Healthcare Plan.

It is not my goal here to write current events, so I did not substantively change this Volume after its release. Many of its features are described below. If

this plan is The Plan, then I’ll certainly write more in the future. Others are on the case already; [Vox](#) and [Axios](#) are, as usual, some leaders of the charge.

But, I’ve said many times – including above – that “the Republicans have no plan.” This statement needs to be qualified, at least until we know more.

Enjoy,

-NC

What are the different ways to repeal the ACA?

Virtually all Republicans agree on the goal of repealing the ACA. But they don't agree on how to do so.

Some Republicans admit that portions of the ACA are working. Especially in the Senate, some hear their constituents' concerns with repealing Medicaid expansion. Some understand limitations resulting from the rules of Congress. If the ACA is repealed, the manner of repeal is critical.

1. *Repeal Obamacare Completely*

Many Republicans are on the record saying the ACA should be repealed "root and branch"; nothing should be kept.¹ We know what a full repeal means – [Volume 6](#) showed the effects of the ACA. We can just reverse them.

At least 20 million people would lose insurance, split about evenly between those newly eligible for Medicaid (up to 138% of the federal poverty level) and those buying their own policies on- or off-exchange. The long-term Federal debt would increase. Medical bankruptcies would increase, as would provider losses due to bad debt. The Medicare Trust Fund would deplete sooner. Healthy people wouldn't face the mandate penalty; but if they got sick, they would be out of luck.

Oh – and the top 0.1% of earners would get an average annual tax cut of \$197,000. The top 400 earners in America would get \$7,000,000 each.²

2. *Repeal Obamacare, keep the popular parts*

Republicans have been challenged when asked about parts of the ACA that the public clearly likes. Specifically, protections against pre-existing condition and keeping dependents on their parents'

plans up to age 26. The GOP could repeal just the individual and employer mandates, essential health benefits, getting rid of the federal exchange and subsidies to purchase insurance. This would allow roughly the same tax cuts as in a complete repeal.³

In [Volume 2](#), we talked about states which, pre-ACA, had Guaranteed Issue provisions without the two other legs of the healthcare stool. I call this the "Intentional Death Spiral." The Urban Institute conducted an analysis of a "partial repeal,"⁴ and determined that nearly 30 million additional people would be uninsured by 2019. In other words – everybody who got insurance through the ACA would lose it, and then 10 million more.

I think 30 million is a conservative estimate. What if people create small businesses, expressly to have a access to the small-group market. This will be a bad risk pool – less healthy people are more likely to do it. This is a recipe to cause a death spiral in the small group market, putting 17 million more people at risk to lose insurance.⁵ Let's get crazy - the large group market, 100 million people covered. Those with pre-existing conditions would become more likely to work at large companies, as it would be their only way to get insurance. Adverse selection could even destabilize the large employer market.⁶

Partial repeal has one advantage over full repeal: it could probably happen without the support of any Democrats.⁷ It already passed Congress last year without GOP support, but was vetoed by President Obama. At this point, I expect that no Democrats are going to vote to repeal Obamacare, so this is an important point.⁸

¹ [McConnell again](#), quoted from a debate. Easy to find the same formulation elsewhere.

² The CBO didn't address full repeal, so far as I know, but the tax effect [is well known](#).

³ This is a key variable of any proposed plan.

⁴ The abstract is [here](#).

⁵ Per ACA Signups [pie chart](#), as usual.

⁶ Please, let's not try this to see if it really gets this bad.

⁷ This is "reconciliation". Here is an explanation [on Vox](#).

⁸ Senate (and House) procedures are a topic I'm considering for a future Volume.

3. Repeal Obamacare – but leave the Medicaid expansion

At least 11 million people have gained health coverage due to the ACA’s Medicaid expansion provision. Each state has the option of taking part in Medicaid expansion. Despite the Federal Government picking up 100% of the cost initially, decreasing to 90% in 2020 and beyond, nineteen states chose not to expand.

