NATIONAL REVIEW

Obamacare Is Unraveling ahead of Schedule

As the president's signature law falls apart, liberals are dusting off their Plan B: single-payer health care.

Josh Blackman

October 19, 2016

The Affordable Care Act was never designed to be a permanent solution. Obamacare's architects predicted that the law's success would prove the government could be trusted to federalize health care, paving the way for a single-payer system. Reality has not been kind to their best-laid plans: Faced with failing exchanges and fleeing insurers, President Obama has urged Congress to "revisit a public plan to compete alongside private insurers." Make no mistake: This is not a "tweak" or "reform," but a grudging admission that Obamacare has unraveled way ahead of schedule.

During the early debates over the president's signature legislative achievement in 2009, a schism formed among Democrats. The House's bill would have allowed the federal government to sell a Medicare-like policy on the newly created exchanges. Although Senate majority leader Harry Reid supported the House's so-called public option, Senator Joe Lieberman of Connecticut steadfastly opposed it. "To put this government-created insurance company on top of everything else," Lieberman said, "is just asking for trouble." Needing all 60 members of his caucus to clear the filibuster threshold, Reid ultimately eliminated the House's provision from the Senate bill.

But that defeat did not foreclose the Left's dreams of a public option. Instead, those dreams were tabled as the Plan B. MIT Professor and Obamacare mastermind Jonathan Gruber predicted that whether the law succeeded or failed, the end result would be the same. On one hand, Gruber argued that a successful implementation of the ACA would build confidence and support for nationalized health care, assuring liberals that "if you like single payer, then Obamacare has to succeed." On the other hand, he warned that the ACA was "the last, best hope for private insurance," and that if it didn't work, we would "have to rip it up" and "revisit some kind of single-payer system." Heads I win, tails you lose. (Indeed, through Wikileaks we've recently learned of Hillary Clinton's active supports for a revision that "begins the unraveling of the ACA.")

Unsurprisingly, after only three years, Obamacare is currently spiraling down the latter pathway. In a brief moment of candor, former-president Clinton called the ACA's collapse "the craziest thing in the world," and lamented that people who liked their insurance have found their "premiums doubled and their coverage cut in half." The law wasn't supposed to implode so quickly. Its success was supposed to pave the way for advocates to enact universal health care in five or ten years, but that didn't pan out. So now, never letting a crisis go to waste, President Obama and Hillary Clinton are prematurely scurrying to back "a public plan to compete alongside private insurers."

This proposal is not a mere adjustment of the ACA. Rather, it is tantamount to an admission that the government's visible hand controlling the free market (predictably) failed. Central planners such as Gruber thought that if they could create the right level of subsidies, mandates, and regulations, 20 million Americans would be eager to purchase insurance on the exchanges. Instead, only half that number have enrolled, private insurers are fleeing, and Democrats are doubling down on government control of the marketplace.

The radical transformation of our health-care system is closer than you may think. A Clinton presidency would have two routes to impose single payer.

First, she would grant so-called "innovation waivers" to "empower states to establish a public option choice." By exempting states from the ACA's conventional framework, these waivers would redirect all of the subsidies that would otherwise be paid to insurance companies into the states' coffers. Maine, Colorado, California, Minnesota, and Rhode Island are actively pursuing this Obamacare slush fund.

Second, she could enact a public option through budget reconciliation, provided Democrats control both chambers of Congress. Recall that in 2010, to avoid a Republican-led filibuster, the Affordable Care Act was enacted through reconciliation, the parliamentary procedure that allows revenue-raising bills to be enacted by a simple-majority vote of the Senate. Seven years later, the law could be amended in the same fashion. Yale professor Jacob Hacker, the self-proclaimed "father of the public option," has predicted that a public option could be enacted "with a simple majority vote," which would eliminate the threat of a filibuster. Already, 33 Senate Democrats are on record supporting the public option. If they got the opportunity to use reconciliation, they would pound the final nail into the individual marketplace's coffin.

The sole glimmer of hope is that these same two mechanisms could be employed by a Republican administration to unravel the Affordable Care Act. First, the executive branch could grant conservative states a waiver to experiment with more flexible health-care markets. Second, if Republicans controlled both chambers of Congress, the reconciliation process could be used to rescind the law's costly and confining mandates on a national scale.

This two-pronged approach would provide relief from Obamacare's slow-motion train wreck. But if the same arrogant central planners who managed to destroy the individual market in less than four years are allowed to implement their Plan B, the individual insurance market will completely collapse — far sooner than it was supposed to.

— *Josh Blackman is a constitutional law professor at the Houston College of Law, an adjunct scholar at the Cato Institute, and the author of* Unraveled: Obamacare, Religious Liberty, and Executive Power.