That leaves 31 states and the District of Columbia which expanded their Medicaid program. Those states have 20

Republican Senators.⁹ Given 48 Democratic Senate votes, only 3 of these senators could block the repeal of Medicaid expansion. At this point, it seems very likely that at least 3 would.

Keeping Medicaid expansion would reduce the number of newly uninsured by the 11 million in the expansion. In addition, if a repeal bill passed which left Medicaid expansion intact, some of the additional 19 GOP-led might choose to expand.

I think the effects of keeping Medicaid expansion are mostly unrelated to the rest of the repeal; it is a largely separate market. So, other than this 11 million, it would be similar to option #1 or 2 above, depending on whether the repeal was full or partial.

⁹ Murkowski (AK), Sullivan (AK), McCain (AZ), Flake (AZ), Boozman (AR), Cotton (AR), Gardner (CO), Young (IN), Grassley (IA), Ernst (IA), McConnell (KY), Paul (KY), Cassidy (LA), Kennedy (LA), Daines (MT), Heller (NV), Hoeven (ND), Portman (OH), Toomey (PA), and Moore Capito (WV).

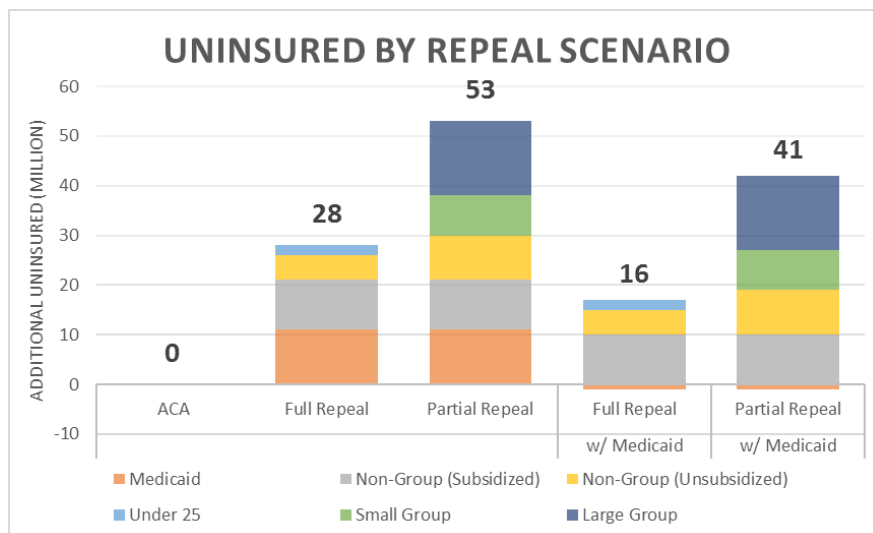
However, keeping expansion would require funding.¹⁰ So, there would be some tax cuts, but the amount would be somewhat less than if the expansion weren’t kept.

What are the proposals to replace the ACA?

Contrary to popular belief, the Republicans have proposed ideas to “replace” the ACA. Many, many ideas. That’s the problem – there are so many ideas that they can’t all be part of a single plan.

Health insurance is complex. If two changes are

made to the market, they will interact, making the effect different from what the changes would cause separately. Keeping this in mind, we’re going to go through some of the provisions



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proposed by Republican leaders, considering the effect each would have on the broader market.

1. Guaranteed Issue for Continuous Coverage

Just because the Individual Mandate is an anathema doesn’t mean that all Republicans ignore the concept of adverse selection. One idea, included in HHS Secretary Tom Price’s Empowering Patients First Act (“EPFA”),¹¹ is that insurance companies could not deny coverage if an applicant had not gone without insurance for the previous 18 months

¹⁰ In a full repeal, it could theoretically be unfunded, but this would significantly increase future deficits. In reconciliation method, it would have to be funded to use the procedure.

¹¹ A good summary [here](#).

(“Continuous Coverage”). In theory, currently healthy people would join the risk pool because it is the only way they could get coverage when they later get sick.

As far as I know, a Continuous Coverage provision has never been tried, so we don’t know if it would work as well as an Individual Mandate.¹² My opinion is that Continuous Coverage would be less effective. It relies on individual consumers understanding a complex game theory. Buying health insurance is hard enough already.

For a Continuous Coverage system to have a chance of being successful, it would need two other components. First, a definition of the minimum benefits package which “counts” as coverage. If skeletal packages counted, healthy people could game the system, buying cheap coverage until they were sick.¹³ Second, because huge portions of the population cannot afford the full cost of health insurance, Subsidies would be required for lower- and middle-class households. If people are literally unable to afford insurance, Continuous Coverage won’t bring them into the system.¹⁴

2. *Reduce/Eliminate Minimum Benefits*

Another common feature in “replace” plans is to allow less comprehensive plans to be sold in the market. The idea is that people shouldn’t pay for benefits they didn’t want, lowering their costs.

The reason why a health system needs defined minimum benefit packages is to enforce an Individual Mandate (or Continuous Coverage). If

you could sell a loaf of bread and call it health insurance, then people would buy the bread, switching to real insurance when they get sick. The Mandate therefore falls apart. We can debate endlessly which benefits should be deemed “essential”, but the ACA’s seem reasonable.¹⁵

Many GOP proposals would again permit health plans low annual and lifetime benefit caps. While significantly cheaper, these are not really health insurance; they don’t protect against catastrophic medical needs.¹⁶ Also, without the ACA’s minimum benefits, people would face higher out-of-pocket costs. Given high out-of-pocket costs under the ACA is a major GOP complaint, promoting plans with higher out-of-pocket costs is more than a bit cynical.

3. *Decrease premium subsidies*

Most “replace” plans involve less premium Subsidies than are currently in the ACA. Under the ACA, subsidies are based on household income. In the EPFA, for example, subsidies would be by age: \$1,200 per year for people 18 to 35 years old, increasing to \$3,000 for people over 51. As a reference, the average silver plan premium today is \$3,700 per year (age 30) up to \$8,900 per year (age 60).¹⁷ These premiums are before significant additional out-of-pocket costs. Under the EPFA, health insurance will be completely unaffordable to many households. We can see the increase / decrease in premium support for varying ages and levels of income:¹⁸

¹² If you know of an example, please send it!

¹³ See #2 below.

¹⁴ Recall that ACA subsidies are provided to households with income up to 400% of the [Federal Poverty Level](#). This means that a household of 4 with income of even \$90,000 will get a (small) subsidy; the Subsidies are not just for the poor. See #3 below.

¹⁵ Common [GOP talking point](#): why do men need to have maternity insurance, given that they won’t get pregnant? This is one of their worst arguments. Even if men don’t

get pregnant, they were probably born at some point. Maternity care covers the baby as well as the mother.

¹⁶ And the [CBO properly treats](#) these plans as not being coverage.

¹⁷ [Here](#) is one source for average cost of plans.

¹⁸ My calculations. I compared the [EPFA subsidies](#) to the exchange subsidies from [Kaiser’s widget](#), using US Average, and FPL = \$12,000. Everything is based on a single-member household. Disclaimer: health insurance is highly dependent on a person’s individual circumstances, so this is a rough calculation.

Current Subsidy:		FPL = Federal Poverty Level			
Age	100% FPL	200% FPL	300% FPL	400% FPL+	
25	3,156	1,836	0	0	
35	3,888	2,580	648	0	
45	4,644	3,324	1,402	0	
55	7,308	5,988	4,068	0	
EPFA Subsidy					
Age	100% FPL	200% FPL	300% FPL	400% FPL+	
25	1,200	1,200	1,200	1,200	
35	1,200	1,200	1,200	1,200	
45	2,100	2,100	2,100	2,100	
55	3,000	3,000	3,000	3,000	
Change in Subsidy:					
	100% FPL	200% FPL	300% FPL	400% FPL+	
25	(1,956)	(636)	1,200	1,200	
35	(2,688)	(1,380)	552	1,200	
45	(2,544)	(1,224)	698	2,100	
55	(4,308)	(2,988)	(1,068)	3,000	

In this GOP plan, poor people will pay more while the wealthy get a tax cut. I'm shocked.

4. Selling insurance across state lines

All insurance is regulated by the states; policies are sold on a by-state basis. The idea here is that allowing multi-state plans would increase competition, lowering premiums. There is some logic to this, especially for smaller states.

This is the thing, though – **this is already in Obamacare**. Under the ACA, states are encouraged to allow inter-state sales. Some have tried, but none have succeeded. Presumably, the idea is to go further, mandating that states let all policies be sold within their borders. This is odd coming from a party claiming to be opposed to federal mandates.

And, I have worse news. Georgia already passed a bill to unilaterally permit policies approved by any

¹⁹ See [here](#) and [here](#). I particularly enjoy where the State Insurance Commissioner is “dumbfounded.” Although, if **all** states were forced to permit cross-state sales, there would probably be at least some interest.

²⁰ As a reminder, about [27% of the adult population under 65](#) has a pre-existing condition. [Here](#) is an old, partial, list of pre-existing conditions from one insurer.

state. In five years, not a single insurance company has participated.¹⁹

I don't think that creating inter-state markets would harm the insurance market. But, I also don't think it would help much – the death spiral can happen just as easily on a larger market. I'm fine to try it, but there is no reason to repeal the ACA to do so.

5. Create high-risk pools

Another GOP proposal is to create high-risk pools. The concept of the high-risk pools is simple. Guaranteed Issue would be eliminated, allowing private insurance companies to screen out applicants with high health costs. Therefore, healthy people would pay less for their insurance. Those with pre-existing conditions would buy through a government-run pool.²⁰

But it's easy to see the problem: the people in the high-risk pool would be incredibly expensive to insure, far more than they could afford. They will need to be massively subsidized. The only likely source for these subsidies is the government. So, insurance companies cherry-pick healthy clients, and tax money pays for those with chronic conditions. Great system.²¹

Before the ACA, 34 states had high-risk pools.²² They did not work well. Most had exclusion periods for pre-existing conditions, so people who got sick suddenly weren't helped. Typical premiums were around 200% of market rates. Even still, the premiums covered only a portion of the total cost. The state-based budgets for the pools was limited,

²¹ And I find reliance on high-risk pools to be especially odd coming from a party worrying about “government takeover” of the health system. Replacing the exchanges with high-risk pools would increase the number of people covered by government health insurance.

²² From [Kaiser](#). Some sources say 35, but I can't find the discrepancy.

so they covered only a small fraction of those who needed it.²³

A fully-funded system of high-risk pools could theoretically be stable, maybe. However, recent GOP plans have proposed funding in the range of \$1 to \$2.5 billion per year, while cost estimates range around \$100 billion per year.²⁴ I hope you aren't relying on a high-risk pool when you get sick.

6. Medicaid block grants

Going way back to [Volume 2](#), recall that Medicaid is a Federal-State partnership. If a State agrees to provide certain medical services to poorer residents, the Federal Government picks up a lot of the cost. Currently, Medicaid is uncapped; if a state provides services, the Federal government will pick up its share. Many Republican plans involve changing this cost-sharing to be a fixed payment; states could do as they wished with the money. The theory is that states would be creative once they are forced to come up with savings. Which they would have to do, because the Federal share would be greatly reduced.

It is true that, in the current system, states are not fully incentivized to maximize Medicaid efficiency. Despite this, Medicaid already insures patients for significantly less than private insurers.²⁵ Therefore, it is unlikely they will be able find massive additional savings. More likely they would have to cover fewer people, or provide fewer benefits, increasing the ranks of the uninsured working poor.²⁶

²³ Not difficult to find sources trashing high-risk pools. Here is Sen. Collins' home-town paper [rejecting her plan](#).

²⁴ [CBPP](#) on the Price and Ryan plans; [Tax Policy Center's](#) 2008 review on cost of high-risk pools. Some, including the [Commonwealth Fund](#), went higher than \$100 billion, but I can be conservative and still make the point.

²⁵ We've discussed this before, but [here](#) and [here](#) you go.

²⁶ This is not a certainty, but [here is WashPo](#) agreeing with me. Hospitals hate this because their bad debt would increase, straining their finances, especially in rural areas where Medicaid is most prevalent.

There are many more "replace" ideas out there,²⁷ but the pattern has clearly emerged. No Republican replacement plan will cover a significant number of those who lose care after an ACA repeal. Some of the plans would cause even more people to lose coverage. The upper-middle-class get more subsidies and the ultra-wealthy get massive tax breaks.

What has the Trump Administration done so far?

We will keep this short; despite promises to the contrary, Obamacare was not repealed on Day One.²⁸ There is little progress on a plan to replace.²⁹ So all we can do is try to read the tea leaves.

Most significantly, Tom Price, formerly a Congressman from Georgia, was nominated to head the Department of Health and Human Services (HHS). Price is one of the ACA's most strident opponents. As Secretary of HHS, he will be able to weaken the ACA **without any legislation**. Also, there have been two executive orders related to health insurance. While both are vague,³⁰ the uncertainty is causing insurers to hesitate about participating in the exchanges in 2018.³¹ On the other hand, the Administration could have taken even more aggressive actions to destabilize the markets, but it has not done so.³²

Where does this mean for the future? Well, here's what we know with a high degree of certainty:

- Republicans have promised their base a repeal of Obamacare. But, they likely don't

²⁷ For example, I didn't get to increased HSAs, tax deductions vs. tax credits, malpractice reform or various other goodies.

²⁸ See [here](#).

²⁹ [This](#) is not a plan. It's a rehashing of concepts that have been around for a long time.

³⁰ FiveThirtyEight has a [good summary](#) of the text versus the implication thereof.

³¹ They need to start making decisions for next year by April.

³² For example, immediately ending subsidies is possible and would [cause utter chaos](#).

have enough votes to either end or keep Medicaid expansion.

- Republicans have not agreed on any plan to replace Obamacare.
- Trump has promised that nobody will lose coverage. He has also promised that everybody will be covered.
- Democrats will not vote for ACA repeal.
- Polling consistently shows gains in the popularity of the ACA and opposition to strict repeal. This will only increase when there is a definite plan, which can be compared to the current system.

Based on this, my best guess is that Republicans will attempt the strategy I call **Undermine and Blame**. Others call it “Repeal and Delay,” but mine is more descriptive. Congress, the Administration and HHS would take small actions, continuing to destabilize the exchanges. These markets are already shaky; it wouldn’t be very difficult to kill them by neglect. As the uninsured population increases, they will say that it is happening because of the ACA, rather than their actions to destabilize it. I don’t know what their next step would be; I don’t think that they know either.

If you are watching the legislative debate, focus on what happens to the ACA’s tax increases. Bending the health care cost curve is important, but it will take years or decades. In the meantime, there is no way to get people health insurance without money. Without the ACA’s tax increases, there isn’t any money. Without funding, at least 20 million people lose coverage immediately.

But if the taxes stay, 400 families will each miss out on a \$7,000,000 tax cut.

I hope you’ve enjoyed this series – I’ve learned a lot writing it. What was intended to be a single, 6-page note has turned into almost thirty pages of material. And I still had to cut a lot of stuff I’d hoped to include.

At the close of this treatise, the key concept is adverse selection. A health insurance system only works if we can limit it. If insurance companies can select their customers, sick people will be denied coverage. If individuals can select to carry coverage only when they need it, the cost of insurance will spiral. People making choices, acting rationally, destabilize the system. Permitting the freedom to make choices causes a death spiral.

Health care is hard.

With that, we’ve mercifully reached the end of our Volumes on Health Insurance – for now. I reserve the right to come back, especially if there is legislative action.